DISCUSSION

12. Revised Title to read:
**County Executive Office** - Approve recommended positions on introduced or amended legislation and consider other legislative subject matters on the 10/6/20 and 10/20/20 legislative bulletins; approve “Statewide Ballot Initiative Measures” Policy Amendment to 2020 Legislative Affairs Program Guidelines - All Districts

14. Revised Title to read:
**County Executive Office** - Approve grant applications/awards submitted by Health Care Agency, Social Services Agency, OC Community Resources, OC Public Works, District Attorney and Sheriff-Coroner in 10/20/20 grant report and other actions as recommended; adopt resolution authorizing HCA Director or designee to submit application to California Department of Housing and Community Development for Emergency Solutions Grants program CARES Act funds (ESG-CV2) and execute standard agreement, any subsequent amendments and related documents to the program; adopt resolution authorizing SSA Director or designee to apply, accept, execute, amendments and deliver any related documents for Transitional Housing Program ($208,000) from State Department of Housing and Community Development; adopt resolution approving standard agreement FA-2021-22 with California Department of Aging for Financial Alignment program, 11/17/20 - 10/31/20 ($58,351); and authorizing OCCR Director or designee to execute agreement, amendments and related documents; adopt resolution authorizing OCPW Director or designee to apply for and accept Orange County Transportation Authority Comprehensive Transportation Program grant for Los Patrones Parkway Extension Project and execute application and cooperative agreement with Rancho Mission Viejo; adopt resolutions authorizing OCPW Director or designee to accept Measure M2 Regional Traffic Signal Synchronization Program funding, execute cooperative agreements and amendments with Orange County Transportation Authority and/or Participating Agencies, and invoice for Crown Valley Parkway Corridor Improvement Project and First Street/Bolsa Avenue Corridor Project; adopt resolution authorizing District Attorney or designee to execute grant award agreement and amendments with California Office of Emergency Services for Victim/Witness Assistance Program, 10/1/20 - 9/30/21 ($3,067,810); and making California Environmental Quality Act and other findings - All Districts

16. Revised Title to read:
**County Executive Office and Treasurer-Tax Collector** - Approve Assignment, Novation and Consent agreement and amendment 1 assigning contract MA-017-16011056 from York Risk Services Group, Inc. to Sedgwick Claims Management Services, Inc. for Third Party Administration and Managed Care services, effective 11/1/20; rescind Resolution 98-435; adopt resolution repealing Resolution 98-435 and establishing and maintaining stand-alone trust fund with prefunded balance outside County Treasury for workers’ compensation payments to claimants and medical and legal providers, not to exceed 30-day period, pursuant to Government Code section 31000.8; and authorize County Procurement Officer or authorized Deputy to execute agreement and amendment - All Districts
THE FOLLOWING AGENDA ITEMS HAVE HAD CHANGES TO THEIR RECOMMENDED ACTIONS SINCE RELEASE OF THE AGENDA TO THE PUBLIC:

Items: 12, 14 and 16

**Supplemental Item(s)**

S16A. **Supervisor Wagner** - North Tustin Advisory Committee - Reappoint John (Pat) Welch, Santa Ana, for term ending 3/31/23

S16B. **Vice Chairman Do and Supervisor Chaffee** - Approve distribution of CARES Act funding allocated for economic support due to Coronavirus Disease 2019 (COVID-19) for licensed family child care homes, licensed centers and group care school aged programs ($5,000,000); authorize County Executive Officer or designee to enter into negotiations and execute contract with Charitable Ventures to act as Third-Party Administrator to manage county operated child care funding program

S16C. **Chairwoman Steel and Supervisor Wagner** - Direct Social Services Agency (SSA) to issue an amendment to agreement with Second Harvest Food Bank of Orange County, Inc. and Community Action Partnership of Orange County for emergency food distribution services, 5/19/20 - 11/30/20 ($3,000,000; cumulative total $6,000,000); and authorize SSA Director or designee to execute amendment

S16D. **Sheriff-Coroner** - Approve amendment 1 to contract MA-060-19010180 with Computer Deductions Inc. to manage, supervise and operate Unisys mainframe computer and all Sheriff-Coroner Data Center operations, 11/1/20 - 10/31/21 ($1,115,832); and authorize County Procurement Officer or authorized Deputy to execute amendment - All Districts

S16E. **Chairwoman Steel and Vice Chairman Do** - Approve master agreement MA-042-21010443 with various providers for Coronavirus Aid, Relief and Economic Security (CARES) Act Grant Assistance, for Skilled Nursing Facilities and MA-042-21010633 for Community Health Centers for eligible medical expenses, 10/20/20 – 12/30/20; and authorize County Procurement Officer or authorized Deputy to execute individual agreements - All Districts

S16F. Continued to 11/3/20, 9:30 A.M.

**Health Care Agency** - Approve selection of and contact MA-042-21010448 with Telecare Corporation for sobering center services, 11/1/20 - 6/30/23 ($2,940,932); renewable for two additional one-year terms; authorize County Procurement Officer or authorized Deputy to exercise cost contingency increase not to exceed 10% under certain conditions and execute contract - District 3
S16G. **County Executive Office** - Authorize OC Community Resources Director or designee to accept Homekey Program grant funds ($23,088,000), execute standard agreements and related documents including escrow instruction necessary to receive funds for escrow for 7161 Katella Avenue and 11850 Beach Boulevard, Stanton; authorize Chief Real Estate Officer or designee to complete purchase and sale agreement with Global Student Housing, LLC dba Stanton Inn & Suites for motel property located 7161 Katella Avenue, Stanton, ($7,300,000) including making minor modifications, amendments, sign related documents and perform related actions under certain conditions; authorize funds ($200,000) for due diligence and other related costs; direct Auditor-Controller to make related payments under certain conditions; approve use of Homekey Program grant funds ($9,500,000) for purchase of motel property by JHC-ACQUISITIONS LLC at 11850 Beach Boulevard, Stanton; approve relocation plan; approve ground lease agreement with JHC-ACQUISITIONS LLC for term not exceed 60-years to plan, design, fund, construct, renovate, market, operate, manage and maintain property located at 7161 Katella Avenue, Stanton; authorize Chief Real Estate Officer or designee to execute lease; adopt resolution making certain findings pursuant to Government Code Section 26227; approve Mental Health Services Act loan commitment to Jamboree Housing Corporation or to-be-formed limited partnership to develop 10 units located at 7161 Katella Ave., Stanton; ($1,085,000); authorize OCCR Director or designee to decrease Mental Health Services Act funds in 2020 Supportive Housing Notice of Funding Availability and use the funds to fulfill local match requirement; approve subordination of Mental Health Services Act loan to Jamboree Housing Corporation for purchase of property at 7161 Katella Ave., Stanton, at permanent financing to additional senior debt; authorize OCCR Director or designee to execute related documents; authorize Auditor-Controller to fund escrow accounts and make related budget adjustments under certain conditions; and make CEQA and other findings - District 2 (RA #15 requires 4/5 vote of the members present)

SCS1. **County Executive Office** - CONFERENCE WITH REAL PROPERTY NEGOTIATOR - Pursuant to Government Code Section 54956.8:

<table>
<thead>
<tr>
<th>Property Location</th>
<th>County Owned Property at Former MCAS El Toro</th>
</tr>
</thead>
<tbody>
<tr>
<td>Negotiating Party</td>
<td>Simpson Chevrolet</td>
</tr>
<tr>
<td></td>
<td>SySCO Riverside</td>
</tr>
<tr>
<td></td>
<td>Ranscapes, Inc.</td>
</tr>
<tr>
<td></td>
<td>City of Irvine</td>
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<td>Great Scott Tree Service</td>
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<td></td>
<td>Irvine BMW</td>
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<tr>
<td></td>
<td>Irvine Subaru</td>
</tr>
<tr>
<td></td>
<td>Arbor Group</td>
</tr>
<tr>
<td></td>
<td>Macias Gardening</td>
</tr>
</tbody>
</table>

Under Negotiation: Terms of and Value of Existing Licenses and Leases
Revision to ASR and/or Attachments

Date: October 13, 2020
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: Frank Kim, County Executive Officer
Re: ASR Control #: 20-000834, Meeting Date 10/20/20 Agenda Item No. 12

Subject: Legislative Issues

Explanation: Please delete recommended action # 1 on the 10/6/20 Legislative Bulletin-and add the 10/20/20 legislative bulletin.

☒ Revised Recommended Action(s)

Approve recommended positions on introduced or amended legislation and consider other legislative subject matters; and approve "Statewide Ballot Initiative Measures" Policy Amendment to 2020 Legislative Affairs Program Guidelines—All Districts (Continued from 10/6/20, Item 15)

Approve recommended position on introduced or amended legislation and consider other legislative subject matters on the 10/6/2020 and 10/20/2020 legislative bulleting

☐ Make modifications to the:

☐ Subject ☐ Background Information ☐ Summary

☐ Revised Attachments (attach copy of revised attachment(s))
AGENDA STAFF REPORT

MEETING DATE: 10/20/20
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Executive Office (Approved)
DEPARTMENT CONTACT PERSON(S): Peter DeMarco (714) 834-5777
Cynthia Shintaku (714) 834-7086

SUBJECT: Grant Applications/Awards Report

<table>
<thead>
<tr>
<th>CEO CONCURRENCE</th>
<th>COUNTY COUNSEL REVIEW</th>
<th>CLERK OF THE BOARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concur</td>
<td>Approved Resolution to Form</td>
<td>Discussion</td>
</tr>
</tbody>
</table>

Budgeted: N/A  Current Year Cost: N/A  Annual Cost: N/A

Staffing Impact: No  # of Positions:  Sole Source: N/A
Current Fiscal Year Revenue: N/A  County Audit in last 3 years: No
Funding Source: N/A

Prior Board Action: N/A

RECOMMENDED ACTION(S):
Approve grant applications/awards as proposed and other actions as recommended.


2. Approve Grant Application and Adopt Resolution – Social Services Agency – Transitional Housing Program – $208,000

3. Approve Grant Award and Adopt Resolution – OC Community Resources – Financial Alignment (FA) – $58,351.

4. Approve Grant Application and Adopt Resolution – OC Public Works – Measure M2 Regional Capacity Program (RCP) Arterial Capacity Enhancement (ACE) Los Patrones Parkway Extension Project – $1,875,000.

5. Approve Grant Application and Adopt Resolution – OC Public Works – Measure M2 Regional Traffic Signal Synchronization Program – Crown Valley Parkway Corridor Improvement Project – $38,400.

7. Approve Grant Award and Adopt Resolution – District Attorney’s Office – Victim Witness Assistance Program – $3,067,810.


**SUMMARY:**
See the attached Grants Report.

**BACKGROUND INFORMATION:**
See the attached Grants Report.

**FINANCIAL IMPACT:**
N/A

**STAFFING IMPACT:**
N/A

**ATTACHMENT(S):**
Attachment A - Grants Report
Attachment B - HCA Resolution
Attachment B - SSA Resolution
Attachment B - OCCR Resolution
Attachment B - OCPW Los Patrones Parkway Resolution
Attachment B - OCPW Crown Valley Resolution
Attachment B - OCPW First Street/Bolsa Ave Resolution
Attachment B - DA Resolution
County of Orange Report on Grant Applications/Awards

The Grants Report is a condensed list of grant requests by County Agencies/Departments that allows the Board of Supervisors to discuss and approve grant submittals in one motion at a Board meeting. County policy dictates that the Board of Supervisors must approve all grant applications prior to submittal to the grantor. This applies to grants of all amounts, as well as to new grants and those that have been received by the County for many years as part of an ongoing grant. Receipt of grants $50,000 or less is delegated to the County Executive Officer. Grant awards greater than $50,000 must be presented to the Board of Supervisors for receipt of funds. This report allows for better tracking of county grant requests, the success rate of our grants, and monitoring of County’s grants activities. It also serves to inform Orange County’s Sacramento and Washington, D.C. advocates of County grant activities involving the State or Federal Governments.

On October 20, 2020 the Board of Supervisors will consider the following actions:

RECOMMENDED ACTIONS

Approve grant applications/awards as proposed and other actions as recommended.

ACTION ITEMS:


2. Approve Grant Application and Adopt Resolution – Social Services Agency – Transitional Housing Program – $208,000.

3. Approve Grant Award and Adopt Resolution – OC Community Resources – Financial Alignment (FA) – $58,351.

4. Approve Grant Application and Adopt Resolution – OC Public Works – Measure M2 Regional Capacity Program (RCP) Arterial Capacity Enhancement (ACE) Los Patrones Parkway Extension Project – $1,875,000.

5. Approve Grant Application and Adopt Resolution – OC Public Works – Measure M2 Regional Traffic Signal Synchronization Program – Crown Valley Parkway Corridor Improvement Project – $38,400.


7. Approve Grant Award and Adopt Resolution – District Attorney’s Office – Victim Witness Assistance Program – $3,067,810.


If you or your staff have any questions or require additional information on any of the items in this report, please contact Cynthia Shintaku at 714-834-7086.
**CEO-Legislative Affairs Office**  
*Grant Authorization eForm*  

### GRANT APPLICATION / **☐** GRANT AWARD

<table>
<thead>
<tr>
<th><strong>Today’s Date:</strong></th>
<th>10/05/2020</th>
</tr>
</thead>
</table>
| **Requesting Agency/Department:** | Health Care Agency  
Office of Care Coordination |
| **Grant Name and Project Title:** | State of California Emergency Solutions Grants (ESG) Program, Coronavirus Aid, Relief and Economic Security (CARES) Act Funds |
| **Sponsoring Organization/Grant Source:**  
(If the grant source is not a government entity, please provide a brief description of the organization/foundation) | State of California  
Department of Housing and Community Development |
| **Application Amount Requested:** | $18,207,901 |
| **Application Due Date:** | October 21, 2020 |
| **Board Date when Board Approved this Application:** |  |
| **Awarded Funding Amount:** |  |
| **Notification Date of Funding Award:** |  |
| **Is this an Authorized Retroactive Grant Application/Award?**  
(If yes, attach memo to CEO) |  |
| **Recurrence of Grant** | New ☐  
Recurrent ☑  
Other ☐ Explain: Each allocation is a new grant award.  
The previous grants awarded were  
2018: $584,187  
2019: $605,188  
2020: $640,283  
ESG-CV1: $2,444,700 |
| **Does this grant require CEQA findings?** | Yes ☑  
No ☐ |
| **What Type of Grant is this?** | Competitive ☐  
Other Type ☑ Explain: State designated Administrative Entity.  
State designated Administrative Entity. |
| **County Match?** | Yes ☑  
Amount _____ or _%  
No ☑ |
| **How will the County Match be Fulfilled?**  
(Please include the specific budget) | N/A |
| **Will the grant/program create new part or full-time positions?** | No. |
| **Purpose of Grant Funds:** | Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented. |

The Emergency Solutions Grants (ESG) Program provides funding to (1) engage individuals and families experiencing unsheltered homelessness; (2) improve the number and quality of emergency shelters for individuals and families experiencing homelessness; (3) help operate these shelters; (4) provide essential services to participants of shelter programs; (5) rapidly re-house individuals and families experiencing homelessness; and (6) prevent families and individuals from becoming homeless.

On March 30, 2016, the State Department of Housing and Community Development (HCD) approved the County of Orange (County), in collaboration with the Orange County Continuum of Care (CoC), as the Administrative Entity (AE) for allocation of ESG funding.

On March 27, 2020, Congress passed the Coronavirus Aid, Relief and Economic Security (CARES) Act. The CARES Act identified additional funding for ESG Program, the Community Development Block Grant (CDBG) Program, and the Housing Opportunities for Persons with AIDS (HOPWA) Program to support preparation for and
response to the community impacts of the COVID-19 pandemic. The distribution plan of the U.S. Department of Housing and Urban Development (HUD) for the additional funding includes multiple phases to address the immediate crisis resulting from the rising pandemic and post-pandemic community recovery.

On May 11, 2020, HCD announced the release of the ESG Program CARES Act (ESG-CV1) Notice of Funding Availability (NOFA) for the first allocation. The Orange County CoC received an allocation amount of $2,444,700, which includes the County as the AE retaining $128,700 for grant administration and the remaining amount of $2,316,000 available for homeless prevention, emergency shelter, rapid rehousing, and other related eligible activities. The Health Care Agency (HCA) Office of Care Coordination pursued this grant opportunity to bring additional funding and resources to provide homeless prevention and rapid rehousing services for individuals and families experiencing homelessness. The Board of Supervisors (Board) authorized HCA to apply for ESG-CV1 funding on June 23, 2020. The application was submitted to HCD on July 17, 2020. On September 17, 2020, HCA received an award announcement letter of ESG-CV1 funding for eligible program activities. On October 6, 2020, the Board authorized HCA to accept the ESG-CV1 grant award and execute the Standard Agreement. The Standard Agreement has not been issued by State HCD.

On October 2, 2020, HCD announced the release of the ESG Program, CARES Act Funds (ESG-CV2) NOFA for the second allocation. The Orange County CoC allocation in the amount of $18,207,901 includes the County as the AE retaining $587,400 for grant administration and the remaining amount of $17,620,501 prioritized for emergency shelter, rapid rehousing and related eligible activities for individuals and families experiencing homelessness. The NOFA provides documentation requirements for AEs approved to administer ESG-CV funding. AEs are required to submit an authorizing resolution in the form substantially similar to the one included in the NOFA announcement from the AE's Governing Board and submit as part of the application.

Applications are due to State HCD no later than October 21, 2020. HCA will bring back to the Board for approval any award agreement received from HCD subsequent to the application submission.

HCA will submit contracts with selected sub-recipients for the ESG-CV Program funding to the Board for approval once final allocations and award have been received.

<table>
<thead>
<tr>
<th>Board Resolution Required?</th>
<th>Yes ☒</th>
<th>No ☐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy County Counsel Name:</td>
<td>Massoud Shamel</td>
<td></td>
</tr>
<tr>
<td>Recommended Action/Special Instructions</td>
<td>1. Authorize the Health Care Agency to submit a grant application to the State of California Department of Housing and Community Development for the Emergency Solutions Grants Program CARES Act funds (ESG-CV2) in the amount of $18,207,901.</td>
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<td></td>
<td>2. Adopt the Resolution attached as Attachment A and authorize thereby the Health Care Agency Director or designee to execute the ESG-CV Standard Agreement and any subsequent amendments or modifications thereto, as well as any other documents which are related to the Emergency Solutions Grants Program or the ESG-CV grant award.</td>
<td></td>
</tr>
<tr>
<td>Department Contact:</td>
<td>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</td>
<td></td>
</tr>
<tr>
<td>Jason Austin, Director</td>
<td>HCA Office of Care Coordination</td>
<td></td>
</tr>
<tr>
<td><a href="mailto:jaustin@ochca.com">jaustin@ochca.com</a></td>
<td>(714) 834-5000</td>
<td></td>
</tr>
<tr>
<td>Name of the individual attending the Board Meeting:</td>
<td>List the name of the individual who will be attending the Board Meeting for this Grant Item:</td>
<td></td>
</tr>
<tr>
<td>Jason Austin, Director</td>
<td>HCA Office of Care Coordination</td>
<td></td>
</tr>
<tr>
<td><a href="mailto:jaustin@ochca.com">jaustin@ochca.com</a></td>
<td>(714) 834-5000</td>
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</tbody>
</table>
A majority of the Board of Supervisors of the County of Orange (“Applicant”) hereby consent to, adopt and ratify the following resolutions:

A. WHEREAS the State of California (the “State”), Department of Housing and Community Development (“Department”) issued a second Notice of Funding Availability (“NOFA”) dated October 2, 2020 under the Coronavirus Aid, Relief, and Economic Stimulus (CARES) Act which allocated federal funds for the Emergency Solutions Grants Program (the “Program” or “ESG”) to the State. These funds are referred to herein as the ESG-Coronavirus (ESG-CV) funds and this October 2020 ESG-CV NOFA is distributing “Round 2” of the ESG-CV funding.

B. WHEREAS Applicant is an approved state ESG Administrative Entity that previously received ESG-CV funding under the initial ESG-CV NOFA dated June 1, 2020 (hereinafter referred to as “ESG-CV Round 1”).

C. WHEREAS the Department may approve funding allocations for the ESG-CV Program, subject to the terms and conditions of the NOFA, Program regulations and requirements, and the Standard Agreement and other contracts between Department and ESG-CV grant recipients;

NOW THEREFORE BE IT RESOLVED THAT:

1. All information submitted by Applicant on its ESG-CV Round 1 application remains true, correct, and accurate, or the Department approved in writing a change to Applicant’s ESG-CV Round 1 application. Applicant affirms its continued compliance to all of the terms and conditions of ESG-CV Round 1 application and related Standard Agreement.

2. Applicant is authorized to submit an application for ESG-CV Round 2 and be subject to the terms thereof.

3. If Applicant receives a grant of ESG-CV Round 2 funds from the Department pursuant to the above referenced ESG-CV (Round 2) NOFA, it represents and certifies that it will use all such funds in a manner consistent and in compliance with all applicable state and federal statutes, rules, regulations, and laws, including without limitation all rules and laws regarding the ESG-CV Program, as well as any and all contracts Applicant may have with the Department.

4. In addition to its ESG-CV Round 1 grant, Applicant is now hereby authorized and directed to receive an additional ESG-CV Round 2 grant, in an amount not to exceed $18,207,901 in accordance with all applicable rules and laws.
5. Applicant hereby agrees to use the ESG-CV funds for eligible activities as approved by the Department and in accordance with all Program requirements, and other rules and laws, as well as in a manner consistent and in compliance with the ESG-CV Standard Agreement, including any amendments incorporating new terms and conditions to such Standard Agreement, and other contracts between the Applicant and the Department.

6. The Director of the OC Health Care Agency or designee is authorized to execute the ESG-CV Standard Agreement Amendment and any subsequent amendments or modifications thereto, as well as any other documents which are related to the Program or the ESG-CV grant awarded to Applicant, as the Department may deem appropriate.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Orange this _____ day of __________, ____ by the following vote:

INSTRUCTION: Fill in all four vote-count fields below, if none, indicate “0” for that field. Vote totals will be compared to current organizational bylaws, or other governing documents in the case of cities and counties, to verify that an adequate quorum was present for a valid vote by the organization, and that the total number of votes matches the stated number of directors/members/councilmembers/supervisors, etc.

AYES: ____
NOES: ____
ABSTENTIONS: ____
ABSENT: ____

______________________________
Signature of Approving Officer
Michelle Steel, Chairwoman

INSTRUCTION: The attesting officer cannot be the person identified in the resolution as the authorized signor.

______________________________
Signature of Attesting Officer
Robin Stieler, Clerk of the Board
Today's Date: 10-20-2020
Requesting Agency/Department: Social Services Agency
Grant Name and Project Title: Transitional Housing Program (THP)
Sponsoring Organization/Grant Source: California Department of Housing and Community Development
Application Amount Requested: $208,000
Application Due Date: 11-12-2020
Board Date when Board Approved this Application: N/A
Awarded Funding Amount: N/A
Notification Date of Funding Award: N/A
Is this an Authorized Retroactive Grant Application/Award? No
Recurrence of Grant

If this is a recurring grant, please list the funding amount applied for and awarded in the past:
FY 2019-20 applied for and awarded $208,000
Does this grant require CEQA findings? Yes ☐ No ☒
What Type of Grant is this? Competitive ☐ Other Type ☒ Explain: Allocated funds defined by HCD
County Match?

Yes ☐ Amount_____ or _____ % No ☒
How will the County Match be Fulfilled? N/A
Will the grant/program create new part or full-time positions? No
Purpose of Grant Funds:
Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.

Pursuant to item 2240-102-0001 of Section 2.00 of the Budget Act of 2020 (Chapter 6 of the Statutes of 2020) and Chapter 11.7 (commencing with Section 50807) of Part 2 of Division 31 of the Health and Safety Code (HSC), the Department of Housing and Community Development (HCD) shall allocate $8 million in funding to counties for the purpose of housing stability to help young adults 18 to 25 years secure and maintain housing, with priority given to young adults formerly in the foster care or probation systems.

Pursuant to Section 50807(b) of the HSC, HCD consulted with the Department of Social Services, the Department of Finance, and the County Welfare Directors Association to develop a formula allocation schedule for the purpose of distributing these funds to counties. The allocation is based on each county's percentage of the total statewide number of young adults aged 18 to 25 years in foster care. The allocation excludes Alpine and Sierra county because their calculation did not demonstrate a need for young adults aged 18 to 25.

Orange County’s estimated allocation is $208,000, which could increase if other counties choose not to apply for their allocation which would then be distributed to applying counties based on the established allocation methodology.
Funds shall be used to help young adults who are 18 to 25 years of age secure and maintain housing.

Use of funds may include, but are not limited to:
1. Identify and assist housing services for this population in your community;
2. Assist this population to secure and maintain housing (with priority given to those in the state’s foster care or probation system);
3. Improve coordination of services and linkages to community resources within the child welfare system and the Homeless Continuum of Care; and
4. Provide engagement in outreach and targeting to serve those with the most severe needs.

<table>
<thead>
<tr>
<th>Board Resolution Required?</th>
<th>Yes ☑</th>
<th>No ☐</th>
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<table>
<thead>
<tr>
<th>Deputy County Counsel Name:</th>
<th>Carolyn Frost</th>
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<tr>
<th>Recommended Action/Special Instructions</th>
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</thead>
</table>
1. Authorize the Social Services Agency Director or designee to apply for and accept the Transitional Housing Program allocation in the amount of $208,000 and to execute an Agreement with the State of California Department of Housing and Community Development to administer the THP funds, including amendments and augmentations to the allocation amount of $208,000.
2. Adopt the attached Resolution for the California Department of Housing and Community Development Transitional Housing Program.

<table>
<thead>
<tr>
<th>Department Contact:</th>
</tr>
</thead>
</table>
Ken Santini, 714-245-6109, ken.santini@ssa.ocgov.com

<table>
<thead>
<tr>
<th>Name of the individual attending the Board Meeting:</th>
</tr>
</thead>
</table>
Debra Baetz,
RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
October 20, 2020

WHEREAS, the State of California, Department of Housing and Community Development (‘Department”) issued an Allocation Acceptance form, dated July 27, 2020 under the Transitional Housing Program (“THP” or “Program”) for $8 million authorized by item 2240-102-0001 of section 2.00 of the Budget Act of 2020 (Chapter 6 of the Statutes of 2020) and Chapter 11.7 (commencing with Section 50807) of part 2 of Division 31 of the Health and Safety Code; and

WHEREAS, the Allocation Acceptance form relates to the availability of the TRANSITIONAL HOUSING PROGRAM Allocation funds; and

WHEREAS, the County of Orange Social Services Agency (‘Applicant”), was listed as an eligible applicant in the Allocation Acceptance form, dated July 27, 2020.

NOW, THEREFORE, BE IT RESOLVED that that the Board of Supervisors for the County of Orange (‘County”) does hereby determine and declare as follows:

1. That Applicant is hereby authorized and directed to apply for and accept their TRANSITIONAL HOUSING PROGRAM Allocation award, as detailed in the Allocation Acceptance form and estimated at $208,000, up to the amount authorized by the Allocation Acceptance form and applicable state law.

2. That Debra Baetz, Director of the County of Orange Social Services Agency, or her designee, is hereby authorized and directed to act on behalf of County in connection with the TRANSITIONAL HOUSING PROGRAM Allocation award, and to enter into, execute, and deliver any and all documents required or deemed necessary or appropriate to be awarded the TRANSITIONAL HOUSING PROGRAM Allocation award, and all amendments thereto (collectively, the “TRANSITIONAL HOUSING PROGRAM Allocation award”).
Allocation Award Documents”).

3. That Applicant shall be subject to the terms and conditions that are specified in the TRANSITIONAL HOUSING PROGRAM Allocation Award Documents, and that Applicant will use the TRANSITIONAL HOUSING PROGRAM Allocation award funds in accordance with the Allocation Acceptance form, other applicable rules and laws, the THP Program Documents, and any and all THP requirements.

PASSED AND ADOPTED this ______ [Insert Numerical Day] day of ______ [Insert Month], 20____ [Insert Year, Preceded by 20], by the following vote:

AYES ______ [Insert Number of Ayes]

NOES ______ [Insert Number of Noes]

ABSTENTIONS ______ [Insert Number of Abstentions]

ABSENT ______ [Insert Number Absent]

Signature of Attesting Officer: ______________________________________________

Printed Name and Title of Attesting Officer: ________________________________
<table>
<thead>
<tr>
<th><strong>Today’s Date:</strong></th>
<th>October 8, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requesting Agency/Department:</strong></td>
<td>OC Community Resources/OC Community Services</td>
</tr>
<tr>
<td><strong>Grant Name and Project Title:</strong></td>
<td>Financial Alignment (FA)</td>
</tr>
<tr>
<td><strong>Sponsoring Organization/Grant Source:</strong></td>
<td>California Department of Aging</td>
</tr>
<tr>
<td><strong>Application Amount Requested:</strong></td>
<td>$50,000</td>
</tr>
<tr>
<td><strong>Application Due Date:</strong></td>
<td>July 1, 2020</td>
</tr>
<tr>
<td><strong>Board Date when Board Approved this Application:</strong></td>
<td>May 5, 2020</td>
</tr>
<tr>
<td><strong>Awarded Funding Amount:</strong></td>
<td>$58,351</td>
</tr>
<tr>
<td><strong>Notification Date of Funding Award:</strong></td>
<td>September 29, 2020</td>
</tr>
<tr>
<td><strong>Is this an Authorized Retroactive Grant Application/Award? No</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Recurrence of Grant</strong></td>
<td>New ☐ Recurrent ☐ Other ☒ Explain:</td>
</tr>
<tr>
<td>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</td>
<td>2/15/18 – 7/31/20: $116,701</td>
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<tr>
<td><strong>Does this grant require CEQA findings?</strong></td>
<td>Yes ☐ No ☒</td>
</tr>
<tr>
<td><strong>What Type of Grant is this?</strong></td>
<td>Competitive ☐ Other Type ☐ Explain: FA funds are allocated to the (CDA) as a Formula Grant. Through a formula allocation, CDA allocates FA funds to the County.</td>
</tr>
<tr>
<td><strong>County Match?</strong></td>
<td>Yes ☐ No ☒</td>
</tr>
<tr>
<td><strong>How will the County Match be Fulfilled?</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Will the grant/program create new part-time positions?</strong></td>
<td>No.</td>
</tr>
<tr>
<td><strong>Purpose of Grant Funds:</strong></td>
<td>Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.</td>
</tr>
</tbody>
</table>

The Health Insurance Counseling & Advocacy Program (HICAP) provides free, confidential counseling and community education about Medicare, private health insurance and related health care coverage plans for Medicare beneficiaries, their representatives and people who will soon be eligible for Medicare. Financial Alignment (FA) grant funds provide HICAP outreach, education and counseling to individuals eligible for both Medicare and Medi-Cal (dual eligible beneficiaries) about their options and choices under California’s Cal MediConnect Program.

On May 5, 2020, the Board of Supervisors (Board) approved FA grant application ($50,000). This e-Grant is requesting permission to accept the actual amount awarded ($58,351) and have the Board approve the State required Resolution.

OoA will continue contracting with Council on Aging - Southern California (CoA) and the funds received will be used to continue outreach and support to dual-eligible beneficiaries, as well as measuring customer satisfaction. OoA, in collaboration with CoA, will submit a Work Plan to CDA detailing the planned activities for the duration of the contract. Last year, CoA reached over 1,000 soon to be eligible for Medicare contacts through outreach, such as but not limited to in-person events,
radio campaigns and social media efforts. Under this funding term, approximately 80 outreach events were conducted and about 20% of those events focused on Medicare and Medi-Cal (dual eligible beneficiaries) enrollment.

<table>
<thead>
<tr>
<th>Board Resolution Required? (Please attach document to eForm)</th>
<th>Yes ☑️</th>
<th>No ☐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)</td>
<td>John Cleveland</td>
<td></td>
</tr>
</tbody>
</table>

**Recommended Action/Special Instructions (Please specify below)**

1. Adopt the resolution as approved by County Counsel to receive $58,351 in funds from the California Department of Aging for the Financial Alignment program.
3. Authorize the OC Community Resources Director or designee to execute the State Standard Agreement FA-2021-22, Certification of Clauses, Information Integrity and Security Statements, and California Civil Rights Laws Certification.
4. Authorize the OC Community Resources Director or designee to execute future amendments to the State Standard Agreement FA-2021-22 to exercise a contingency cost increase in an amount not to exceed ten percent of the Agreement FA-2021-22 amount with no material changes to the terms and conditions of the State Standard Agreement FA-2021-22.

**Department Contact:**

List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.

Renee Ramirez  
Director, OC Community Services  
(714) 480-6483 / Renee.Ramirez@occr.ocgov.com

**Name of the individual attending the Board Meeting:**

Dylan Wright  
Director, OC Community Resources
RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
October 20, 2020

WHEREAS, OC Community Resources Office on Aging has received State Standard Agreement FA-2021-22 in the amount of $58,351 from the California Department of Aging containing funding allocations for the Financial Alignment program; and

WHEREAS, the County of Orange assures that it will abide by the terms and conditions of Agreement FA-2021-22; and

WHEREAS this Board agrees with the terms of the State Standard Agreement and the allocation of funds contained therein.

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby:


2. Authorize the OC Community Resources Director or designee to execute State Standard Agreement FA-2021-22, Certification of Clauses, Information Integrity and Security Statement, and California Civil Rights Laws Certification.

3. Authorize the OC Community Resources Director or designee to execute future Amendments to the State Standard Agreement FA–2021-22 to exercise a contingency cost increase in an amount not to exceed ten percent of the Agreement FA-2021-22 amount with no material changes to the terms and conditions of the State Standard Agreement FA-2021-22.
The M2-Regional Capacity Program funds projects that relieve congestion by providing additional roadway capacity and completing the Masterplan of Arterial Highway (MPAH) network through gap closures and construction of missing segments.

The purpose of the grant funds is to prepare a Project Study Report and complete Environmental Documentation for the Los Patrones Parkway Extension Project.

Once constructed, the Los Patrones Parkway Extension Project will continue from Cow Camp Road to Avenida La Pata and will provide redistribution of traffic to better accommodate the north-south travel movement in South Orange County.

The total project cost estimate is $2.5M for the preparation of Project Study Report and Environmental Documentation. The grant request is for $1,875,000. The required 25% County match is $625,000 and it will be fulfilled by funds from Rancho Mission Viejo via a cooperative agreement.
Deputy County Counsel Name: Ray Diaz

Recommended Action/Special Instructions

1. Request the Orange County Transportation Authority allocate funds in the amounts specified in the County of Orange’s application to County of Orange from the Comprehensive Transportation Funding Programs. Said funds, if approved, shall be matched by funds from County of Orange as required and shall be used as supplemental funding to aid the County of Orange in the improvement of Los Patrones Parkway Extension.

2. Authorize the Director of OC Public Works or designee to apply for and accept the Orange County Transportation Authority’s Comprehensive Transportation Program’s grant monies to be used for the Los Patrones Parkway Extension Project; to sign such application; and, upon notification of funding award, to execute a cooperative agreement with Rancho Mission Viejo to provide matching funds; and to invoice the Orange County Transportation Authority for payment of allocated funds, as appropriate.

Department Contact:

Sonica Kohli, 714/647-3910, Sonica.Kohli@ocpw.ocgov.com
Larry Stansifer, 714/667-3286, Larry.Stansifer@ocpw.ocgov.com

Name of the individual attending the Board Meeting:

James Treadaway, Director, OC Public Works
Khalid Bazmi, Assistant Public Works Director/County Engineer, OC Public Works
Nardy Khan, Deputy Director, OC Infrastructure Programs, OC Public Works
RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA
xxxx, 2020

A RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY APPROVING THE SUBMITTAL OF LOS PATRONES PARKWAY EXTENSION PROJECT TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE COMPREHENSIVE TRANSPORTATION PROGRAM.

THE BOARD OF SUPERVISORS OF ORANGE COUNTY HEREBY RESOLVES, DETERMINES AND ORDERS AS FOLLOWS THAT:

WHEREAS, the County of Orange desires to implement the Los Patrones Parkway Extension Project; and

WHEREAS, the County of Orange has been declared by the Orange County Transportation Authority to meet the eligibility requirements to receive M2 "Fair Share" funds; and

WHEREAS, the County’s Circulation Element is consistent with the County of Orange Master Plan of Arterial Highways; and

WHEREAS, the County of Orange will not use M2 funds to supplant Developer Fees or other commitments;

WHEREAS, the County of Orange must include all projects funded by Net Revenues in the seven-year Capital Improvement Program as part of the Measure M2 Ordinance eligibility requirement.

WHEREAS, the County of Orange will provide a minimum in 25% in matching funds for the Los Patrones Parkway Extension Project as required by the Orange County Comprehensive Transportation Funding Programs Guidelines; and

WHEREAS, the Orange County Transportation Authority intends to allocate funds for transportation improvement projects, if approved, within the incorporated cities and the County; and

WHEREAS, the County of Orange authorizes a formal amendment to the seven-year Capital Improvement Program to add projects approved for funding upon approval from the Orange County Transportation Authority Board of Directors, if necessary.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Orange County Board of Supervisors hereby requests the Orange County Transportation Authority allocate funds in the amounts specified in the County of Orange’s application to County of Orange from the Comprehensive Transportation Funding Programs. Said funds, if approved, shall be matched by funds from County of Orange as required and shall be used as supplemental funding to aid the County of Orange in the improvement of Los Patrones Parkway Extension.

2. Authorize the Director of OC Public Works or designee to apply for and accept the Orange County Transportation Authority’s Comprehensive Transportation Program’s grant monies to be used for the Los Patrones Parkway Extension Project; to sign such application; and, upon notification of funding award, to execute a cooperative agreement with Rancho Mission Viejo to

Resolution No. YY-____, Item No. <Clerk to complete upon adoption>
provide matching funds; and to invoice the Orange County Transportation Authority for payment of allocated funds, as appropriate.
**GRANT APPLICATION / GRANT AWARD**

<table>
<thead>
<tr>
<th>Category</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Today’s Date</td>
<td>October 8, 2020</td>
</tr>
<tr>
<td>Requesting Agency/Department</td>
<td>OC Public Works</td>
</tr>
<tr>
<td>Grant Name and Project Title</td>
<td>Measure M2 Regional Traffic Signal Synchronization Program – Crown Valley Parkway Corridor Improvement Project</td>
</tr>
</tbody>
</table>
| Sponsoring Organization/Grant Source:         | Administrating Agency: Orange County Transportation Authority (OCTA)  
                                                       Project Lead Agency: City of Laguna Niguel                                              |
| Application Amount Requested                  | $38,400                                                                                                                                  |
| Application Due Date                          | October 22, 2020                                                                                                                         |
| Board Date when Board Approved this Application | N/A                                                                                                                                    |
| Awarded Funding Amount                        | N/A                                                                                                                                     |
| Notification Date of Funding Award            |                                                                                                                                         |
| Is this an Authorized Retroactive Grant Application/Award? | (If yes, attach memo to CEO) No                                                                                                           |
| Recurrence of Grant                           | New ☐  Recurrent ☒  Other ☐ Explain:                                                                                                   |
| If this is a recurring grant, please list the funding amount applied for and awarded in the past: | RTSSP- Orangethorpe Avenue Corridor Project; $194,100                                                                                   |
| Does this grant require CEQA findings?        | Yes ☒  No ☐                                                                                                                             |
| What Type of Grant is this?                   | Competitive ☒  Other Type ☐  Explain:                                                                                                  |
| County Match?                                 | Yes ☒  Amount $9,600 (20% match)  
                                                       No ☐                                                                                                                                   |
| How will the County Match be Fulfilled?        | Fund 174                                                                                                                                 |
| Will the grant/program create new part or full-time positions? | No                                                                                                                                       |
| Purpose of Grant Funds:                       | Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented. |

The M2-Regional Traffic Signal Synchronization Program (RTSSP) funds synchronization costs associated with the coordination of traffic signals across multiple jurisdictions. The Crown Valley Parkway Corridor Project includes signal coordination, communication and detection support, new/upgraded communication systems, new/upgraded detection, intersection/field modernization and replacement, and minor signal operation improvements along Crown Valley Parkway Corridor, from Pacific Coast Highway to Antonio Parkway.

The City of Laguna Niguel is the lead agency for the grant application and project implementation. The total project cost for County’s portion, unincorporated segment between Jardines and Antonio Parkway, is estimated at $48,000. The M2 RTSSP grant request is for $38,400 and the required 20% County match is $9,600.

| Board Resolution Required?                   | Yes ☒  No ☐                                                                 |
| Deputy County Counsel Name:                  | Ray Diaz                                                                 |

Grant Authorization e-Form
### Recommended Action/Special Instructions

(Please specify below)

Authorize the Director of OC Public Works or designee to:

1. File and sign applications for the Regional Traffic Signal Synchronization Program;
2. Request the Orange County Transportation Authority to allocate funds in the amounts specified in the Regional Traffic Signal Synchronization Program application;
3. Accept funding monies, sign cooperative agreements and any amendments to cooperative agreements with the Orange County Transportation Authority and/or **PARTICIPATING AGENCIES**, and invoice for the Regional Traffic Signal Synchronization Program for the **CROWN VALLEY PARKWAY CORRIDOR IMPROVEMENT PROJECT**;

### Department Contact

List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.

Sonica Kohli, 714/647-3910, Sonica.Kohli@ocpw.ocgov.com
Larry Stansifer, 714/667-3286, Larry.Stansifer@ocpw.ocgov.com

### Name of the individual attending the Board Meeting

List the name of the individual who will be attending the Board Meeting for this Grant Item:

James Treadaway, Director, OC Public Works
Khalid Bazmi, Assistant Public Works Director/County Engineer, OC Public Works
Nardy Khan, Deputy Director, OC Infrastructure Programs, OC Public Works
RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
xxxx, 2020

A RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY APPROVING THE SUBMITTAL OF CROWN VALLEY PARKWAY CORRIDOR IMPROVEMENT PROJECT TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE COMPETITIVE MEASURE M2 REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM.

THE BOARD OF SUPERVISORS OF ORANGE COUNTY HEREBY RESOLVES, DETERMINES AND ORDERS AS FOLLOWS THAT:

WHEREAS, the Measure M2 Regional Traffic Signal Synchronization Program targets over 2000 signalized intersections across Orange County to maintain traffic signal synchronization, improve traffic flow, and reduce congestion across jurisdictions; and

WHEREAS, the County of Orange has been declared by the Orange County Transportation Authority to meet the eligibility requirements to receive revenues as part of Measure M2;  

WHEREAS, the County of Orange must include all projects funded by Net Revenues in the seven-year Capital Improvement Program as part of the Renewed Measure M Ordinance eligibility requirement.

WHEREAS, the County of Orange authorizes a formal amendment to the seven-year Capital Improvement Program to add projects approved for funding upon approval from the Orange County Transportation Authority Board of Directors, if necessary.

WHEREAS, the County of Orange has currently adopted a Local Signal Synchronization Plan consistent with the Regional Traffic Signal Synchronization Master Plan as a key component of local agencies’ efforts to synchronizing traffic signals across local agencies’ boundaries; and

WHEREAS, the County of Orange will provide matching funds for each project as required by the Comprehensive Transportation Funding Programs Procedures Manual; and

WHEREAS, the County of Orange will not use Renewed Measure M funds to supplant Developer Fees or other commitments; and

WHEREAS, the County of Orange desires to implement the CITY OF LAGUNA NIGUEL’s multi-jurisdictional signal synchronization project along CROWN VALLEY PARKWAY CORRIDOR; and

NOW, THEREFORE, BE IT RESOLVED that the Orange County Board of Supervisors hereby authorizes the Director of OC Public Works or designee to act as the official representative of the County of Orange, to

1. File and sign applications for the Regional Traffic Signal Synchronization Program;
2. Request the Orange County Transportation Authority to allocate funds in the amounts specified in the Regional Traffic Signal Synchronization Program application;
3. Accept funding monies, sign cooperative agreements and any amendments to cooperative agreements with the Orange County Transportation Authority and/or PARTICIPATING AGENCIES, and invoice for the Regional Traffic Signal Synchronization Program for the CROWN VALLEY PARKWAY CORRIDOR IMPROVEMENT PROJECT;

Resolution No. YY-, Item No. <Clerk to complete upon adoption>  
OCTA RTSSP Grant – Crown Valley Parkway Corridor Improvement Project
BE IT FURTHER RESOLVED that the County of Orange agrees to fund its share of the project costs identified in the supplemental application.
Today’s Date: October 8, 2020
Requesting Agency/Department: OC Public Works
Grant Name and Project Title: Measure M2 Regional Traffic Signal Synchronization Program – First Street/Bolsa Avenue Corridor Improvement Project
Sponsoring Organization/Grant Source: Administrating Agency: Orange County Transportation Authority (OCTA)
Project Lead Agency: City of Santa Ana
Application Amount Requested: $239,160
Application Due Date: October 22, 2020
Board Date when Board Approved this Application: N/A
Awarded Funding Amount: N/A
Notification Date of Funding Award: Is this an Authorized Retroactive Grant Application/Award? (If yes, attach memo to CEO) No
Recurrence of Grant: New □ Recurrent ☑ Other □ Explain:
If this is a recurring grant, please list the funding amount applied for and awarded in the past:
RTSSP- Orangethorpe Avenue Corridor Project; $194,100
Does this grant require CEQA findings? Yes □ No ☑
What Type of Grant is this? Competitive ☑ Other Type □ Explain:
County Match? Yes ☑ Amount $59,790 (20% match) No □
How will the County Match be Fulfilled? (Please include the specific budget) Fund 174
Will the grant/program create new part or full-time positions? No
Purpose of Grant Funds: Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented:
The M2-Regional Traffic Signal Synchronization Program (RTSSP) funds synchronization costs associated with the coordination of traffic signals across multiple jurisdictions. The First Street/Bolsa Avenue Corridor Project includes signal coordination, communication and detection support, new/upgraded communication systems, new/upgraded detection, intersection/field modernization and replacement, and minor signal operation improvements along First Street/Bolsa Avenue Corridor, from Bolsa Chica Street to Newport Avenue.

The City of Santa Ana is the lead agency for the grant application and project implementation. The total project cost for County’s portion, unincorporated segment between Beach Boulevard and Magnolia Street, is estimated at $298,950. The M2 RTSSP grant request is for $239,160 and the required 20% County match is $59,790.

Board Resolution Required? (Please attach document to eForm) Yes ☑ No □
Deputy County Counsel Name: Ray Diaz
Authorize the Director of OC Public Works or designee to:

1. File and sign applications for the Regional Traffic Signal Synchronization Program;
2. Request the Orange County Transportation Authority to allocate funds in the amounts specified in the Regional Traffic Signal Synchronization Program application;
3. Accept funding monies, sign cooperative agreements and any amendments to cooperative agreements with the Orange County Transportation Authority and/or PARTICIPATING AGENCIES, and invoice for the Regional Traffic Signal Synchronization Program for the FIRST STREET/BOLSA AVENUE CORRIDOR PROJECT;

<table>
<thead>
<tr>
<th>Department Contact</th>
<th>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sonica Kohli, 714/647-3910, <a href="mailto:Sonica.Kohli@ocpw.ocgov.com">Sonica.Kohli@ocpw.ocgov.com</a></td>
<td></td>
</tr>
<tr>
<td>Larry Stansifer, 714/667-3286, <a href="mailto:Larry.Stansifer@ocpw.ocgov.com">Larry.Stansifer@ocpw.ocgov.com</a></td>
<td></td>
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<th>List the name of the individual who will be attending the Board Meeting for this Grant Item.</th>
</tr>
</thead>
<tbody>
<tr>
<td>James Treadaway, Director, OC Public Works</td>
<td></td>
</tr>
<tr>
<td>Khalid Bazmi, Assistant Public Works Director/County Engineer, OC Public Works</td>
<td></td>
</tr>
<tr>
<td>Nardy Khan, Deputy Director, OC Infrastructure Programs, OC Public Works</td>
<td></td>
</tr>
</tbody>
</table>
RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
xxxx, 2020

A RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY APPROVING THE SUBMITTAL OF FIRST STREET/BOLSA AVENUE CORRIDOR IMPROVEMENT PROJECT TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE COMPETITIVE MEASURE M2 REGIONAL TRAFFIC SIGNAL SYNCHRONIZATION PROGRAM.

THE BOARD OF SUPERVISORS OF ORANGE COUNTY HEREBY RESOLVES, DETERMINES AND ORDERS AS FOLLOWS THAT:

WHEREAS, the Measure M2 Regional Traffic Signal Synchronization Program targets over 2000 signalized intersections across Orange County to maintain traffic signal synchronization, improve traffic flow, and reduce congestion across jurisdictions; and

WHEREAS, the County of Orange has been declared by the Orange County Transportation Authority to meet the eligibility requirements to receive revenues as part of Measure M2;

WHEREAS, the County of Orange must include all projects funded by Net Revenues in the seven-year Capital Improvement Program as part of the Renewed Measure M Ordinance eligibility requirement.

WHEREAS, the County of Orange authorizes a formal amendment to the seven-year Capital Improvement Program to add projects approved for funding upon approval from the Orange County Transportation Authority Board of Directors, if necessary.

WHEREAS, the County of Orange has currently adopted a Local Signal Synchronization Plan consistent with the Regional Traffic Signal Synchronization Master Plan as a key component of local agencies’ efforts to synchronizing traffic signals across local agencies’ boundaries; and

WHEREAS, the County of Orange will provide matching funds for each project as required by the Comprehensive Transportation Funding Programs Procedures Manual; and

WHEREAS, the County of Orange will not use Renewed Measure M funds to supplant Developer Fees or other commitments; and

WHEREAS, the County of Orange desires to implement the CITY OF SANTA ANA’s multi-jurisdictional signal synchronization project along FIRST STREET/BOLSA AVENUE CORRIDOR; and

NOW, THEREFORE, BE IT RESOLVED that the Orange County Board of Supervisors hereby authorizes the Director of OC Public Works or designee to act as the official representative of the County of Orange, to

1. File and sign applications for the Regional Traffic Signal Synchronization Program;

2. Request the Orange County Transportation Authority to allocate funds in the amounts specified in the Regional Traffic Signal Synchronization Program application;

3. Accept funding monies, sign cooperative agreements and any amendments to cooperative agreements with the Orange County Transportation Authority and/or PARTICIPATING AGENCIES, and invoice for the Regional Traffic Signal Synchronization Program for the FIRST STREET/BOLSA AVENUE CORRIDOR PROJECT;

Resolution No. YY——, Item No. <Clerk to complete upon adoption>
BE IT FURTHER RESOLVED that the County of Orange agrees to fund its share of the project costs identified in the supplemental application.
The Victim Witness Assistance Program is supported by the Federal Victim of Crime Act. The program provides high quality, comprehensive services that address the individual needs of victims and witnesses of violent crime. The District Attorney was awarded $3,067,810 to continue the program.

Grant funds support a specialized team within Waymakers, Inc. to provide coordination for the appearance of all subpoenaed witnesses in misdemeanor trials, preliminary trials, preliminary felony hearings and felony trials at the request of the OCDA. Service requirements include placing witnesses “on-call”, making case status and disposition available to the witness, notification and intervention with the witness’ employer, arranging transport of the witness to court, and “call-off” of witnesses. The team consists of program directors, victim advocates and coordinators to assist victims.
Cal OES requires the District Attorney to submit a Board Resolution. County Counsel has reviewed and approved the attached Board Resolution.

1. Authorize the District Attorney or his designee, to sign and execute, on behalf of the County of Orange, the Grant Agreement with CalOES accepting the grant award of $3,067,810 to continue the Victim Witness Assistance Program for fiscal years 2020-21 and 2021-22.
2. Authorize the District Attorney, or his designee, to execute, on behalf of the County of Orange, any extensions or amendments that reflect the actual grant award but do not materially alter the terms of the grant award.
3. Adopt the Resolution to receive funds for the Victim Witness Assistance Program.

<table>
<thead>
<tr>
<th>Department Contact</th>
<th></th>
</tr>
</thead>
</table>
| Glenn Robison      | (714) 347-8778  
glenn.robison@da.ocgov.com |

<table>
<thead>
<tr>
<th>Name of the individual attending the Board Meeting</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Glenn Robison</td>
<td></td>
</tr>
</tbody>
</table>
RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

October 20, 2020

WHEREAS, the County of Orange, California (the “County”) desires to undertake its project designated “The Victim/Witness Assistance Program” to be funded from funds available through the Federal Victims of Crime Act administered by the State of California, Office of Emergency Services (hereafter referred to as CalOES).

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby:

1. Find that the proposed project is exempt from CEQA pursuant to 14 C.C.R 15061(b)(3) because it does not impose a significant effect on the environment.

2. Find that pursuant to Section 711.4 of the California Fish and Game Code, the proposed project is exempt from the required fees as it has been determined that no adverse impacts to wildlife resources will result from the project.

3. Authorize the District Attorney, or his designee, to sign and execute, on behalf of the County of Orange, a Grant Award Agreement with CalOES for the Victim/Witness Assistance Program, effective from October 1, 2020 through September 30, 2021, in the amount not to exceed $3,067,810.

4. Authorize the District Attorney, or his designee, to execute, on behalf of the County of Orange, any extensions or amendments that reflect the actual grant award but do not materially alter the terms of the grant award.

5. Assure that the County of Orange assumes any liability arising out of the County's performance of this Grant Award Agreement, including civil court actions for damages. The State of California and CalOES disclaim responsibility for any such liability.

6. Assure that the County of Orange will not use grant funds to supplant expenditures controlled by the Board of Supervisors.
**CEO-Legislative Affairs Office**  
**Grant Authorization eForm**

☑ GRANT APPLICATION / ☐ GRANT AWARD

<table>
<thead>
<tr>
<th>Today's Date:</th>
<th>October 9, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requesting Agency/Department:</td>
<td>Sheriff-Coroner Department</td>
</tr>
<tr>
<td>Grant Name and Project Title:</td>
<td>2020 Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program</td>
</tr>
<tr>
<td>Sponsoring Organization/Grant Source:</td>
<td>U.S. Department of Justice, Office of Justice Programs</td>
</tr>
<tr>
<td>Application Amount Requested:</td>
<td>$365,643</td>
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<tr>
<td>Application Due Date:</td>
<td>August 19, 2020</td>
</tr>
<tr>
<td>Board Date when Board Approved this Application:</td>
<td>August 11, 2020</td>
</tr>
<tr>
<td>Awarded Funding Amount:</td>
<td>$365,643</td>
</tr>
<tr>
<td>Notification Date of Funding Award:</td>
<td>September 19, 2020</td>
</tr>
<tr>
<td>Is this an Authorized Retroactive Grant Application/Award?</td>
<td>No</td>
</tr>
</tbody>
</table>

### Recurrence of Grant

- New ☐  
- Recurrent ☑  
- Other ☐  

If this is a recurring grant, please list the funding amount applied for and awarded in the past:

- 2012: $465,007  
- 2013: $420,826  
- 2014: $434,569  
- 2015: $365,772  
- 2016: $377,708  
- 2017: $376,349  
- 2018: $410,195  
- 2019: $401,800

### Does this grant require CEQA findings?  
- Yes ☐  
- No ☑

### What Type of Grant is this?  
- Competitive ☐  
- Other Type ☑  
  - Explain: Formula program

### County Match?  
- Yes ☐  
  - Amount _____ or _____ %  
- No ☑

### How will the County Match be Fulfilled?  
(Include the specific budget)

- N/A

### Will the grant/program create new part or full-tempo positions?  
- N/A

### Purpose of Grant Funds:

- Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.

The JAG program is the leading source of federal justice funding to state and local jurisdictions. The JAG Program provides states, tribes, and local governments with critical funding necessary to support a range of program areas. Each eligible agency will utilize the funds to support projects in furtherance of law enforcement initiatives, including technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice. JAG funds will be utilized to support a broad range of activities to prevent and control crime throughout eligible cities within the county.

2020 JAG priority areas include but are not limited to:

1. **Addressing Violent Crime** – Recognizing that violent crime and the drivers of that crime, including felonious possession and use of a firearm and/or gang violence, illegal drug sales and distribution, human trafficking, and other related crimes, vary from community to community, BJA encourages local jurisdictions to invest JAG funds to tailor programs and responses to state and local crime issues through the use of data and analytics.

2. **Enforcing Firearms Laws** – BJA encourages local jurisdictions to reduce crime involving the illegal use of firearms through the strengthening and enforcement of state and local firearms possession laws.

3. **Officer Safety and Wellness** – The law enforcement safety and wellness issue is an important priority for BJA and DOJ.

4. **Safe Policing for Safe Communities** - BJA encourages state and local jurisdictions to support projects which incorporate elements of the [President’s Executive Order on Safe Policing for Safe Communities (EOSPSC)].
5. **Fentanyl Detection** – Fentanyl continues to be a major public health concern, and exposure in the field poses significant concerns to first responders.

Units of local government may use award funds for broadband deployment and adoption activities as they relate to criminal justice priorities. The Sheriff-Coroner Department (Sheriff) will serve as the County fiscal agent and will submit a single application representing the interests of all eligible units of government receiving formula allocations. The Sheriff’s grant management personnel will provide oversight for the grant; grantees and liaise submission of the application and affiliated documents; and quarterly financial and programmatic reports and annual progress reports required for the life of this grant; and annual compliance monitoring reviews.

As the fiscal agent, Sheriff submitted a single application representing the interests of the units of local government that are eligible to receive formula funding allocations. Included in this application are: County of Orange (Sheriff), Anaheim, Buena Park, Costa Mesa, Fullerton, Garden Grove, Huntington Beach, Orange, Santa Ana, and Westminster.

<table>
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<tr>
<th>2020 Justice Assistance Grant (JAG) Local Allocations</th>
<th>Allocation</th>
<th>Admin Fee</th>
<th>Retained by City</th>
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<tr>
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**Board Resolution Required?**
(Please attach document to eForm)
Yes ☐ No ☒

**Deputy County Counsel Name:**
(Please list the Deputy County Counsel that approved the Resolution)
Nicole Sims, Supervising Deputy County Counsel, reviewed the application packet attachments (allocations, special conditions, etc.).

**Recommended Action/Special Instructions**
(please specify below)
Authorize the Sheriff-Coroner or designee to accept on behalf of the County of Orange, the 2020 Edward Byrne Memorial Justice Assistant Grant (JAG) Program award from the Bureau of Justice Assistance Programs, Department of Justice.

**Department Contact:**
List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.

Michael Dittenhofer, Administrative Manager II
Sheriff’s Research and Development
mdittenhofer@ocsd.org
714-935-8432

**Name of the individual attending the Board Meeting:**
List the name of the individual who will be attending the Board Meeting for this Grant Item:
Brigitte Ludwig
Date: October 9, 2020
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: Frank Kim, County Executive Officer
Re: ASR Control #: 20-000867, 10/20/20, Item No. #16
Subject: Workers’ Compensation Contract and Trust Fund

Explanation:

On Attachment E – Resolution to Establish Trust Fund, page two, paragraph three, has been modified to provide clarification.

☑ Revised Recommended Action(s)

2. Rescind Resolution No. 98-435 and Adopt Resolution establishing a fund outside the County Treasury for workers’ compensation payments to claimants and medical and legal providers, with a prefunded balance for, and not to exceed, a 30-day period, pursuant to Government Code Section 31000.8.”

☐ Make modifications to the:

☐ Subject ☐ Background Information ☐ Summary ☐ Financial Impact

☑ Revised Attachments (attach revised attachment[s] and redlined copy[s])

Attachment E - Resolution to Establish Trust Fund

Redline of Attachment E - Resolution to Establish Trust Fund
RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF ORANGE, STATE OF CALIFORNIA

_______, 2020

WHEREAS, pursuant to Government Code Section 31000.8, the County may contract with a qualified firm for the purpose of having such a firm render investigative, administrative, and claims adjustment services relating to workers’ compensation claims against the County; and

WHEREAS, pursuant to Government Code Section 31000.8, such a contract may provide that the contracting firm may execute and issue checks in payment of claims, which checks shall be payable only from a trust fund established by the Board of Supervisors; and

WHEREAS, funds in the trust fund established pursuant to the provisions of Government Code Section 31000.8 shall not exceed, at any one time, a sum sufficient to provide for the settlement of claims for a 30-day period as determined by the Board of Supervisors; and

WHEREAS, by Resolution No. 77-1363, dated August 23, 1977, the Board of Supervisors established a trust fund pursuant to Government Code Section 31000.8 for the payment of workers’ compensation claims by the County’s outside claims administrator and periodically revised the maximum fund balance in the trust fund; and

WHEREAS, by Resolution No. 98-435 the Board of Supervisors modified its prior resolutions to permit the Treasurer-Tax Collector to establish a zero-balance account to operate the trust fund; and

WHEREAS, authorizing the contracted outside claims administration firm to pay workers’ compensation claims directly from a trust fund will reduce payment time and eliminate duplicative processing; and

WHEREAS, at present, a sum sufficient to provide for the settlement of claims
for a 30-day period is approximately $4,000,000.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, AS FollowS:

1. Recitals. The Board of Supervisors finds the foregoing recitals to be true
   and correct.

2. Removal of Zero-Balance Account. The Board of Supervisors hereby
   repeals Resolution 98-435 and directs the conversion of the zero-balance
   account established by that resolution to a trust fund established herein
   within forty-days of the date of this resolution.

3. Establishment and Maintenance of Trust Fund. A trust fund for the
   payment of workers’ compensation claims by the County of Orange’s
   contracted outside claims administration firm for workers’ compensation
   claims is hereby established in an initial deposit amount of $4 million,
   which shall be replenished periodically with an amount not to exceed $4
   million or the amount necessary to provide for payments for a 30-day
   period, whichever is lower except as provided in Paragraph 4. The trust
   fund established by this resolution shall be a stand-alone bank account
   outside of the County treasury.

4. Large Payment Authorization. Notwithstanding Paragraph 3, upon
   approval of the Board of Supervisors, the Auditor-Controller may direct
   the Treasurer-Tax Collector to transfer an amount specified by the Board
   of Supervisors into the trust fund to pay a claim that exceeds the funds
   available in the trust fund.

5. Claims Administration Firm Authorized to Issue Checks from Trust Fund.
   The County’s contracted outside claims administration firm for workers’
   compensation claims is hereby authorized to issue checks for payment of
   workers’ compensation claims from the trust fund established pursuant to
this resolution subject to the guidelines and procedures enumerated in the contract with such firm and any other guidelines and procedures set by the County of Orange Office of Risk Management.
RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF ORANGE, STATE OF CALIFORNIA

_______, 2020

WHEREAS, pursuant to Government Code Section 31000.8, the County may contract with a qualified firm for the purpose of having such a firm render investigative, administrative, and claims adjustment services relating to workers’ compensation claims against the County; and

WHEREAS, pursuant to Government Code Section 31000.8, such a contract may provide that the contracting firm may execute and issue checks in payment of claims, which checks shall be payable only from a trust fund established by the Board of Supervisors; and

WHEREAS, funds in the trust fund established pursuant to the provisions of Government Code Section 31000.8 shall not exceed, at any one time, a sum sufficient to provide for the settlement of claims for a 30-day period as determined by the Board of Supervisors; and

WHEREAS, by Resolution No. 77-1363, dated August 23, 1977, the Board of Supervisors established a trust fund pursuant to Government Code Section 31000.8 for the payment of workers’ compensation claims by the County’s outside claims administrator and periodically revised the maximum fund balance in the trust fund; and

WHEREAS, by Resolution No. 98-435 the Board of Supervisors modified its prior resolutions to permit the Treasurer-Tax Collector to establish a zero-balance account to operate the trust fund; and

WHEREAS, authorizing the contracted outside claims administration firm to pay workers’ compensation claims directly from a trust fund will reduce payment time and eliminate duplicative processing; and

WHEREAS, at present, a sum sufficient to provide for the settlement of claims
for a 30-day period is approximately $4,000,000.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, AS FOLLOWS:

1. **Recitals.** The Board of Supervisors finds the foregoing recitals to be true and correct.

2. **Removal of Zero-Balance Account.** The Board of Supervisors hereby repeals Resolution 98-435 and directs the conversion of the zero-balance account established by that resolution to a trust fund established herein within forty-days of the date of this resolution.

3. **Establishment and Maintenance of Trust Fund.** A trust fund for the payment of workers’ compensation claims by the County of Orange’s contracted outside claims administration firm for workers’ compensation claims is hereby **authorized** for an initial deposit of an amount that shall not exceed $4 million, which shall be replenished periodically with an amount not to exceed $4 million or the amount necessary to provide for payments for a 30-day period, whichever is lower except as provided in Paragraph 4.---The trust fund established by this resolution shall be a stand-alone bank account outside of the County treasury.

4. **Large Payment Authorization.** Notwithstanding Paragraph 3, upon approval of the Board of Supervisors, the Auditor-Controller may direct the Treasurer-Tax Collector to transfer an amount specified by the Board of Supervisors into the trust fund to pay a claim that exceeds the funds available in the trust fund.

5. **Claims Administration Firm Authorized to Issue Checks from Trust Fund.** The County’s contracted outside claims administration firm for workers’ compensation claims is hereby authorized to issue checks for payment of workers’ compensation claims from the trust fund established pursuant to
this resolution subject to the guidelines and procedures enumerated in the contract with such firm and any other guidelines and procedures set by the County of Orange Office of Risk Management.
MEMORANDUM

To: Clerk of the Board

From: Donald P. Wagner, Third District Supervisor

Date: Thursday October 13, 2020

RE: Supplemental Item for October 20, 2020 Board of Supervisors Meeting

I would like to add a supplemental agenda item to the October 20, 2020 Board of Supervisors meeting. I would be reappointing John (Pat) Welch to the North Tustin Advisory Committee (NTAC) with a term of April 1, 2020 through March 31, 2023.
APPLICATION FOR COUNTY OF ORANGE BOARD, COMMISSION OR COMMITTEE

Return to:
Clerk of the Board of Supervisors
333 West Santa Ana Blvd., Suite 465
Santa Ana, California 92701
Website: www.ocgov.com/gov/cob/

Instructions: Please complete each section below. Be sure to enter the title of the Board, Commission or Committee for which you desire consideration. For information or assistance, please contact the Clerk of the Board of Supervisor’s Office at (714) 834-2206. Please print in ink or type.

NAME OF BOARD, COMMISSION, OR COMMITTEE TO WHICH YOU ARE APPLYING FOR MEMBERSHIP (SEE LIST AT HTTP://WWW.OCGOV.COM/GOV/COB/BCC/CONTACT):

NORTH TUSTIN ADVISORY COMMITTEE/REAPPOINTMENT

SUPERVISORIAL DISTRICT IN WHICH YOU RESIDE: ☐ First ☐ Second ☑ Third ☐ Fourth ☐ Fifth

APPLICANT NAME AND RESIDENCE ADDRESS:

JOHN (PAT) PATRICK WELCH

Middle Name Last Name

CURRENT EMPLOYER: RETIRED

OCCUPATION/JOB TITLE:

BUSINESS ADDRESS:

BUSINESS PHONE NUMBER:

EMPLOYMENT HISTORY: Please attach a resume to this application and provide any information that would be helpful in evaluating your application.

ARE YOU A CITIZEN OF THE UNITED STATES: ☑ YES ☐ NO

IF NO, NAME OF COUNTRY OF CITIZENSHIP: _____________________________

ARE YOU A REGISTERED VOTER? ☑ YES ☐ NO

IF YES, NAME COUNTY YOU ARE REGISTERED IN: ORANGE COUNTY

Revised Date 02/07/19
LIST ALL CURRENT PROFESSIONAL OR COMMUNITY ORGANIZATIONS AND SOCIETIES OF WHICH YOU ARE A MEMBER.

ORGANIZATION/SOCIETY                      FROM (MO./YR.)              TO (MO./YR.)
FOOTHILL COMMUNITIES ASS/DIR.             1/2000                  CURRENT
NORTH TUSTIN ADVISORY COMM.               6/2005                  CURRENT
VINTAGE CHEVROLET CLUB OF AMER.           1/2010                  CURRENT

WITHIN THE LAST FIVE YEARS, HAVE YOU BEEN AFFILIATED WITH ANY BUSINESS OR NONPROFIT AGENCY(IES)? □ YES ■ NO

DO YOU OWN REAL OR PERSONAL PROPERTY OR HAVE FINANCIAL HOLDING WHICH MIGHT PRESENT A POTENTIAL CONFLICT OF INTEREST? □ YES ■ NO

HAVE YOU BEEN CONVICTED OF A FELONY OR MISDEMEANOR CRIME SINCE YOUR 18TH BIRTHDAY? YOU ARE NOT REQUIRED TO DISCLOSE ANY OF THE FOLLOWING: ARRESTS OR DETentions THAT DID NOT RESULT IN A CONVICTION; CONVICTIONS THAT HAVE BEEN JUDICIALy DISMISSED, EXPUNGED OR ORDERED SEALED; INFORMATION CONCERNING REFERRAL TO AND PARTICIPATION IN ANY PRETRIAL OR POSTTRIAL DIVERSION PROGRAM; AND CERTAIN DRUG RELATED CONVICTIONS THAT ARE OLDER THAN TWO YEARS, AS LISTED IN CALIFORNIA LABOR CODE § 432.8 (INCLUDING VIOLATIONS OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 11357(B) AND (C), 11360(C) 11364, 11365 AND 11550 – AS THEY RELATE TO MARIJUANA)? □ YES ■ NO

IF YES, PLEASE EXPLAIN AND ATTACH ADDITIONAL SHEETS, IF NECESSARY.

____________________________

PLEASE BRIEFLY EXPLAIN WHY YOU WISH TO SERVE ON THIS BOARD, COMMITTEE, OR COMMISSION. ATTACH ADDITIONAL SHEETS, IF NECESSARY.

I have been an NTAC member for the past fifteen years and am interested in continuing my involvement in land use issues.

DATE: 9/23/2020   APPLICANTS SIGNATURE: _______________________

Clerk of the Board of Supervisors Use Only – Do not write below this line

Date Received: 9/28/20   Received by: M Lopez   Deputy Clerk of the Board of Supervisors
Date referred: 9/29/20
To: □ BOS District 1 □ BOS District 2   X BOS District 3 □ BOS District 4 □ BOS District 5
□ All BOS □ BCC Contact Person Name
RESUME

John P. Welch

October 8, 2019

PERSONAL

John P. (Pat) Welch

Education History

- Barrington (Illinois) High School. Graduated 1959
- Quincy (Illinois) University-1959-1961
- Southern Illinois University-1961-1963
- United States Army-Honorable Discharge 1965
- California State University Fullerton, CA. Graduated 1968/BA Marketing
- Graduate School of Sales Management and Marketing Syracuse University-1984

Employment History

- Anaconda Wire & Cable Company-1968-1969
SUPPLEMENTAL AGENDA STAFF REPORT

MEETING DATE: 10/20/2020
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: Supervisor Doug Chaffee
Supervisor Andrew Do

DEPARTMENT CONTACT PERSON(S): Al Jabbar 714-834-3440
Veronica Carpenter 714-834-3110

SUBJECT: COVID-19 CARES ACT ECONOMIC SUPPORT FOR CHILD CARE FACILITIES

<table>
<thead>
<tr>
<th>CEO CONCUR</th>
<th>COUNTY COUNSEL REVIEW</th>
<th>CLERK OF THE BOARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pending</td>
<td>Approved</td>
<td>Discussion</td>
</tr>
</tbody>
</table>

Budgeted: Yes  
Current Year Cost: $5,000,000.00  
Annual Cost: N/A  
Staffing Impact: N/A  
# of Positions: N/A  
Sole Source: N/A  
Current Fiscal Year Revenue: N/A  
Funding Source: Federal: 100% (CARES Act)  
County Audit in last 3 years N/A

Prior Board Action: 5/19/2020, #S68A

RECOMMENDED ACTION(S)

1. Distribute $5 million in CARES Act funding allocated for economic support due to the Coronavirus Disease 2019 (COVID-19) for use within Orange County.
2. Authorize the allocation of funding as follows:
   a. Allocate $2 million to licensed large & small family child care homes.
   b. Allocate $2 million to non-government contracted, licensed center-based programs and partially-funded government contracted licensed centers.
   c. Allocate $1 million to non-government contracted, license-exempt group care providers serving school-age children up to 12 years old.
3. Authorize the County Executive Officer or designee to enter into negotiations and execute a contract as needed with Charitable Ventures to act as a Third-Party Administrator to manage County-operated child care funding program if implemented.
4. Provide further direction to the County Executive Officer and other County Officers related to the Novel Coronavirus (COVID-19) emergency and response as necessary.
SUMMARY:
Allocating $5 million in federal CARES Act funding for economic support to licensed family child care facilities, licensed centers, and group care school age programs providers in Orange County will provide much needed resources for response and recovery efforts related to the COVID-19 emergency.

BACKGROUND INFORMATION:
On May 19, 2020, the Orange County Board of Supervisors appropriated $554,000,000 to the miscellaneous fund to be expended in accordance with CARES Act requirements and Department of Treasury Guidance. The County is seeking to allocate $5 million of those funds for economic support for Orange County child care providers.

The Orange County Emergency Child Care Task Force, facilitated by Early Childhood OC, estimates that of the 2,165 licensed childcare programs in Orange County, approximately 40% were forced to shut down, either temporarily or permanently, due to the increased costs associated with COVID-19. These costs include personal protective equipment, cleaning supplies, and other environmental changes to incorporate health and safety protocols recommended by state and local governments. Additionally, these programs have suffered from reduced income due to ratio reduction to support social distancing and significantly reduced enrollment. This funding would support these small businesses in staffing, supplies, mortgage and rental assistance and business resilience due to the devastating effects of the COVID-19 public health emergency.

Based on the Childcare Landscape, published by First 5 Orange County, the number of pre-pandemic licensed child care spots for infants and toddlers would only support one in seven children that need child care in Orange County. As more non-essential workers return to work outside the home, child care programs are unable to support the numbers of children requiring child care without all of the licensed providers in the County open for business. The goal of this funding would be to assist Early Care and Education providers with financial assistance to safeguard people, assets and future operations of these essential services to the County.

Funding Proposal
The funding amount of $5 million is proposed to be allocated to the following three different groups of child care providers:

1. Family Child Care Homes, including Early Care and Education providers caring for small groups of children in a residential setting. A total of $2 million will be allocated to Family Child Care Homes, with licensed small family child care homes (maximum of 8 children) receiving $2,500 and licensed large family child care homes (maximum of 14 children) receiving $3,500.

2. Child Care Centers, including Early Care and Education providers caring for groups of children in classrooms and may be privately owned for-profit or operated by nonprofit agencies. A total of $2 million will be allocated to non-government contracted, licensed center-based programs and partially funded government contracted, licensed centers in an amount of $175 per child not-to-exceed licensed capacity.
3. School Age Group Care Providers, including before and after school care for children five years to 12 years of age. A total of $1 million will be allocated to non-government contracted, license-exempt group care providers serving school-age children up to 12 years of age in an amount of $100 per child capacity.

**Funding Uses**
Eligible uses for the funding include: (1) payroll expenses for staff; (2) purchase of supplies; (3) payment of mortgage and rent costs; (4) business resilience; and (5) environmental improvements for learning spaces related to the COVID-19 public health emergency.

All expenditures must be necessary and incurred due to the COVID-19 public health emergency, as set forth in the CARES Act and the Department of Treasury State & Local Guidance. The funds must be expended by December 30, 2020 or returned to the County.

**Eligibility Criteria**
In order to receive funding, all child care facilities must meet the following eligibility requirements:

1. Recipients must have been affected by the COVID-19 public health emergency, including a reduction in revenue, layoffs, or voluntary and involuntary forced closures;
2. Recipients must comply with child-to-staff ratios mandated by the State of California;
3. Recipients must be located within the geographical boundaries of Orange County;
4. Recipients must self-certify that all funds will be used on eligible expenses;
5. Recipients must possess a valid child care license issued by the State of California, Community Care Licensing, or provide a business statement of information of a license-exempt provider;
6. Recipients must be open for business at the time of application or will open within 30 days of date of application;
7. School district programs funded by the Department of Education are not eligible;
8. Family, Friend, and Neighbor license-exempt childcare providers are not eligible;
9. Programs that are principally engaged in the teaching, instructing, counseling, or indoctrinating religion or religious beliefs are not eligible.

Charitable Ventures will administer the child care facilities grant program on behalf of the County, which may include online/paper marketing materials (bilingual included), a dedicated website, assistance with reviewing applications, processing of grant awards, generating grant checks, and all auditing/monitoring requirements as identified by the CARES Act. Charitable Ventures will also assist in development of other customized program details.

**FINANCIAL IMPACT:** On May 19, 2020, the Board of Supervisors appropriated $554,000,000 to the miscellaneous fund to be expended in accordance with CARES Act requirements and Department of Treasury Guidance. The $5,000,000 allocated for economic support would be part of the $554,000,000 appropriation.

**STAFFING IMPACT:** N/A
SUPPLEMENTAL AGENDA ITEM  
AGENDA STAFF REPORT  

MEETING DATE: 10/20/20  
LEGAL ENTITY TAKING ACTION: Board of Supervisors  
BOARD OF SUPERVISORS DISTRICT(S): All Districts  
SUBMITTING AGENCY/DEPARTMENT: Chairwoman Michelle Steel, Second District  
Supervisor Don Wagner, Third District  
DEPARTMENT HEAD REVIEW:  
Department Head Signature  
DEPARTMENT CONTACT PERSON(S): Debra Baetz (714) 541-7773  

SUBJECT: First Amendment to Agreement for Emergency Food Distribution Services  

<table>
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<tr>
<th>CEO CONCUR</th>
<th>COUNTY COUNSEL REVIEW</th>
<th>CLERK OF THE BOARD</th>
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<tbody>
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<td>NO LEGAL OBJECTION</td>
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<td></td>
<td>Action</td>
<td>3 Votes Board Majority</td>
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<td>CEO Signature</td>
<td>County Counsel Signature</td>
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Budgeted: Yes  
Current Year Cost: $3,000,000  
Annual Cost: N/A  

Staffing Impact: N/A  
# of Positions:  
Sole Source: N/A  

Current Fiscal Year Revenue: See Financial Impact Section  
Funding Source: Fed: 100% (CARES Act)  
County Audit in last 3 years N/A  
Prior Board Action: 05/19/2020 #S68D  

RECOMMENDED ACTION(S)  

1. Direct SSA to issue an Amendment to the Agreement with Second Harvest Food Bank of Orange County, Inc. and Community Action Partnership of Orange County to extend the Agreement end date to November 30, 2020, increase the maximum shared aggregate obligation by $3,000,000, for a revised cumulative total of $6,000,000, and update the terms and conditions.  

2. Delegate authority to the Social Services Director, or designee, to execute an Amendment to the Agreement with Second Harvest Food Bank of Orange County, Inc. and Community Action Partnership of Orange County for the term of May 19, 2020, through November 30, 2020.
SUMMARY:

Issuance of an Amendment to the Social Services Agency’s (SSA) Agreement with Second Harvest Food Bank of California, Inc. and Community Action Partnership of Orange County will allow the County of Orange to continue to support community-based efforts of providing food to residents of Orange County impacted by the Novel Coronavirus Disease Outbreak pandemic.

BACKGROUND INFORMATION:

On May 19, 2020, the Board approved SSA’s current Agreement with Second Harvest Food Bank of California, Inc. and Community Action Partnership of Orange County with a maximum shared aggregate obligation of $3,000,000. Due to the unprecedented unemployment caused by COVID-19, approval is requested by the Board of Supervisors’ (Board) to direct SSA o issue an Amendment to the Agreement with Second Harvest Food Bank of California, Inc. and Community Action Partnership of Orange County to provide Supplemental Financial Support for Emergency Food Distribution Services to extend the Agreement, through November 30, 2020, with a revised maximum cumulative total of $6,000,000 and update the terms and conditions.

The COVID-19 pandemic and resulting high unemployment have caused an unprecedented scale of Orange County residents seeking emergency food assistance from community organizations including Second Harvest Food Bank of Orange County, Inc. and Community Action Partnership of Orange County (Food Banks). According to the State of California Employment Development Department the unemployment rate in Orange County continues to be elevated. Due to the impact of the COVID-19 pandemic, the Federal Government has determined that it may be necessary as an emergency protective measure to provide food to meet the immediate needs of those who do not have access to food as a result of COVID-19 and to protect the public from the spread of the virus.

The Food Banks are local non-profit community-based organizations with long histories of serving Orange County residents. They have been on the front line providing emergency food assistance by distributing food directly to Orange County residents and by supporting more than 500 Orange County organizations in their efforts to provide food for the food-insecure communities they serve. The Food Banks are normally funded by grants, donations and private support. However, due to the COVID-19 pandemic and resulting high unemployment, these financial resources are at risk of rapidly being depleted such that food needs of Orange County residents cannot be met by these traditional funding sources.

With Board approval, the County will provide supplemental funding to the Food Banks as their traditional funding resources has become insufficient to meet residents' needs. Food Banks shall apply for all available funding opportunities and contributions (e.g., federal stimulus grants, state programs, donations, private grants) and are requesting supplemental funding from the County only after other resources have been exhausted.

Funding for the Amendment to the Agreement for Supplemental Financial Support for Emergency Food Distribution Services may include, but is not limited to, CARES Act and Federal Emergency Management Agency (FEMA) funding, which reimburses for actual costs only. Funding is limited to available sources to support efforts related to the pandemic and is not a County general fund obligation. In addition, funding is intended for the purchase of grocery items, other commodities necessary for the packaging of food,
storage and distribution of food. The Food Banks will submit monthly invoices to the County to document their actual expenditures.

This agreement does not currently include subcontractors or pass through to other providers.

FINANCIAL IMPACT:

Funding of this Agreement is 100 percent federal through the CARES Act and/or FEMA Public Assistance. Payment to the Food Banks be absorbed with existing CARES appropriation and revenue in Budget Control 063, Social Services Agency in FY 2020-21.

The proposed Agreement includes provisions that the Agreement is contingent upon the availability of funds and inclusion of sufficient funds in the budget approved by the Board for each fiscal year the Agreement remains in effect or operation. In the event such funding is terminated or reduced, the County may terminate the Agreement, reduce the County’s maximum obligation or modify the Agreement, without penalty.

STAFFING IMPACT:
N/A

ATTACHMENT(S):
N/A
October 14, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the October 20, 2020, Board Hearing.

Agency: Sheriff-Coroner
Subject: Approve Amendment Number One to Computer Deductions Inc. Contract for Data Center Services
Districts: All Districts

Reason for supplemental: The County Executive Office is requesting this Supplemental Item be placed on the October 20, 2020, Board agenda in order to avoid retroactive approval and lapses in services provided under the current contract expiring on October 31, 2020. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:

Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
    County Executive Office
    County Counsel
SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 10/20/2020
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: Sheriff-Coroner
DEPARTMENT HEAD REVIEW: 
DEPARTMENT CONTACT PERSON(S): Brian Wayt (714) 647-1803
Dave Fontneau (714) 834-6450

SUBJECT: Approve Amendment Number One to Computer Deductions Inc. Contract for Data Center Services

CEO CONCUR

COUNTY COUNSEL REVIEW
Approve Agreement as to Form

CLERK OF THE BOARD
Discussion
3 Votes Board Majority

Budgeted: Yes  Current Year Cost: $743,888  Annual Cost:
FY 2021-22 $371,944

Staffing Impact: N/A  # of Positions: 

Current Fiscal Year Revenue: N/A

Funding Source: State: 100% (Proposition 172)

Sole Source: N/A

County Audit in last 3 years: No

Prior Board Action: 9/25/2018 #20, 1/24/2017 #25, 10/22/2013 #23, 9/25/2012 #29

RECOMMENDED ACTION(S):
Authorize the County Procurement Officer or authorized Deputy to execute Amendment Number One to Computer Deductions Inc. Contract for professional services to manage, supervise and operate the Unisys mainframe computer and all Sheriff-Coroner Department Data Center operations, for the term of November 1, 2020, through October 31, 2021, in the not to exceed amount of $1,115,832.

SUMMARY:
The Sheriff-Coroner Department's (Sheriff) Data Center is a state-of-the-art computer facility that houses multiple Unisys ClearPath ES mainframe application servers, Windows servers and the equipment necessary to create a high-speed Countywide networking infrastructure. The Unisys mainframe servers support various law enforcement software applications including the Orange County Automated Telecommunications System, Enhanced Law Enforcement Terminal Emulator, Automated Jail System, Automated Warrant Service System and Local Arrest Records System. The Windows servers support Web
services, Computer-Aided Dispatch/Records Management System, In-Time, email, plus other applications. The complex is monitored and controlled from a Command Center that is staffed 24 hours per day, 365 days per year.

Computer Deductions Inc. (CDI) has served for over 20 years as the Sheriffs in-house data systems development manager. CDI's main responsibility has been the development and management of all systems within the Unisys mainframe. CDI has written and maintained various software applications mentioned above and, in addition, maintains connectivity to all state, federal and international law enforcement networks. CDI is also the in-house contractor for the California Department of Justice and is a recognized expert in law enforcement data systems and Unisys mainframe computers. Because CDI has developed all of the systems and written the software applications within the Unisys mainframe, CDI is the only vendor able to manage, maintain and operate the Sheriffs data center. CDI is able to provide these services at very competitive prices because their staffing and management resources are already in place at the Sheriffs data center. The proposed contract is a sole source contract and a completed Sole Source Request Form is attached to this Agenda Staff Report (Attachment C). This amended contract includes a proration of the monthly invoice amount when CDI's staff members have excessive absences or positions are unfilled.

The Board of Supervisors (Board) has approved several contracts with CDI as noted on the table below.

<table>
<thead>
<tr>
<th>Board Date</th>
<th>Purpose</th>
<th>Term of Contract</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/19/10</td>
<td>Approved contract</td>
<td>11/1/10 – 10/31/11</td>
<td>$650,000</td>
</tr>
<tr>
<td>9/20/11</td>
<td>Renewed contract</td>
<td>11/1/11 – 10/31/12</td>
<td>$650,000</td>
</tr>
<tr>
<td>9/25/12</td>
<td>Renewed contract</td>
<td>11/1/12 – 10/31/13</td>
<td>$650,000</td>
</tr>
<tr>
<td>10/22/13</td>
<td>Approved contract</td>
<td>11/1/13 – 10/31/18</td>
<td>$3,250,000</td>
</tr>
<tr>
<td>1/24/17</td>
<td>Approved Amendment Number One to increase the contract amount by $728,800 to add two additional Help Desk Technician positions to work directly rewriting existing applications for the transition and writing new applications to support departmental operations in the new environment and add one Help Desk Supervisor</td>
<td>11/1/13 – 10/31/18</td>
<td>$728,800</td>
</tr>
<tr>
<td>9/25/18</td>
<td>Approve contract</td>
<td>11/1/18 – 10/31/20</td>
<td>$2,028,000</td>
</tr>
</tbody>
</table>

The Contractor's performance has been confirmed as satisfactory. Sheriff has verified there are no concerns that must be addressed with respect to Contractor's ownership/name, litigation status or conflicts with County interests. The Sheriff is now requesting Board approval of Amendment Number One of sole source contract with CDI for professional services to manage, supervise and operate the Unisys mainframe computer and all Sheriff Data Center operations, for the term of November 1, 2020, through October 31, 2021, in the not to exceed amount of $1,115,832. This contract does not currently include subcontractors or pass through to other providers. See Attachment D for the Contract Summary Form.

**FINANCIAL IMPACT:**

Appropriations for this contract are included in the Sheriff's FY 2020-21 Budget for Budget Control 060, and will be included in the budgeting process for future fiscal years. This contract contains language allowing Sheriff to terminate the contract or reduce the level of services without penalty with cause or without cause in the event that funding is reduced and/or not available to continue funding the contract.
STAFFING IMPACT:
N/A

ATTACHMENT(S):
Attachment A - Amendment Number One to Contract MA-060-19010180
Attachment B - Redline Version of Contract
Attachment C - Sole Source Request Form
Attachment D - Contract Summary Form
AMENDMENT NUMBER ONE
TO
CONTRACT NUMBER MA-060-19010180
BETWEEN THE
COUNTY OF ORANGE
AND
COMPUTER DEDUCTIONS INC.

This AMENDMENT NUMBER ONE to Contract number MA-060-19010180 (hereinafter “AMENDMENT NUMBER ONE”) between the County of Orange, a political subdivision of the State of California (hereinafter “COUNTY”) and Computer Deductions Inc., (hereinafter “CONTRACTOR”) with a place of business at 8680 Greenback Ln., Suite 210, Orangevale, CA 95662, with COUNTY and CONTRACTOR sometimes referred to collectively as “Parties,” is made and entered upon execution of all necessary signatures.

RECITALS:

WHEREAS, COUNTY and CONTRACTOR executed a Contract for Data Center Operations and Help Desk Services on September 26, 2020 as Contract number MA-060-19010180 (hereinafter “ORIGINAL CONTRACT”), for a two (2) year term of November 1, 2018 through and including October 31, 2020, renewable for three (3) additional one (1) year terms; and

WHEREAS, COUNTY desires to renew the ORIGINAL CONTRACT for a one year term of November 1, 2020 through and including October 31, 2021 in an amount not to exceed $1,115,832.00; as well as to amend Attachment B, Compensation and Pricing Provision to allow for proration of the monthly invoice amount when Contractor’s staff members have excessive absences or positions are unfilled; and the CONTRACTOR has agreed to continue to provide those services at the rates set forth in this AMENDMENT NUMBER ONE; and

NOW THEREFORE, in consideration of the mutual obligations set forth herein, both COUNTY and CONTRACTOR agree as follows:

1. ARTICLES

   a. Additional Terms and Conditions, Section Term of Contract, of the ORIGINAL CONTRACT is amended to read in its entirety as follows:

   2. Term of Contract:
      This Contract shall commence upon execution of all necessary signatures, and continue in effect from 11/1/18 through and including 10/31/21, unless otherwise terminated by COUNTY.

   b. Additional Terms and Conditions, Section 3 – Renewals, of the ORIGINAL CONTRACT is amended in its entirety as follows:

      This Contract may be renewed for two (2) additional, one (1) year terms upon mutual agreement of both Parties. The County is not under any obligation to
provide Contractor with a reason should it elect not to renew the Contract, nor is it required to give Contractor prior notice of its intent not to renew.

c. Attachment B, Compensation and Pricing Provisions, section 2. Fees and Charges of the ORIGINAL CONTRACT is amended in its entirety as follows:

County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:

Monthly Rate: $92,986.00*

* Contractor shall not charge for a position that is either left unstaffed/unfilled for two or more weeks of the month being invoiced or where Contractor’s staff member has failed to appear for two or more weeks of the month being invoiced. Accordingly, Contractor’s invoice shall reflect a prorated reduction of 1/8 (i.e., 12.5%) on the total monthly invoice as indicated below:

<table>
<thead>
<tr>
<th>Positions</th>
<th>% Staffed</th>
<th>Monthly Invoice Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>100%</td>
<td>$92,986.00</td>
</tr>
<tr>
<td>7</td>
<td>87.50%</td>
<td>$81,363.00</td>
</tr>
<tr>
<td>6</td>
<td>75.00%</td>
<td>$69,739.00</td>
</tr>
<tr>
<td>5</td>
<td>62.50%</td>
<td>$58,116.00</td>
</tr>
<tr>
<td>4</td>
<td>50.00%</td>
<td>$46,493.00</td>
</tr>
<tr>
<td>3</td>
<td>37.5%</td>
<td>$34,869.00</td>
</tr>
<tr>
<td>2</td>
<td>25%</td>
<td>$23,246.00</td>
</tr>
<tr>
<td>1</td>
<td>12.5%</td>
<td>$11,623.00</td>
</tr>
</tbody>
</table>

Contractor shall specify in each invoice how many positions were fully staffed and how many were not fully staffed (i.e., due to absences, no-shows, and positions being unfilled for two or more weeks of the month). In the event an audit determines that Contractor invoiced the an amount that exceeds what should have been invoiced based on its staff members’ absences or positions being unfilled, Contractor will be deemed in breach pursuant to Paragraph 5 (Breach of Contract) of the Additional Terms and Conditions of the Contract.

No other amounts, fees, or costs other than what is listed under this Contract shall be paid by County.

Contract shall not exceed: $1,115,832.00 for the term of November 1, 2020 through and including October 31, 2021

2. All other provisions of the ORIGINAL CONTRACT except as amended herein and to the extent they are not inconsistent with this AMENDMENT NUMBER ONE, remain unchanged and in full force and effect.
IN WITNESS WHEREOF, the Parties have executed AMENDMENT NUMBER ONE to Contract Number MA-060-19010180.

*Contractor: Computer Deductions Inc.
By: Thomas J Calabro  Title: Vice President  9/28/2020
Print Name: Thomas J Calabro  Date: 9/28/2020

*Contractor: Computer Deductions Inc.
By: Donald G Foulk  Title: Vice President / CFO  9/28/2020
Print Name: Donald G Foulk  Date: 9/28/2020

*If the contracting party is a corporation, (2) two signatures are required: (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County Of Orange
A political subdivision of the State of California
Sheriff-Coroner Department

By: __________________________  Title: __________________________
Print Name: ____________________  Date: _______________________

Approved by the Board of Supervisors: ________________________

Approved as to Form
Office of the County Counsel
Orange County, California

By: __________________________
Deputy
Contract MA-060-19010180
with
Computer Deductions, Inc.
for
Data Center Operations and Help Desk Services

This Contract MA-060-19010180 for Data Center Operations and Help Desk Services (hereinafter referred to as "Contract") is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, through its Sheriff-Coroner Department with a place of business at 320 N. Flower Street, 2nd Floor, Santa Ana, CA 92703 (hereinafter referred to as "County"), and Computer Deductions, Inc., with a place of business at 8680 Greenback Lane, Suite 2310, Orangevale, CA 95662 (hereinafter referred to as "Contractor"), with County and Contractor sometimes referred to as "Party" or collectively as "Parties".

ATTACHMENTS

This Contract is comprised of the following Attachments, which are attached hereto and incorporated by reference into this Contract:

Attachment A – Scope of Work
Attachment B – Compensation and Pricing Provisions

RECITALS

WHEREAS, Contractor and County are entering into this Contract for Data Operations and Help Desk Services under a firm fixed fee Contract; and

WHEREAS, Contractor agrees to provide Data Center Operations and Help Desk Services to the County as further set forth in the Scope of Work, attached hereto as Attachment A; and

WHEREAS, County agrees to pay Contractor based on the schedule of fees set forth in the Compensation and Pricing Provisions, attached hereto as Attachment B; and

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

General Terms and Conditions:

A. Governing Law and Venue: This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.

B. Entire Contract: This Contract contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional
terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County’s Purchasing Agent or designee.

C. Amendments: No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

D. Taxes: Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.

E. Delivery: Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor’s expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.

F. Acceptance Payment: Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance by the County and in accordance to Attachment B, Compensation and Pricing.

G. Warranty: Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor’s part to indemnify, defend and hold County and its indemnities as identified in paragraph “Z” below, and as more fully described in paragraph “Z,” harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.

H. Patent/Copyright Materials/Proprietary Infringement: Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph “Z” below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, costs and expenses but not including attorney’s fees.
I. Assignment: The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned by Contractor without the express written consent of County. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.

J. Non-Discrimination: In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.

K. Termination: In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Contract without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.

L. Consent to Breach Not Waiver: No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

M. Independent Contractor: Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.

N. Performance Warranty: Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.

O. Insurance Requirements: Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.
Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this contract shall be covered under Contractor’s insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor, and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars ($50,000) shall specifically be approved by the County’s Risk Manager, or designee, upon review of Contractor’s current audited financial report. If Contractor’s SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor’s, its agents’, employees’ or subcontractors’ performance of this Contract, Contractor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
2) Contractor’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor’s SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this contract, the County may terminate this contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A-(Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the State of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company’s performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Minimum Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial General Liability</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td></td>
<td>$2,000,000 aggregate</td>
</tr>
<tr>
<td>Automobile Liability including coverage for own, non-owned and hired vehicles</td>
<td>$1,000,000 per occurrence</td>
</tr>
</tbody>
</table>
Workers' Compensation
Employers' Liability Insurance
Network Security & Privacy Liability
Technology Errors & Omissions
Professional Liability
Employee Dishonesty

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees and agents as Additional Insureds, or provide blanket coverage, which will state “As Required By Written Contract.”

2) A primary non-contributing endorsement using ISO Form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance:

1) An Additional Insured endorsement naming the County of Orange, its elected and appointed officials, officers, agents and employees as Additional Insureds for its vicarious liability.

2) A primary and non-contributing endorsement evidencing that the Contractor’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
The Workers’ Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents, or provide blanket coverage, which will state As Required By Written Contract.

All insurance policies required by this contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.

The County of Orange shall be the loss payee on the Employee Dishonesty coverage. A Loss Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the Certificate of Insurance.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the contract, upon which the County may suspend or terminate this contract.

If Contractor’s Professional Liability, Technology Errors & Omissions and Network Security & Privacy Liability are “Claims Made” policies, Contractor shall agree to maintain coverage for two (2) years following the completion of the Contract.

The Commercial General Liability policy shall contain a severability of interests clause, also known as a “separation of insureds” clause (standard in the ISO CG 001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

P. Changes: Contractor shall make no changes in the work or perform any additional work without the County’s specific written approval.

Q. Change of Ownership/Name, Litigation Status, Conflicts with County Interests: Contractor agrees that if there is a change or transfer in ownership of Contractor’s business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required
under terms of sale or other transfer to assume Contractor’s duties and obligations contained in this Contract and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor’s status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor’s performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor’s name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor’s employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor’s efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

R. Force Majeure: Contractor shall not be assessed or be found in breach during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.

S. Confidentiality: Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor’s staff, agents and employees.

T. Compliance with Laws: Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor’s expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively “laws”), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph “Z” below, Contractor agrees that it shall defend, indemnify and hold County and County INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

U. Freight: Prior to the County’s express acceptance of delivery of products. Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
V. Severability: If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

W. Attorney Fees: In any action or proceeding to enforce or interpret any provision of this Contract, each party shall bear their own attorney’s fees, costs and expenses.

X. Interpretation: This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.

Y. Employee Eligibility Verification: The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

Z. Indemnification: Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County’s Board of Supervisors acts as the governing Board (“County Indemnitees”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

AA. Audits/Inspections: Contractor agrees to permit the County’s Auditor-Controller or the Auditor-Controller’s authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters
connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this agreement shall be forwarded to the County's project manager.

BB. Contingency of Funds: Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

CC. Expenditure Limit: The Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

Additional Terms and Conditions

1. Scope of Contract: This Contract specifies the contractual terms and conditions by which County will procure and receive goods/services from Contractor as set forth in the Scope of Work, which is attached hereto as Attachment A and incorporated by this reference.

2. Term of Contract: This Contract shall commence on November 1, 2018 or upon execution of all necessary signatures, whichever is later, and continue for two (2) calendar years from that date, unless otherwise terminated by County. This Contract may be renewed as set forth in paragraph 3 below.

3. Renewal: This Contract may be renewed by mutual written agreement of both Parties for three (3) additional one (1) year terms. The County does not have to give a reason if it elects not to renew. Renewal periods may be subject to approval by the County of Orange Board of Supervisors.

4. Adjustments – Scope of Work: No adjustments made to the Scope of Work will be authorized without prior written approval of the County assigned Deputy Purchasing Agent.

5. Breach of Contract: The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
a) Terminate the Contract immediately, pursuant to Section K herein;

b) Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;

c) Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and

d) Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.

6. Civil Rights: Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.

7. Conflict of Interest – Contractor’s Personnel: The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor’s employees, agents, and subcontractors associated with accomplishing work and services hereunder. The Contractor’s efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.

8. Conflict of Interest – County Personnel: The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.

9. Contractor’s Project Manager and Key Personnel: Contractor shall appoint a Project Manager to direct the Contractor’s efforts in fulfilling Contractor’s obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County’s Project Manager, which consent shall not be unreasonably withheld.

The Contractor’s Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. The County’s Project Manager shall have the right to require the removal and replacement of the Contractor’s Project Manager from providing services to the County under this Contract. The County’s Project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within five (5) business days after written notice by the County’s Project Manager. The County’s Project Manager shall review and approve the appointment of the replacement for the Contractor’s Project Manager. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor’s Project Manager from providing further services under the Contract.
10. Contractor Personnel – Reference Checks: The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to adequately perform the work under this Contract. Contractor’s employees assigned to this project must meet character standards as demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.

11. Contractor’s Expense: The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking while on County sites during the performance of work and services under this Contract. The County will not provide free parking for any service in the County Civic Center.

12. Contractor’s Records: The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the County. Storage of records in another county will require written approval from the County of Orange assigned Deputy Purchasing Agent.

13. Conditions Affecting Work: The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.

14. County of Orange Child Support Enforcement: Contractor certifies it is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of the Contract with the County of Orange. Failure to comply shall constitute a material breach of the Contract and failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.”

15. Data – Title To: All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.

16. Default – Reprocurement Costs: In case of Contract breach by Contractor, resulting in termination by the County, the County may procure the goods and/or services from other sources. If the cost for those goods and/or services is higher than under the terms of the existing Contract, Contractor will be responsible for paying the County the difference between the Contract cost and the price paid, and the County may deduct this cost from any unpaid balance due the Contractor. The price paid by the County shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.
17. Drug-Free Workplace: The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a)(1).

2. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
   a. The dangers of drug abuse in the workplace;
   b. The organization’s policy of maintaining a drug-free workplace;
   c. Any available counseling, rehabilitation and employee assistance programs; and
   d. Penalties that may be imposed upon employees for drug abuse violations.

3. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
   a. Will receive a copy of the company’s drug-free policy statement; and
   b. Will agree to abide by the terms of the company’s statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:

1. The Contractor has made false certification, or

2. The Contractor violates the certification by failing to carry out the requirements as noted above.

18. EDD Independent Contractor Reporting Requirements: Effective January 1, 2001, the County of Orange is required to file in accordance with subdivision (a) of Section 6041A of the Internal Revenue Code for services received from a “service provider” to whom the County pays $600 or more or with whom the County enters into a contract for $600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent Contractors. An independent Contractor is defined as “an individual who is not an employee of the ... government
entity for California purposes and who receives compensation or executes a contract for services performed for that ... government entity either in or outside of California."

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at [http://www.edd.ca.gov/Employer_Services.htm](http://www.edd.ca.gov/Employer_Services.htm)

19. Emergency/Declared Disaster Requirements: In the event of an emergency or if Orange County is declared a disaster area by the County, state or federal government, this Contract may be subjected to unusual usage. The Contractor shall service the County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by the Contractor shall apply to serving the County’s needs regardless of the circumstances. If the Contractor is unable to supply the goods/services under the terms of the Contract, then the Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from the Contractor’s supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned. All applicable invoices from the Contractor shall show both the emergency purchase order number and the Contract number.

20. Errors and Omissions: All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as project manager and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor’s reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by the Contractor after County approval thereof, County approval of Contractor’s reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction.

21. Equal Employment Opportunity: The Contractor shall comply with U.S. Executive Order 11246 entitled, “Equal Employment Opportunity” as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities
as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title I of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

22. News/Information Release: The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the County through the County’s Project Manager.

23. Notices: Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA), except through the course of the parties’ project managers’ routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

Contractor:
Computer Deductions, Inc.
8680 Greenback Lane, Suite 210
Orangevale, CA 95662
Attn: Tom Calabro
Ph: 916-987-3600
Tcalabro@cdi-hq.com

County:
County of Orange
Sheriff-Coroner Department/Support Services Division
320 N. Flower Street, 3rd Floor
Santa Ana, CA 92703
Attn: Jerry Soto
Ph: 714-834-6706
Jsoto@ocsd.org

Assigned DPA:
County of Orange
Sheriff-Coroner Department/Purchasing Services Unit
320 N. Flower Street, 2nd Floor
Santa Ana, CA 92703
Attn: Maria Ayala
Ph: 714-834-6360
Email: mayala@ocsd.org

24. Precedence: The Contract documents consist of this Contract and its exhibits and attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be
the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the exhibits and attachments.

25. Termination – Orderly: After receipt of a termination notice from the County of Orange, the Contractor may submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation combined with previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of performance of the Contract.

26. Usage: No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at rates/prices listed in the Contract, regardless of quantity requested.

27. Usage Reports: The Contractor shall submit usage reports on an annual basis to the assigned Deputy Purchasing Agent of the County of Orange user agency/department. The usage report shall be in a format specified by the user agency/department and shall be submitted 90 days prior to the expiration date of the contract term, or any subsequent renewal term, if applicable.

28. Sub-Contracting: No performance of this Contract or any portion thereof may be subcontracted by the Contractor without the express written consent of the County. Any attempt by the Contractor to subcontract any performance of this Contract without the express written consent of the County shall be invalid and shall constitute a breach of this Contract.

In the event that the Contractor is authorized by the County to subcontract, this Contract shall take precedence over the terms of the Contract between Contractor and subcontractor, and shall incorporate by reference the terms of this Contract. The County shall look to the Contractor for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the County of Orange.

29. Substitutions: The Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior County written approval.

30. Security Requirements:

A. Contractor shall, with respect to all employees of Contractor performing services hereunder:

1. Perform background checks as to past employment history.
2. Inquire as to past criminal felony convictions.
3. Ascertain that those employees who are required to drive in the course of performing services hereunder have valid California driver’s licenses and no DUI convictions within two (2) years prior to commencement of services hereunder.
4. Perform drug screening to determine that such employees are not users of illegal controlled substances as defined by federal law.
B. Contractor shall not assign to County property any Contractor personnel as to whom the foregoing procedures indicate:

1. Inability or unwillingness to perform in a competent manner.

2. Past criminal convictions for theft, burglary or conduct causing property damage or mental or physical harm to persons.

3. Where such employee’s duties include driving a vehicle, absence of a valid California driver’s license or a DUI conviction within the prior two (2) years.

4. Usage of illegal controlled substances as defined by federal law.

C. If any of the problems identified with respect to Contractor’s employees are discovered after assignment of an employee to County property, or if County otherwise reasonably deems an assigned employee unacceptable, Contractor shall remove and replace such employee at the County property.

D. Nothing herein shall render any employee of Contractor an employee of County.

THE CONTRACTOR’S PERSONNEL REQUIREMENTS:

All employees must pass the County’s background check and meet all requirements as set forth below:

1. All personnel to be employed in performance of the work under this Contract shall be subject to security clearance. Clearance must be updated and renewed every twelve (12) months from original date of clearance.

2. No person, who is required to enter a secured facility of the Sheriff, shall be assigned to perform work under this contract that has not received prior clearance from the Sheriff-Coroner Department.

3. Within fifteen (15) days of the effective date of this Contract, Contractor shall prepare and submit a complete and accurate “Contractor Security Clearance” information form for all Contractor’s employee who will be working on or who will need access to the Sheriff-Coroner’s facilities to perform work covered by this Contract. County project manager shall provide form(s) to Contractor’s project manager. Contractor is also responsible for ensuring that anytime an employee is assigned to work on Sheriff-Coroner’s facilities under this contract that a Security Clearance form is submitted and approved prior to that employee requiring access to such premises for providing services under this contract.

4. Contractor shall inform employees assigned to perform work within secured facilities of the Sheriff-Coroner that the employee is required to inform Contractor if/when any information provided on the security clearance form changes.
Contractor shall submit an updated security clearance form whenever there is a change in information provided by an employee. Contractor shall be responsible for ensuring to submit Security Clearance forms in order to renew the Security Clearance(s) every twelve months. Renewal forms shall be submitted at least ten (10) County working days prior to the expiration of an existing clearance; a security clearance is valid for 12 months from the date of issuance. If Contractor is submitting an updated form due to a change in information, said form shall be submitted within in 10 county working days of the employer becoming aware of the updated information.

5. Contractor Security Clearance information forms will be provided by County Project Manager upon request and will be screened by the Sheriff-Coroner’s Department.

6. Contractor Security Clearance information forms shall be thoroughly and accurately completed. Omissions or false statements, regardless of the nature or magnitude, may be grounds for denying clearance.

7. County will not give Contractor the reason an individual’s clearance is denied, but will provide explanation to individual affected via U.S. Mail.

E. GENERAL SECURITY REQUIREMENT-AT WORKSITE:

1. When performing work at a Sheriff-Coroner facility, all work areas shall be secured prior to the end of each workday.

2. Workmen shall have no contact, either verbal or physical, with inmates in any facility while preforming work under this contract. Specifically:
   a. Do not give names or addresses to inmates.
   b. Do not receive any names or addresses from inmates.
   c. Do not disclose the identity of any inmate to anyone outside the facility.
   d. Do not give any materials to inmates.
   e. Do not receive any materials from inmates (including materials to be passed to another individual or inmate).

3. Contractor’s personnel shall not smoke or use profanity or other inappropriate language while on site.

4. Contractor’s personnel shall not enter the facility while under the influence of alcohol, illegal controlled substances as defined under federal law, or other intoxicants, and shall not have such materials in their possession.

5. Failure to comply with these requirements is a criminal act and can result in prosecution.

6. Contractor’s personnel shall plan their activities to minimize the number of times they must enter and exit a facility, i.e., transport all tools, equipment, and materials needed for the day at the start of work and restrict all breaks to the absolute minimum.

7. Contractor’s personnel shall follow any special security requirements issued by the on-site contact person or escort Deputy.
8. Contractor’s personnel shall report either to the on-site contact person when leaving
the facility, temporarily or at the end of the workday.

9. Contractor’s personnel shall immediately report all accidents, spills, damage, unusual
conditions and/or unusual activities to the on-site contact person or any Sheriff’s
Deputy.

10. Contractor’s personnel shall securely close and check all gates and doors to ensure that
they are tightly closed and locked as they enter and exit various areas of the County
facilities.

11. Contractor’s personnel shall restrict all activities to the immediate work site and
adjacent assigned areas necessary to performing work under this Contract.

12. Contractor’s personnel shall remain with the assigned escort at all times, unless
otherwise directed by the on-site contact person.

F. POTENTIAL DELAYS/INTERRUPTIONS:

1. Contractor shall acknowledge that the primary purpose of the detention facilities is the
safe and secure operation of those facilities.

2. Contractor’s personnel who enter a Sheriff facility but have not passed the security
screening, or who have falsified the security screening information are subject to
immediate removal from the facility. Contractor’s personnel who are assigned to work
in a Sheriff facility who are determined to have outstanding warrants or warrants may be
detained by the Sheriff.

3. Contractor’s personnel shall immediately comply with all directions and orders issued
by Sheriff’s personnel, other than changes regarding the quality or quantity of work,
which will be controlled by County’s project manager.

4. Contractor’s personnel may be delayed or denied access to the facility due to
unforeseen events that may affect the availability of security escorts.

5. Contractor’s personnel may be ordered to leave a facility prior to the completion of
their work or the end of the workday by unforeseen incidents occurring within secure
environments. Such unforeseen incidents may also cause Contractor’s personnel to be
held inside the facility until the incident is resolved by the Sheriff’s personnel.

6. Contractor may be subject to an inventory requirement where the Contractor shall
supply an inventory list of all tools. The Facility will use this list for verification of
tools entering and exiting security. Any and all time required to comply with the tool
inventory and control program will not be considered a compensable delay and no
requests for equitable adjustment in time or additional compensation for this time will
be considered.

-Signature Page to Follow-
The Parties hereto have executed this Contract MA-060-19010180 for the purchase of Data Operations and Help Desk Services on the dates shown opposite their respective signatures below.

**Contractor**: Computer Deductions, Inc.

By: ________________________________  Title: **Vice President**

Print Name: **Thomas J Calabro**  Date: **Aug 21, 2018**

**Contractor**: Computer Deductions, Inc.

By: ________________________________  Title: **Treasurer**

Print Name: **Donald G Foulk**  Date: **Aug 21, 2018**

*If the contracting party is a corporation, (2) two signatures are required: (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.*

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

**County Of Orange**

A political subdivision of the State of California

**Sheriff-Coroner Department**

By: ________________________________  Title: **Purchasing Manager**

Print Name: **[Signature]**  Date: **9/26/2018**

Approved by the Board of Supervisors: **9/25/2018**

Approved as to Form
Office of the County Counsel
Orange County, California

[Signature]  Deputy
ATTACHMENT A

Scope of Work

I. Requirements

The Contractor shall provide professional services to manage the Sheriff’s Data Center and to support the Sheriff’s Unisys mainframe computer. Contractor shall provide one Data Center Manager and 7 Help Desk Operators to manage, supervise, maintain, and operate County-owned Unisys mainframe computer equipment and to provide first-level help desk support for both client-server and mainframe applications. All mainframe operations and help desk services must be provided on a 24x7x365 basis. The detailed job descriptions are broken down into three (3) functions described below.

Contractor shall possess cross discipline skill sets encompassing both Unisys mainframe operations functions and first level help desk support. Contractor shall possess knowledge of both a Unisys mainframe environment and existing Windows platforms. Contractor shall also perform facility monitoring, including power and air conditioning systems, fire alarm systems, and security systems. Other areas of responsibility for the Contractor shall be Data Center management, operations management, and performance planning. Contractor’s specific duties for various functions and support shall be as follows:

A. Operations Function

1. Perform Initial Program Load (IPL) of the Unisys Mainframe
2. Ensure all system background jobs are functioning correctly
3. Start daily production runs
4. Monitor the system console and respond to system requests for service
5. Mount tapes
6. Monitor print services via DEPCON
7. Monitor system performance levels
8. Perform system backups
9. Maintain an accurate and complete log of all system and user problems
10. Follow the Orange County Sheriff Department Information System's Standard Operations Procedures manual
11. Interface with support personnel to rectify problems
12. Configure, maintain, and install all Unisys system software, including but not limited to:
   a. Operating systems
   b. Communications software
   c. Language compilers
   d. System support utilities
   e. Database drivers and schemas
13. Periodic upgrades to system software
14. Debug system software problems
15. Review and apply Unisys fixes as needed
16. Monitor system performance
17. Manage the Unisys "Smart Console" interface to automate system start up
B. Help Desk Function

1. Respond to user problems with level 1 help desk support
2. Log user problems into the REMEDY system
3. Perform Windows troubleshooting (all supported versions)
4. Monitor Network Support Console for proper network operation
5. Troubleshoot MDC (Mobile Data Computer) issues
6. Troubleshoot Web based and client/server Sheriff Applications
7. Troubleshoot Inter/Intranet problems
8. Daily check the power and air conditioning systems

C. Data Center Management Function

1. Manage Help Desk Staff and Operations
2. Assist application developers in developing procedures for operations
3. Assist application developers with system software configuration as needed
4. Ensure that procedures are in place for operations personnel
5. Train and monitor operations personnel
6. Develop, maintain, and test disaster recovery plans and procedures

II. Location

Contractor shall perform all duties at the location, but shall not be limited to, as follows:

County of Orange
Sheriff-Coroner's Department/Information Systems
320 N. Flower Street
Santa Ana, CA 92703
ATTACHMENT B

Compensation and Pricing Provisions

1. Compensation: This is a firm-fixed fee Contract between the County and Contractor for Data Operations and Help Desk Services as set forth in Attachment A, “Scope of Work.

The Contractor agrees to accept the specified compensation as set forth in this Contract as full payment for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. The Contractor shall only be compensated as set forth herein for work performed in accordance with the Scope of Work. The County shall have no obligation to pay any sum in excess of the fixed rates specified herein unless authorized by amendment in accordance with Articles C. Amendments of the County Contract Terms and Conditions.

2. Fees and Charges: County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:

Contractor shall provide the services set forth in Attachment A, Scope of Work, at the following rates:

Monthly rate: $84,533.33

Contract shall not exceed: $2,028,000 for the term of 11/01/2018 – 10/31/2020

No other amounts, fees, or costs other than what is listed under this Contract shall be paid by County.

3. Price Increase/Decreases: No price increases will be permitted during the first period of the price agreement. The County requires documented proof of cost increases on Contracts prior to any price adjustment. A minimum of 30-days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. All price decreases will automatically be extended to the County of Orange. The County may enforce, negotiate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the Contract. Adjustments increasing the Contractor’s profit will not be allowed.

4. Firm Discount and Pricing Structure: Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no price increases shall be passed along to the County during the term of this Contract not otherwise specified and provided for within this Contract.

5. Contractor’s Expense: The Contractor will be responsible for all costs related to photo copying, telephone communications and fax communications while on County sites during the performance of work and services under this Contract.

6. Payment Terms – Payment in Arrears: Invoices are to be submitted in arrears to the user agency/department to the ship-to address, unless otherwise directed in this Contract. Vendor shall
reference Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County of Orange for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

7. Taxpayer ID Number: The Contractor shall include its taxpayer ID number on all invoices submitted to the County for payment to ensure compliance with IRS requirements and to expedite payment processing.

8. Payment – Invoicing Instructions: The Contractor will provide an invoice on the Contractor’s letterhead for goods delivered and/or services rendered. In the case of goods, the Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:
   a. Contractor’s name and address
   b. Contractor’s remittance address, if different from 1 above
   c. Contractor’s Taxpayer ID Number
   d. Name of County Agency/Department
   e. Delivery/service address
   f. Master Agreement (MA) or Purchase Order (PO) number
   g. Agency/Department’s Account Number
   h. Date of invoice
   i. Product/service description, quantity, and prices
   j. Sales tax, if applicable
   k. Freight/delivery charges, if applicable
   l. Total

Invoice and support documentation are to be forwarded to:

Sheriff-Coroner Department
320 N. Flower Street
Santa Ana, CA 92703
Attn: Jerry Soto

9. Payment (Electronic Funds Transfer (EFT))
The County of Orange offers Contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County of Orange via an EFT Authorization Form. To request a form, please contact the assigned Deputy Purchasing Agent. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.
10. Year End and Final Invoices

At the end of each term of the Contract, and upon final termination, Contractor shall submit final invoices for services rendered or goods accepted by County under the Contract term (typically one year) within ninety (90) days. For example, if the term of a Contract ends, or the Contract expires without being renewed on June 30th, any and all invoices for services rendered or goods accepted by County during the preceding term of the Contract shall be submitted to County on or before September 28. In the event the ninetieth (90th) day falls on a weekend or County holiday, the deadline for submission of invoices shall be extended to the next business day. County holidays include New Year’s Day, Martin Luther King Day, President Lincoln’s Birthday, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

Contractor’s failure to submit invoices pursuant to the deadlines established herein may be deemed a breach and shall be a basis for the County to refuse payment.
This Contract MA-060-19010180 for Data Center Operations and Help Desk Services (hereinafter referred to as “Contract”) is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, through its Sheriff-Coroner Department with a place of business at 320 N. Flower Street, 2nd Floor, Santa Ana, CA 92703, hereinafter referred to as “County” and Computer Deductions, Inc., with a place of business at 8680 Greenback Lane, Suite 210, Orangevale, CA 95662 (hereinafter referred to as “Contractor”), with a County and Contractor sometimes referred to as “Party” or collectively as “Parties”.

ATTACHMENTS

This Contract is comprised of this document and the following Attachments, which are attached hereto and incorporated by reference into this Contract:

Attachment A – Scope of Services
Attachment B – Compensation and Pricing Provision

RECITALS

WHEREAS, Contractor and County are entering into this Contract for Data Center Operations and Help Desk Services under a firm fixed fee Contract; and

WHEREAS, Contractor agrees to provide Data Center Operations and Help Desk Services to the County as further set forth in the Scope of Work, attached hereto as Attachment A; and

WHEREAS, County agrees to pay Contractor based on the schedule of fees set forth in Payment/Compensation, attached hereto as Attachment B; and

WHEREAS, the County Board of Supervisors has authorized the Purchasing Agent or designee to enter into a Contract for Data Center Operations and Help Desk Services with the Contractor;

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

General Terms and Conditions:

A. Governing Law and Venue: This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.
B. Entire Contract: This Contract contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County’s Purchasing Agent or designee.

C. Amendments: No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

D. Taxes: Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.

E. Delivery: Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor’s expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.

F. Acceptance Payment: Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance by the County and in accordance to Attachment B, Compensation and Pricing.

G. Warranty: Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor’s part to indemnify, defend and hold County and its indemnities as identified in paragraph “Z” below, and as more fully described in paragraph “Z,” harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.

H. Patent/Copyright Materials/Proprietary Infringement: Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph “Z” below, it shall indemnify, defend and hold County
and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, costs and expenses but not including attorney’s fees.

I. Assignment: The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned by Contractor without the express written consent of County. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.

J. Non-Discrimination: In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.

K. Termination: In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Contract without penalty for cause or after 30 days’ written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.

L. Consent to Breach Not Waiver: No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

M. Independent Contractor: Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers’ compensation or other fringe benefits of any kind through County.

N. Performance Warranty: Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County’s satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.

O. Insurance Requirements: Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor’s expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all
subcontractors performing work on behalf of Contractor pursuant to this contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this contract shall be covered under Contractor’s insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor, and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars ($50,000) shall specifically be approved by the County’s Risk Manager, or designee, upon review of Contractor’s current audited financial report. If Contractor’s SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor’s, its agents’, employees’ or subcontractors’ performance of this Contract, Contractor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and

2) Contractor’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor’s SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this contract, the County may terminate this contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the State of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Minimum Limits</th>
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<tbody>
<tr>
<td>Commercial General Liability</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td></td>
<td>$2,000,000 aggregate</td>
</tr>
</tbody>
</table>
Automobile Liability including coverage for owned, non-owned and hired vehicles $1,000,000 per occurrence

Workers’ Compensation Statutory

Employers’ Liability Insurance $1,000,000 per occurrence

Network Security & Privacy Liability $1,000,000 per claims made

Technology Errors & Omissions $1,000,000 per claims made $1,000,000 aggregate

Professional Liability $1,000,000 per claims made $1,000,000 aggregate

Employee Dishonesty $100,000 per occurrence

**Required Coverage Forms**

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

**Required Endorsements**

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees and agents as Additional Insureds, or provide blanket coverage, which will state “As Required By Written Contract.”

2) A primary non-contributing endorsement using ISO Form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance:

1) An Additional Insured endorsement naming the County of Orange, its elected and appointed officials, officers, agents and employees as Additional Insureds for its vicarious liability.

2) A primary and non-contributing endorsement evidencing that the Contractor’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
The Workers’ Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents, or provide blanket coverage, which will state As Required By Written Contract.

All insurance policies required by this contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.

The County of Orange shall be the loss payee on the Employee Dishonesty coverage. A Loss Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the Certificate of Insurance.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the contract, upon which the County may suspend or terminate this contract.

If Contractor’s Professional Liability, Technology Errors & Omissions and Network Security & Privacy Liability are “Claims Made” policies, Contractor shall agree to maintain coverage for two (2) years following the completion of the Contract.

The Commercial General Liability policy shall contain a severability of interests clause, also known as a “separation of insureds” clause (standard in the ISO CG 001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

P. Changes: Contractor shall make no changes in the work or perform any additional work without the County’s specific written approval.
Q. Change of Ownership/Name, Litigation Status, Conflicts with County Interests: Contractor agrees that if there is a change or transfer in ownership of Contractor’s business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor’s duties and obligations contained in this Contract and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor’s status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor’s performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor’s name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor’s employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor’s efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

R. Force Majeure: Contractor shall not be assessed or be found in breach during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.

S. Confidentiality: Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor’s staff, agents and employees.

T. Compliance with Laws: Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor’s expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively “laws”), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph “Z” below, Contractor agrees that it shall defend, indemnify and hold County and County INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
U. Freight: Prior to the County’s express acceptance of delivery of products, Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.

V. Severability: If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

W. Attorney Fees: In any action or proceeding to enforce or interpret any provision of this Contract, each party shall bear their own attorney’s fees, costs and expenses.

X. Interpretation: This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.

Y. Employee Eligibility Verification: The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

Z. Indemnification: Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County’s Board of Supervisors acts as the governing Board (“County Indemnitees”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

AA. Audits/Inspections: Contractor agrees to permit the County’s Auditor-Controller or the Auditor-Controller’s authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and
other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the Contractor’s records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor’s records pertaining to this agreement shall be forwarded to the County’s project manager.

BB. Contingency of Funds: Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County’s Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

CC. Expenditure Limit: The Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

Additional Terms and Conditions

1. Scope of Contract: This Contract specifies the contractual terms and conditions by which County will procure and receive goods/services from Contractor as set forth in the Scope of Work, which is attached hereto as Attachment A and incorporated by this reference.

2. Term of Contract: This Contract shall commence on November 1, 2018 and upon execution of all necessary signatures, whichever is later, and continue for two (2) calendar years from that date, unless otherwise terminated by County. This Contract may be renewed as set forth in paragraph 3 below.

3. Renewal: This Contract may be renewed by mutual written agreement of both Parties for three (3) two (2) additional one (1) year terms. The County does not have to give a reason if it elects not to renew. Renewal periods may be subject to approval by the County of Orange Board of Supervisors.

4. Adjustments – Scope of Work: No adjustments made to the Scope of Work will be authorized without prior written approval of the County assigned Deputy Purchasing Agent.

5. Breach of Contract: The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
a) Terminate the Contract immediately, pursuant to Section K herein;

b) Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;

c) Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and

d) Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.

6. Civil Rights: Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.

7. Conflict of Interest – Contractor’s Personnel: The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor’s employees, agents, and subcontractors associated with accomplishing work and services hereunder. The Contractor’s efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.

8. Conflict of Interest – County Personnel: The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.

9. Contractor’s Project Manager and Key Personnel: Contractor shall appoint a Project Manager to direct the Contractor’s efforts in fulfilling Contractor’s obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County’s Project Manager, which consent shall not be unreasonably withheld.

The Contractor’s Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. The County’s Project Manager shall have the right to require the removal and replacement of the Contractor’s Project Manager from providing services to the County under this Contract. The County’s Project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within five (5) business days after written notice by the County’s Project Manager. The County’s Project Manager shall review and approve the appointment of the replacement for the Contractor’s Project Manager. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor’s Project Manager from providing further services under the Contract.

10. Contractor Personnel – Reference Checks: The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to
adequately perform the work under this Contract. Contractor’s employees assigned to this project must meet character standards as demonstrated by background investigation and reference checks, coordinated by the agency/department issuing this Contract.

11. Contractor’s Expense: The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking while on County sites during the performance of work and services under this Contract. The County will not provide free parking for any service in the County Civic Center.

12. Contractor’s Records: The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the County. Storage of records in another county will require written approval from the County of Orange assigned Deputy Purchasing Agent.

13. Conditions Affecting Work: The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.

14. County of Orange Child Support Enforcement: Contractor certifies it is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of the Contract with the County of Orange. Failure to comply shall constitute a material breach of the Contract and failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.”

15. Data – Title To: All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.

16. Default – Reprocurement Costs: In case of Contract breach by Contractor, resulting in termination by the County, the County may procure the goods and/or services from other sources. If the cost for those goods and/or services is higher than under the terms of the existing Contract, Contractor will be responsible for paying the County the difference between the Contract cost and the price paid, and the County may deduct this cost from any unpaid balance due the Contractor. The price paid by the County shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.

17. Drug-Free Workplace: The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:

1. Publish a statement notifying employees that unlawful manufacture, distribution,
dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a)(1).

2. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
   a. The dangers of drug abuse in the workplace;
   b. The organization’s policy of maintaining a drug-free workplace;
   c. Any available counseling, rehabilitation and employee assistance programs; and
   d. Penalties that may be imposed upon employees for drug abuse violations.

3. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
   a. Will receive a copy of the company’s drug-free policy statement; and
   b. Will agree to abide by the terms of the company’s statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:

1. The Contractor has made false certification, or
2. The Contractor violates the certification by failing to carry out the requirements as noted above.

18. EDD Independent Contractor Reporting Requirements: Effective January 1, 2001, the County of Orange is required to file in accordance with subdivision (a) of Section 6041A of the Internal Revenue Code for services received from a “service provider” to whom the County pays $600 or more or with whom the County enters into a contract for $600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent Contractors. An independent Contractor is defined as “an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes a contract for services performed for that ... government entity either in or outside of California.”

The reporting requirement does not apply to corporations, general partnerships, limited liability
partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at [http://www.edd.ca.gov/Employer_Services.htm](http://www.edd.ca.gov/Employer_Services.htm)

19. Emergency/Declared Disaster Requirements: In the event of an emergency or if Orange County is declared a disaster area by the County, state or federal government, this Contract may be subjected to unusual usage. The Contractor shall service the County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by the Contractor shall apply to serving the County’s needs regardless of the circumstances. If the Contractor is unable to supply the goods/services under the terms of the Contract, then the Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from the Contractor’s supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned. All applicable invoices from the Contractor shall show both the emergency purchase order number and the Contract number.

20. Errors and Omissions: All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as project manager and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor’s reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by the Contractor after County approval thereof, County approval of Contractor’s reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction.

21. Equal Employment Opportunity: The Contractor shall comply with U.S. Executive Order 11246 entitled, “Equal Employment Opportunity” as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.
Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

22. News/Information Release: The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the County through the County’s Project Manager.

23. Notices: Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA), except through the course of the parties’ project managers’ routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

Contractor:
Computer Deductions, Inc.
8680 Greenback Lane, Suite 210
Orangevale, CA 95662
Attn: Tom Calabro
Ph: 916-987-3600
Tcalabro@cdi-hq.com

County:
County of Orange
Sheriff-Coroner Department/Support Services Division
320 N. Flower Street, 3rd Floor
Santa Ana, CA 92703
Attn: Ed Lee
Ph: 714-834-6342
elee@ocsd.org

Assigned DPA: County of Orange
Sheriff-Coroner Department/Purchasing Services Unit
320 N. Flower Street, 2nd Floor
Santa Ana, CA 92703
Attn: Maria Ayala
Ph: 714-834-6360
Email: mayala@ocsd.org

24. Precedence: The Contract documents consist of this Contract and its exhibits and attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the exhibits and attachments.
25. Termination – Orderly: After receipt of a termination notice from the County of Orange, the Contractor may submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation combined with previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of performance of the Contract.

26. Usage: No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at rates/prices listed in the Contract, regardless of quantity requested.

27. Usage Reports: The Contractor shall submit usage reports on an annual basis to the assigned Deputy Purchasing Agent of the County of Orange user agency/department. The usage report shall be in a format specified by the user agency/department and shall be submitted 90 days prior to the expiration date of the contract term, or any subsequent renewal term, if applicable.

28. Sub-Contracting: No performance of this Contract or any portion thereof may be subcontracted by the Contractor without the express written consent of the County. Any attempt by the Contractor to subcontract any performance of this Contract without the express written consent of the County shall be invalid and shall constitute a breach of this Contract.

In the event that the Contractor is authorized by the County to subcontract, this Contract shall take precedence over the terms of the Contract between Contractor and subcontractor, and shall incorporate by reference the terms of this Contract. The County shall look to the Contractor for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the County of Orange.

29. Substitutions: The Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior County written approval.

30. Security Requirements:

   A. Contractor shall, with respect to all employees of Contractor performing services hereunder:

      1. Perform background checks as to past employment history.
      2. Inquire as to past criminal felony convictions.
      3. Ascertain that those employees who are required to drive in the course of performing services hereunder have valid California driver’s licenses and no DUI convictions within two (2) years prior to commencement of services hereunder.
      4. Perform drug screening to determine that such employees are not users of illegal controlled substances as defined by federal law.
B. Contractor shall not assign to County property any Contractor personnel as to whom the foregoing procedures indicate:

1. Inability or unwillingness to perform in a competent manner.

2. Past criminal convictions for theft, burglary or conduct causing property damage or mental or physical harm to persons.

3. Where such employee’s duties include driving a vehicle, absence of a valid California driver’s license or a DUI conviction within the prior two (2) years.

4. Usage of illegal controlled substances as defined by federal law.

C. If any of the problems identified with respect to Contractor’s employees are discovered after assignment of an employee to County property, or if County otherwise reasonably deems an assigned employee unacceptable, Contractor shall remove and replace such employee at the County property.

D. Nothing herein shall render any employee of Contractor an employee of County.

THE CONTRACTOR’S PERSONNEL REQUIREMENTS:

All employees must pass the County’s background check and meet all requirements as set forth below:

1. All personnel to be employed in performance of the work under this Contract shall be subject to security clearance. Clearance must be updated and renewed every twelve (12) months from original date of clearance.

2. No person, who is required to enter a secured facility of the Sheriff, shall be assigned to perform work under this contract that has not received prior clearance from the Sheriff-Coroner Department.

3. Within fifteen (15) days of the effective date of this Contract, Contractor shall prepare and submit a complete and accurate “Contractor Security Clearance” information form for all Contractor’s employee who will be working on or who will need access to the Sheriff-Coroner’s facilities to perform work covered by this Contract. County project manager shall provide form(s) to Contractor’s project manager. Contractor is also responsible for ensuring that anytime an employee is assigned to work on Sheriff-Coroner’s facilities under this contract that a Security Clearance form is submitted and approved prior to that employee requiring access to such premises for providing services under this contract.

4. Contractor shall inform employees assigned to perform work within secured facilities of the Sheriff-Coroner that the employee is required to inform Contractor if/when any information provided on the security clearance form changes. Contractor shall submit an updated security clearance form whenever there is a change in information provided by an employee. Contractor shall be responsible
for ensuring to submit Security Clearance forms in order to renew the Security Clearance(s) every twelve months. Renewal forms shall be submitted at least ten (10) County working days prior to the expiration of an existing clearance; a security clearance is valid for 12 months from the date of issuance. If Contractor is submitting an updated form due to a change in information, said form shall be submitted within 10 county working days of the employer becoming aware of the updated information.

5. Contractor Security Clearance information forms will be provided by County Project Manager upon request and will be screened by the Sheriff-Coroner’s Department.

6. Contractor Security Clearance information forms shall be thoroughly and accurately completed. Omissions or false statements, regardless of the nature or magnitude, may be grounds for denying clearance.

7. County will not give Contractor the reason an individual’s clearance is denied, but will provide explanation to individual affected via U.S. Mail.

E. GENERAL SECURITY REQUIREMENT-AT WORKSITE:

1. When performing work at a Sheriff-Coroner facility, all work areas shall be secured prior to the end of each workday.

2. Workmen shall have no contact, either verbal or physical, with inmates in any facility while preforming work under this contract. Specifically:
   a. Do not give names or addresses to inmates.
   b. Do not receive any names or addresses from inmates.
   c. Do not disclose the identity of any inmate to anyone outside the facility.
   d. Do not give any materials to inmates.
   e. Do not receive any materials from inmates (including materials to be passed to another individual or inmate).

3. Contractor’s personnel shall not smoke or use profanity or other inappropriate language while on site.

4. Contractor’s personnel shall not enter the facility while under the influence of alcohol, illegal controlled substances as defined under federal law, or other intoxicants, and shall not have such materials in their possession.

5. Failure to comply with these requirements is a criminal act and can result in prosecution.

6. Contractor’s personnel shall plan their activities to minimize the number of times they must enter and exit a facility, i.e., transport all tools, equipment, and materials needed for the day at the start of work and restrict all breaks to the absolute minimum.

7. Contractor’s personnel shall follow any special security requirements issued by the on-site contact person or escort Deputy.
8. Contractor’s personnel shall report either to the on-site contact person when leaving the facility, temporarily or at the end of the workday.

9. Contractor’s personnel shall immediately report all accidents, spills, damage, unusual conditions and/or unusual activities to the on-site contact person or any Sheriff’s Deputy.

10. Contractor’s personnel shall securely close and check all gates and doors to ensure that they are tightly closed and locked as they enter and exit various areas of the County facilities.

11. Contractor’s personnel shall restrict all activities to the immediate work site and adjacent assigned areas necessary to performing work under this Contract.

12. Contractor’s personnel shall remain with the assigned escort at all times, unless otherwise directed by the on-site contact person.

F. POTENTIAL DELAYS/INTERRUPTIONS:

1. Contractor shall acknowledge that the primary purpose of the detention facilities is the safe and secure operation of those facilities.

2. Contractor’s personnel who enter a Sheriff facility but have not passed the security screening, or who have falsified the security screening information are subject to immediate removal from the facility. Contractor’s personnel who are assigned to work in a Sheriff facility who are determined to have outstanding warrants may be detained by the Sheriff.

3. Contractor’s personnel shall immediately comply with all directions and orders issued by Sheriff’s personnel, other than changes regarding the quality or quantity of work, which will be controlled by County’s project manager.

4. Contractor’s personnel may be delayed or denied access to the facility due to unforeseen events that may affect the availability of security escorts.

5. Contractor’s personnel may be ordered to leave a facility prior to the completion of their work or the end of the workday by unforeseen incidents occurring within secure environments. Such unforeseen incidents may also cause Contractor’s personnel to be held inside the facility until the incident is resolved by the Sheriff’s personnel.

6. Contractor may be subject to an inventory requirement where the Contractor shall supply an inventory list of all tools. The Facility will use this list for verification of tools entering and exiting security. Any and all time required to comply with the tool inventory and control program will not be considered a compensable delay and no requests for equitable adjustment in time or additional compensation for this time will be considered.

-Signature Page to Follow-
The Parties hereto have executed this Contract MA-060-19010180 for the purchase of Data Operations and Help Desk Services on the dates shown opposite their respective signatures below

**Contractor*: Computer Deductions, Inc.

By: ___________________________  Title: ___________________________
Print Name: ___________________________  Date: ___________________________

**Contractor*: Computer Deductions, Inc.

By: ___________________________  Title: ___________________________
Print Name: ___________________________  Date: ___________________________

*If the contracting party is a corporation, (2) two signatures are required: (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

**County Of Orange**

A political subdivision of the State of California

Sheriff-Coroner Department

By: ___________________________  Title: ___________________________
Print Name: ___________________________  Date: ___________________________

Approved by the Board of Supervisors: ___________________________

Approved as to Form
Office of the County Counsel
Orange County, California

By: ___________________________  
Deputy
ATTACHMENT A

Scope of Work

I. Requirements

The Contractor shall provide professional services to manage the Sheriff’s Data Center and to support the Unisys mainframe computer. Contractor shall provide one data Center Manager and 7 Help Desk Operators to manage, supervise, maintain, and operate County-owned Unisys mainframe computer equipment and to provide first level help desk support for both client-server and mainframe applications. All mainframe operations and help desk services must be provided on a 24x7x365 basis. The detailed job descriptions are broken down into three (3) functions described below.

Contractor shall possess cross discipline skill sets encompassing both Unisys mainframe operations functions and first level help desk support. Contractor shall possess knowledge of both a Unisys mainframe environment and existing Windows platforms. Contractor shall also perform facility monitoring, including power and air conditioning systems, fire alarm systems, and security systems. Other areas of responsibility for the Contractor shall be Data Center management, operations management, and performance planning. Contractor’s specific duties for various functions and support shall be as follows:

A. Operations Function

1. Perform Initial Program Load (IPL) of the Unisys Mainframe
2. Ensure all system background jobs are functioning correctly
3. Start daily production runs
4. Monitor the system console and respond to system requests for service
5. Mount tapes
6. Monitor print services via DEPCON
7. Monitor system performance levels
8. Perform system backups
9. Maintain an accurate and complete log of all system and user problems
10. Follow the Orange County Sheriff Department Information System's Standard Operations Procedures manual
11. Interface with support personnel to rectify problems
12. Configure, maintain, and install all Unisys system software, including but not limited to:
   a. Operating systems
   b. Communications software
   c. Language compilers
   d. System support utilities
   e. Database drivers and schemas
13. Periodic upgrades to system software
14. Debug system software problems
15. Review and apply Unisys fixes as needed
16. Monitor system performance
17. Manage the Unisys "Smart Console" interface to automate system start up
B. Help Desk Function

1. Respond to user problems with level 1 help desk support
2. Log user problems into the REMEDY system
3. Perform Windows troubleshooting (all supported versions)
4. Monitor Network Support Console for proper network operation
5. Troubleshoot MDC (Mobile Data Computer) issues
6. Troubleshoot Web based and client/server Sheriff Applications
7. Troubleshoot Inter/Intranet problems
8. Daily check the power and air conditioning systems

C. Data Center Management Function

1. Manage Help Desk Staff and Operations
2. Assist application developers in developing procedures for operations
3. Assist application developers with system software configuration as needed
4. Ensure that procedures are in place for operations personnel
5. Train and monitor operations personnel
6. Develop, maintain, and test disaster recovery plans and procedures

II. Location

Contractor shall perform all duties at the location, but shall not be limited to, as follows:

County of Orange
Sheriff-Coroner's Department/Information Systems
320 N. Flower Street
Santa Ana, CA 92703
ATTACHMENT B
Compensation and Pricing Provisions

1. Compensation: This is a firm-fixed fee Contract between the County and Contractor for Data Operations and Help Desk Services as set forth in Attachment A, “Scope of Work.

The Contractor agrees to accept the specified compensation as set forth in this Contract as full payment for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. The Contractor shall only be compensated as set forth herein for work performed in accordance with the Scope of Work. The County shall have no obligation to pay any sum in excess of the fixed rates specified herein unless authorized by amendment in accordance with Articles C. Amendments of the County Contract Terms and Conditions.

2. Fees and Charges: County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:

Contractor shall provide the services set forth in Attachment A, Scope of Work at the following rates:

Monthly rate: $84,533.33 $92,986.00**

Contract shall not exceed: $2,028,000 for the term of 11/01/2018 – 10/31/2020

No other amounts, fees, or costs other than what is listed under this Contract shall be paid by County.

* Contractor shall not charge for a position that is either left unstaffed/unfilled for two or more weeks of the month being invoiced or where Contractor’s staff member has failed to appear for two or more weeks of the month being invoiced. Accordingly, Contractor’s invoice shall reflect a prorated reduction of 1/8 (i.e., 12.5%) on the total monthly invoice as indicated below:

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</tbody>
</table>

Contractor shall specify in each invoice how many positions were fully staffed and how many were not fully staffed (i.e., due to absences, no-shows, and positions being unfilled for two or more weeks of the month). In the event an audit determines that Contractor invoiced the amount that exceeds what should have been invoiced based on its staff members’ absences or positions being unfilled, Contractor will be deemed in breach pursuant to Paragraph 5 (Breach of Contract) of the Additional Terms and Conditions of the Contract.

No other amounts, fees, or costs other than what is listed under this Contract shall be paid by County.
3. Price Increase/Decreases: No price increases will be permitted during the first period of the price agreement. The County requires documented proof of cost increases on Contracts prior to any price adjustment. A minimum of 30-days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. All price decreases will automatically be extended to the County of Orange. The County may enforce, negotiate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the Contract. Adjustments increasing the Contractor’s profit will not be allowed.

4. Firm Discount and Pricing Structure: Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no price increases shall be passed along to the County during the term of this Contract not otherwise specified and provided for within this Contract.

5. Contractor’s Expense: The Contractor will be responsible for all costs related to photo copying, telephone communications and fax communications while on County sites during the performance of work and services under this Contract.

6. Payment Terms – Payment in Arrears: Invoices are to be submitted in arrears to the user agency/department to the ship-to address, unless otherwise directed in this Contract. Vendor shall reference Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County of Orange for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

7. Taxpayer ID Number: The Contractor shall include its taxpayer ID number on all invoices submitted to the County for payment to ensure compliance with IRS requirements and to expedite payment processing.

8. Payment – Invoicing Instructions: The Contractor will provide an invoice on the Contractor’s letterhead for goods delivered and/or services rendered. In the case of goods, the Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:

   a. Contractor’s name and address
   b. Contractor’s remittance address, if different from 1 above
   c. Contractor’s Taxpayer ID Number
d. Name of County Agency/Department

e. Delivery/service address

f. Master Agreement (MA) or Purchase Order (PO) number

g. Agency/Department’s Account Number

h. Date of invoice

i. Product/service description, quantity, and prices

j. Sales tax, if applicable

k. Freight/delivery charges, if applicable

l. Total

Invoice and support documentation are to be forwarded to:

Sheriff-Coroner Department
320 N. Flower Street
Santa Ana, CA 92703
Attn: Jerry Soto

9. Payment (Electronic Funds Transfer (EFT))
The County of Orange offers Contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County of Orange via an EFT Authorization Form. To request a form, please contact the assigned Deputy Purchasing Agent. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.

10. Year End and Final Invoices
At the end of each term of the Contract, and upon final termination, Contractor shall submit final invoices for services rendered or goods accepted by County under the Contract term (typically one year) within ninety (90) days. For example, if the term of a Contract ends, or the Contract expires without being renewed on June 30th, any and all invoices for services rendered or goods accepted by County during the preceding term of the Contract shall be submitted to County on or before September 28. In the event the ninetieth (90th) day falls on a weekend or County holiday, the deadline for submission of invoices shall be extended to the next business day. County holidays include New Year’s Day, Martin Luther King Day, President Lincoln’s Birthday, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

Contractor’s failure to submit invoices pursuant to the deadlines established herein may be deemed a breach and shall be a basis for the County to refuse payment.
EXHIBIT 1
COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT
CERTIFICATION REQUIREMENTS

This data shall be transmitted to governmental agencies charged with the establishment and enforcement of child support order and for no other purposes and shall be held confidential by those agencies.

A. In the case of an individual Vendor, his/her name, date of birth, Social Security number, and residence address:

<table>
<thead>
<tr>
<th>Name:</th>
<th>D.O.B:</th>
<th>Social Security No:</th>
<th>Residence Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B. In the case of a Vendor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of ten (10) percent or more in the contracting entity:

<table>
<thead>
<tr>
<th>Name:</th>
<th>D.O.B:</th>
<th>Social Security No:</th>
<th>Residence Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name:</th>
<th>D.O.B:</th>
<th>Social Security No:</th>
<th>Residence Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Name:</th>
<th>D.O.B:</th>
<th>Social Security No:</th>
<th>Residence Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Additional sheets may be used if necessary)

County Use Only

<table>
<thead>
<tr>
<th>Department Name</th>
<th>DPA Name</th>
<th>Email Address</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>OCSD</td>
<td>Maria Ayala</td>
<td><a href="mailto:mayala@ocsd.org">mayala@ocsd.org</a></td>
<td>714-834-6360</td>
</tr>
</tbody>
</table>
## SECTION II – DEPARTMENT INFORMATION

(Complete in its entirety)

<table>
<thead>
<tr>
<th>Department: Orange County Sheriff's Department</th>
<th>Date: May 7, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vendor Name: Computer Deductions, Inc.</td>
<td>Sole Source BidSync Number: 060-C021202-OP-SS</td>
</tr>
</tbody>
</table>

**Is the above named vendor a retired employee of the County of Orange?**  
☐ Yes  ☒ No  
*If "Yes", review and Approval is required from CEO Human Resource Services prior to contract execution.*

<table>
<thead>
<tr>
<th>Contract Term (Dates): 11-1-2020 through and including 10-31-2021</th>
<th>Is Agreement Grant Funded?</th>
<th>Percent Funded:</th>
<th>Proprietary?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>☐ Yes  ☒ No</td>
<td></td>
<td>☒ Yes  ☐ No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contract Amount?</th>
<th>Is this renewable? If yes, how many years? Yes, renewable for two (2) additional one year terms.</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,014,400.00</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of Request:</th>
<th>Renewal</th>
<th>Amendment</th>
<th>Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ New</td>
<td>☒ Yes</td>
<td>☐</td>
<td>☒ No</td>
</tr>
<tr>
<td>☐ Multi-Year</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Renewal Year: Third year renewal</th>
<th>Did vendor provide a sole source affidavit? If yes, please attach</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>☒ Yes  ☐ No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Board Date: 10-06-2020</th>
<th>ASR Number: 20-000622</th>
<th>If not scheduled to go to the Board explain why?</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Does Contract Include Non-Standard Language? If yes, explain in detail.</th>
<th>No</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Was Contract Approved by Risk Mgmt.?</th>
<th>Was Contract Approved by County Counsel?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Were any exceptions taken? If yes, explain in detail.</th>
<th>No</th>
</tr>
</thead>
</table>

☒ DPA certifies that they have read and verified that the information is true and satisfies the sole source requirements listed in the County Contract Policy Manual.

☐ Solicitation Exemption  
*(For purchases with special circumstances, and/or when it is determined to be in the best interest of the County.)*
SECTION III – SOLE SOURCE JUSTIFICATION

1. **Provide a description of the type of contract to be established.** *(For example: is the contract a commodity, service, human service, public works, or other – please explain.)* Attach additional sheet if necessary.

   This is a service contract for the Sheriff’s Department Data Center Operations and Help Desk Service.

2. **Provide a detailed description of services/commodities and how they will be used within the department. If this is an existing sole source, please provide some history of its origination, Board approvals, etc.** *(This information may be obtained from the scope of work prepared by the County and the vendor’s proposal that provides a detailed description of the services/supplies.)* Attach additional sheet if necessary.

   Contractors will monitor and control a Command Center that is staffed 24 hours a day, 7 days a week, 365 days a year. They will manage, supervise, maintain and operate the Unisys mainframe computer equipment and ensure all system background jobs are functioning correctly. As part of the duties, they will start daily production runs; monitor the system console and respond to system requests for service mount tapes; monitor print services via DEPCON; monitor system performance levels; perform system backups; maintain an accurate and complete log of all system and user problems; interface with support personnel to rectify problems; monitor the facility including air conditioning, power, fire alarm and security systems; be familiar with disaster recovery procedures; perform after hours monitoring of Property/Evidence freezers; respond to user problems with level 1 help desk support; log user problems into the REMEDY system; perform level 1 computer troubleshooting; monitor Network Support Console for proper network operation; troubleshoot Web-based and client/server Sheriff’s applications; troubleshoot Internet/Intranet problems; periodically check the power and air conditioning systems; configure, maintain and install all Unisys system software including, but not limited to, Operating systems, communications software, language compilers, system support utilities, database drivers and schemas, periodic upgrades to system software; debug Mainframe system software problems; review and apply Unisys fixes as needed; monitor system performance; manage “Smart Console” to automate system start up; assist application developers in developing procedures for operations; assist application developers with system software configuration as needed; ensure that procedures are in place for operations personnel; train and monitor operations personnel; develop, maintain, and test disaster recovery plans and procedures. Services have been obtained via Sole Source and received Board of Supervisors approval on September 25, 2018.

3. **Explain why the recommended vendor is the only one capable of providing the required services and/or commodities.** How did you determine this to be a sole source and what specific steps did you take? Please list all sources that have been contacted and explain in detail why they cannot fulfill the County’s requirements. Include vendor affidavit and/or other documentation which supports your sole source. *(Responses will include strong programmatic and technological information that supports the claim that there is only one vendor that can provide the services and/or commodities. Your response will include information pertaining to any research that was conducted to establish that the vendor is a sole source, include information pertaining to discussions with other potential suppliers and why they were no longer being considered by the County.)* Attach additional sheet if necessary.

   The Data Center Operations and Help Desk Services are performed by CDI and have been provided by them since 2000. Computer Deductions Incorporated (CDI) has provided other services as the Sheriff’s in-house data
systems development provider for over 20 years. CDI's main responsibility has been the development and management of all systems within the Unisys mainframe. They have written and maintained mainframe programs such as the Automated Jail System (AJS), Automated Warrant Services System (AWSS), Local Arrest Records System (LARS), and the Orange Automated Telecommunications System (OCATS). Additionally, they manage the CA DOJ's California Law Enforcement Telecommunications Systems (CLETs) switch that provides the state's access to criminal database of all state, federal and international law enforcement agencies. CDI is a trusted partner and well qualified to continue the responsibility of maintaining the hardware that runs the systems they have developed. CDI is the only vendor that understands and has written programs on both the DOJ and Orange County systems. The Sheriff and Department of Justice are confident that CDI is the only company that can perform the task of managing, supervising and maintaining the law enforcement mainframe computers that serve all law enforcement in Orange County and provide disaster recovery to the State. CDI is able to provide these services at a very competitive price because many of the needed staffing and management resources are already in place under a separate contract at the Sheriff's Department that further enables them to guarantee 24x7 coverage. Additionally, CDI has existing, experienced, in-house staff that are available to provide additional depth to the mainframe support needs. The Sheriff's mainframe computer is a cornerstone to maintaining public safety in Orange County. It not only controls the jail complexes but also provides the connectivity to CLETs, both for the Sheriff's department and to over 50 law enforcement agencies throughout the County. The Sheriff's department believes that CDI is the only company that has the required qualifications and skills to maintain and operate the mainframe environment.
4. How does recommended vendor’s prices or fees compare to the general market?  
   Attach quotes for comparable services or supplies. Attach additional sheet if necessary.

   CDI has existing, experienced, in-house staff that are available to provide additional depth to the mainframe application support needs. Other consulting companies do not have the years of experience dealing with law enforcement agencies (including DOJ) that CDI brings to our department. They are experts in our automated jail system and the operations of our jails. CDI is also expert at interfacing with Department of Justice and other modules to the jail system that have been required in the past. No other consulting companies known to have this expertise. Compared to the general market, CDI’s prices are far below

5. If the recommended vendor was not available, how would the County accomplish this particular task?  
   Attach additional sheet if necessary.

   If CDI were not utilized / available, another vendor would take years to learn the inner workings, programming, and requirement of our system and operation. If a problem arose, another vendor would not be able to correct the problem quickly and system downtime can be detrimental to our operations. It would take years for another vendor to gain the expertise in all the different aspects of law-enforcement to be able to maintain what has been implemented and operational for more than 20 years

6. Please provide vendor history – name change, litigation, judgments, aka, etc. for the last 7 years.

   Upon a D.U.N.S. and World Wide Web (www) via Google search of Computer Deduction, Inc. there was no litigation, judgements, name or ownership change.

7. If vendor is a retired, former employee, has the vendor previously been rehired as a contractor within the last three years?  
   ☐ Yes  ☒ No

   If yes, provide explanation/support for hiring the retired, former employee as a vendor and provide contract dates, scope of work, and total amounts paid under each contract.

8. Explain (in detail) why a request for Solicitation Exemption is needed. (Only applicable for Solicitation Exemption)  
   Attach additional sheet if necessary.
Sole Source Request Form

SECTION IV – AUTHOR/REQUESTOR

Signature: [Signature]
Print Name: Dave Fontneau
Date: 5/15/2020

SECTION V – CFO Human Resource Services APPROVAL (Review and approval is required when vendor is a Retired, Former Employee.)

Signature: [Signature]
Print Name: [Name]
Date: [Date]

SECTION VI – DEPUTY PURCHASING AGENT CONCURRENCE

Signature: [Signature]
Print Name: Christina Reyes
Date: 7/9/20

SECTION VII – DEPARTMENT HEAD APPROVAL

Signature: [Signature]
Print Name: Robert Beaver
Date: 5/9/20

SECTION VIII – COUNTY PROCUREMENT OFFICE

Prior to execution of a contract, the County Procurement Officer or designee shall approve All Sole Source requests for Commodities that exceed $250,000, Capitol Assets and services exceeding $75,000, and All other Sole Source requests that require Board approval despite the amount. Approvals are obtained electronically through the County’s online bidding system.

SOLICITATION EXEMPTION – CEO USE ONLY:

Board of Supervisor Notification Date:

Comments:

CPO: □ Approved □ Denied

CFO: □ Approved □ Denied

CPO Authorized Signature: Date:

CFO Authorized Signature: Date:
Monday, May 05, 2020

Mr. Jerry Soto
Orange County Sheriff's Dept.
320 N. Flower, 3rd floor
Santa Ana, Ca 92703
714-834-6706
CC: Director David Fontneau

Subject: CDI Operations Support and Maintenance Contract

Mr. Soto

This letter serves as confirmation that Computer Deductions, Incorporated (CDI) provides the Operations Support services for the current environment supporting both open systems servers, EMC Storage and the proprietary UNISYS Mainframe Dorado servers. These servers currently support Orange County Sheriff’s Department’s core operational applications such as the Automated Jail System (AJS), the Orange County Automated Telecommunications Switch (OCATS), Booking Photo Capture System, the Automated Warrant Service System (AWSS), and other critical open system applications. CDI developers are the sole source provider of many of these mission critical applications services and must interact directly with the systems operations support staff in the datacenter. CDI operations staff have the expertise to support these law enforcement specific applications and interact with the development staff as necessary. CDI staff have the unique expertise and are the PMK’s (Person Most knowledgeable) needed to maintain the continuity of operations. This staff possess unique knowledge of both the applications operations and end user environments that the can and do enable them to supply first level of systems support to the end user community via the OCSD HELP desk.

If I can provide any additional information, please do not hesitate to contact me.

Sincerely

[Signature]

Thomas J. Calabro
VP, Computer Deductions Inc.

web: http://www.cdi-hq.com • phone: 916.987.3600 • fax: 916.987.3606 • e-mail: corp@cdi-hq.com
### SUMMARY OF SIGNIFICANT CHANGES

N/A

### SUBCONTRACTORS

This contract does not currently include subcontractors or pass through to other providers.

### CONTRACT OPERATING EXPENSES

See attached excerpt from the contract, which details an annual not to exceed amount of $1,115,832 for the term of November 1, 2020 through October 31, 2021.
provide Contractor with a reason should it elect not to renew the Contract, nor is it required to give Contractor prior notice of its intent not to renew.

c. Attachment B, Compensation and Pricing Provisions, section 2. Fees and Charges of the ORIGINAL CONTRACT is amended in its entirety as follows:

County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:

Monthly Rate: $92,986.00*

* Contractor shall not charge for a position that is either left unstaffed/unfilled for two or more weeks of the month being invoiced or where Contractor’s staff member has failed to appear for two or more weeks of the month being invoiced. Accordingly, Contractor’s invoice shall reflect a prorated reduction of 1/8 (i.e., 12.5%) on the total monthly invoice as indicated below:

<table>
<thead>
<tr>
<th>Positions Staffed</th>
<th>% Staffed</th>
<th>Monthly Invoice Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>100%</td>
<td>$92,986.00</td>
</tr>
<tr>
<td>7</td>
<td>87.50%</td>
<td>$81,363.00</td>
</tr>
<tr>
<td>6</td>
<td>75.00%</td>
<td>$69,739.00</td>
</tr>
<tr>
<td>5</td>
<td>62.50%</td>
<td>$58,116.00</td>
</tr>
<tr>
<td>4</td>
<td>50.00%</td>
<td>$46,493.00</td>
</tr>
<tr>
<td>3</td>
<td>37.5%</td>
<td>$34,869.00</td>
</tr>
<tr>
<td>2</td>
<td>25%</td>
<td>$23,246.00</td>
</tr>
<tr>
<td>1</td>
<td>12.5%</td>
<td>$11,623.00</td>
</tr>
</tbody>
</table>

Contractor shall specify in each invoice how many positions were fully staffed and how many were not fully staffed (i.e., due to absences, no-shows, and positions being unfilled for two or more weeks of the month). In the event an audit determines that Contractor invoiced the an amount that exceeds what should have been invoiced based on its staff members’ absences or positions being unfilled, Contractor will be deemed in breach pursuant to Paragraph 5 (Breach of Contract) of the Additional Terms and Conditions of the Contract.

No other amounts, fees, or costs other than what is listed under this Contract shall be paid by County.

Contract shall not exceed: $1,115,832.00 for the term of November 1, 2020 through and including October 31, 2021

2. All other provisions of the ORIGINAL CONTRACT except as amended herein and to the extent they are not inconsistent with this AMENDMENT NUMBER ONE, remain unchanged and in full force and effect.
MEMORANDUM

To: Robin Stieler, Clerk of the Board

From: Supervisor Michelle Steel, Chairwoman
       Supervisor Andrew Do, Vice Chairman

Subject: Supplemental Agenda Item-Master Agreements for CARES Act Grant Assistance

Please add the supplemental item of business to the October 20, 2020 Board Agenda. The title of the supplemental item should read:

Master Agreements for CARES Act Grant Assistance
SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 10/20/2020
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: Chairwoman Michelle Steel, 2nd District
Vice Chair Andrew Do, 1st District
DEPARTMENT CONTACT PERSON(S): Arie Dana (714) 834-3220
Chris Wangsaporn (714) 834-3110

SUBJECT: Master Agreements for CARES Act Grant Assistance

<table>
<thead>
<tr>
<th>Budgeted: Yes</th>
<th>Current Year Cost: $4,500,000</th>
<th>Annual Cost: N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staffing Impact: No</td>
<td># of Positions:</td>
<td>Sole Source: No</td>
</tr>
<tr>
<td>Current Fiscal Year Revenue: N/A</td>
<td>Funding Source: FED: 100% (CARES Act)</td>
<td>County Audit in last 3 years: No</td>
</tr>
</tbody>
</table>

Prior Board Action: N/A

RECOMMENDED ACTION(S)

1. Approve the Master Agreement with various providers for Coronavirus Aid, Relief, and Economic Security Grant Assistance for Skilled Nursing Facilities for Eligible Medical Expenses for the term of October 20, 2020, through December 30, 2020.

2. Approve the Master Agreement with various providers for Coronavirus Aid, Relief, and Economic Security Grant Assistance for Community Health Centers for Eligible Medical Expenses for the term of October 20, 2020, through December 30, 2020.

3. Authorize the County Procurement Officer or authorized Deputy to execute the individual contracts under the Master Agreements as referenced in Recommended Actions #1 and #2 above.

SUMMARY:
Approval of the Master Agreements for Coronavirus Aid, Relief, and Economic Security Grant Assistance for Eligible Medical Expenses will allow County to extend funding to assist participating Skilled Nursing Facilities and Community Clinics with necessary COVID-19 preparedness and response activities.
BACKGROUND INFORMATION:

The County of Orange (County) relies on private health care systems to ensure access and treatment for the medical care needs of the County's residents especially the vulnerable populations and populations have higher risk of morbidity and mortality when contracted COVID-19, i.e., senior residents, residents living in long-term care facilities and individuals with chronic health conditions such as diabetes, cardiovascular diseases, hypertension, obesity, chronic kidney diseases, and cancer. In order to maintain these vital assets at current and increasing levels during the current emergency caused by the COVID-19 pandemic, continued access to high-quality medical care and the ability of the County's private partners to handle impending COVID-19 surges are critical County interests. These facilities require funding support to prepare for and respond to the COVID-19 pandemic/outbreak. Surge preparations have been unprecedented, requiring major investments in medical supplies, equipment and personal protective equipment (PPE).

The County is the prime recipient of an award issued in connection with Section 601(a) of the Social Security Act, funded under Section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Coronavirus Relief Fund for State, Local and Tribal Governments. Therefore, the Health Care Agency (HCA) proposes to extend grant assistance using CARES Act Funds to support the County's private partner Skilled Nursing Facilities and Community Clinics to respond to the County's medical care needs during the period beginning on March 1, 2020, and ending on December 30, 2020. These facilities provide care for populations that are most vulnerable to COVID-19 and target care to the underserved and most disproportionately affected populations in the county to address Health Equity. The level of response, volume of testing conducted, and proportion of COVID patients being cared for have outpaced any additional funds some of these facilities have received.

The Master Agreement for CARES Act Grant Assistance for Skilled Nursing Facilities and Community Clinics for Eligible Medical Expenses (Grant Assistance Master Agreement or Contract) proposes to utilize CARES Act funds distributed to HCA to provide grant assistance to 66 Skilled Nursing Facilities and 23 Community Clinics for Such expenditures as are eligible under the CARES Act in the amount of $4.5 million for the term of October 20, 2020, through December 30, 2020, for the following three primary objectives:

- Equipment and Supplies Inventory - Increase inventory and regulate rotation of near-expired items with new inventory to ensure fresh, usable medical supplies and equipment, PPE and ventilators,
- Staffing resources - Support Skilled Nursing Facilities and Community Clinics to secure technical, medical and/or infection control experts dedicated to COVID-19 Pandemic response and planning and to address health equity issues,
- Support Skilled Nursing Facilities and Community Clinics in providing COVID-19 Pandemic training(s) and exercises.

ALLOCATION METHODOLOGY

Allocation methodology for contracting Skilled Nursing Facilities is based upon the following:
- Percentage of each facility's total number of licensed facility beds across participating facilities.

Allocation methodology for contracting Community Clinics is based upon the following:
- Base amount per clinic
- Tier assignment based on:
  - Number of COVID-19 PCR tests performed
  - Number of COVID-19 patients being managed
PROPOSED FACILITIES LIST
Please see Attachments C and D, Contract Summary Forms, for lists of proposed facilities for each Master Agreement.

These Master Agreements do not currently include subcontractors. See Attachments C and D for Contract Summary Forms.

These Master Agreements are being submitted for your Honorable Board of Supervisors (Board) approval less than 30 days prior to the start of the contract in order to expedite funding to these healthcare facilities in preparation for the surge of increasing COVID-19 cases. The Skilled Nursing Facilities and Community Clinics have reviewed the Grant Assistance Master Agreements and are satisfied with the contracts.

HCA requests that the Board of Supervisors approve the CARES Act Grant Assistance for Eligible Medical Expenses Agreements, and execution of the individual Agreements with various providers, as referenced in the Recommended Actions.

FINANCIAL IMPACT:
Appropriations for the Master Agreements are included in HCA's Budget Control 042 FY 2020-21 Budget.

STAFFING IMPACT:
N/A

ATTACHMENT(S):
Attachment A - CARES Act Grant Agreement No. MA-042-21010443 for Skilled Nursing Facilities Eligible Medical Expenses
Attachment B - CARES Act Grant Agreement No. MA-042-21010633 for Community Clinic Eligible Medical Expenses
Attachment C - Contract Summary Form for Attachment A
Attachment D - Contract Summary Form for Attachment B
CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT AGREEMENT NO. MA-042-21010443 FOR SKILLED NURSING FACILITIES (SNF) ELIGIBLE MEDICAL EXPENSES

This Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant Agreement for Acute Skilled Nursing Facilities (SNF) Eligible Medical Expenses (Agreement) is made and entered into on October 20, 2020 (Effective Date) between «Legal_Name» (Subrecipient), with a place of business at «Address», and the County of Orange, a political subdivision of the State of California (County), through its Health Care Agency (Administrator), with a place of business at 405 W. 5th St., Ste. 600, Santa Ana, CA 92701. Subrecipient and County may hereinafter sometimes be referred to individually as “Party” or collectively as “Parties”.

ATTACHMENTS

This Agreement is comprised of this document and the following Attachments, which are attached hereto and incorporated by reference into this Agreement:

Attachment A – Scope of Work
Attachment B – Funding Allocation and Payment Methodology
Attachment C – Additional Funding Regulations
Attachment 1 to Attachment C – Byrd Anti-Lobbying Certification
Attachment D – Guidance for State, Territorial, Local, and Tribal Governments updated September 2, 2020
Attachment E – Coronavirus Relief Fund Frequently Asked Questions Updated as of September 2, 2020
Attachment F - County of Orange CARES Act Certification – 4.13.20
Attachment G – Coronavirus Relief Fund Reporting and Record Retention Requirements dated July 2, 2020
Attachment H – Department of the Treasury Office of Inspector General Coronavirus Relief Fund Frequently Asked Questions Related to Reporting and Recordkeeping

RECITALS

WHEREAS, on February 26, 2020, County’s Health Officer declared a Local Health Emergency in response to the novel coronavirus (named “COVID-19”) emergency and outbreak threat in Orange County, as necessary for the preservation of public health and safety; and

WHEREAS, on March 2, 2020, the Board of Supervisors adopted Resolution No. 2020-11 ratifying the local health emergency declared by the County’s Health Officer; and
WHEREAS, on March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in the State of California as a result of the COVID-19 emergency and outbreak; and

WHEREAS, on March 12, 2020, the Governor of the State of California issued Executive Order N-25-20, ordering all California residents to heed any orders and guidance of State and local public health officials, including but not limited to imposition of social distancing measures, to control the spread of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States issued a Proclamation on Declaring a National Emergency Concerning the COVID-19 Outbreak; and

WHEREAS, on March 22, 2020, the President of United States declared a major disaster exists in the State of California and ordered Federal assistance to supplement State and local recovery efforts in the areas affected by the COVID-19 pandemic; and

WHEREAS, the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) has issued the Public Assistance Program and Policy Guide, Version 4 (Guide) that provides guidance on the availability of federal funding to states and local governments during emergencies pursuant to Section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act); and

WHEREAS, the Guide identifies the services described herein as an eligible cost during emergencies; and

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed by Congress and signed into law by the President of the United States on March 27th, 2020; and

WHEREAS, the CARES Act established the Coronavirus Relief Fund and the County received an allocation of funds from the Coronavirus Relief Fund under section 601(a) of the Social Security Act, as added by section 5001 of the CARES Act; and

WHEREAS, Section 601(a) and 601(d) of the Social Security Act, as added by Section 5001 of the CARES Act, provides that payments from the CARES Act funds may only be used to cover costs that (1) are necessary expenditures incurred due to the public health emergency with respect to the COVID-19; (2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or local government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and

WHEREAS, County is in need of the services/commodities described herein in order to support its efforts to respond to the COVID-19 pandemic in a manner consistent with the above declarations and authorities, including the CARES Act, and any continuing executive orders and declarations as part of the on-going emergencies; and

WHEREAS, the County and Subrecipient desire to enter into this Agreement for the County to provide CARES Act Grant Assistance to Subrecipient to use said Grant Assistance for CARES Act eligible medical expenditures such as staffing, commodities, services, and supplies necessary to respond to the COVID-19 pandemic during the period beginning on March 1, 2020 and ending on December 30, 2020, as set forth in more detail in this Agreement.
NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein, County and Subrecipient do hereby agree as follows:

A. REFERENCED AGREEMENT PROVISIONS

Term: October 20, 2020 through December 30, 2020

Basis for Payment: Formulated Amount

Payment Method: Lump sum, in advance

Aggregate Grant Assistance Amount: $2,500,000

Subrecipient DUNS Number: «DUNS»

Subrecipient TAX ID Number: «TAX_ID»

Notices to County and Subrecipient:

County: County of Orange
        Health Care Agency
        Procurement and Contract Services
        405 West 5th Street, Suite 600
        Santa Ana, CA 92701-4637

Subrecipient: «Lname»
              «dba»
              «Street»
              «City», CA «Zip»
              «Contact_Name», «Contact_Title»
              «Contact_Email»

B. ALTERATION OF TERMS

1. This Agreement, together with Attachment(s) A, B, C, Attachment 1 to Attachment C, D, E, F, G, and H attached hereto and incorporated herein, fully expresses the complete understanding of County and Subrecipient with respect to the subject matter of this Agreement.

2. Unless otherwise expressly stated in this Agreement, no addition to, or alteration of the terms of this Agreement or any Exhibits and Attachments, whether written or verbal, made by the Parties, their officers, employees or agents shall be valid unless made in the form of a written amendment to this Agreement, which has been formally approved and executed by both Parties.

C. CONFLICT OF INTEREST

Subrecipient shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to Subrecipient, this obligation shall apply to Subrecipient’s employees, agents, and sub-subrecipients pursuant to the terms
and conditions of this Agreement. Subrecipient’s efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and sub-subrecipients from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

D. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS

1. Subrecipient may not delegate the obligations hereunder, either in whole or in part, without prior written consent of County. Subrecipient shall provide written notification of Subrecipient’s intent to delegate the obligations hereunder, either in whole or part, to Administrator not less than thirty (30) days prior to the effective date of the delegation. Any attempted delegation in derogation of this subparagraph shall be void.

2. Subrecipient may not assign the rights hereunder, either in whole or in part, without the written consent of County. Assignment is defined for purposes of this Agreement in Subparagraphs a, b, and c, below. Subrecipient shall provide written notification of the assignment, either in whole or part, to Administrator not less than thirty (30) calendar days, or such other reasonable advance notice as may be appropriate to the situation, prior to the effective date of the assignment. For notification regarding a change in the composition of the Subrecipient’s governing body, see Subparagraphs a, b, and c, below. Subrecipient agrees that if there is an assignment of this Agreement by Subrecipient, as defined below, prior to completion of this Agreement, and County agrees to such assignment, the new assignee (including a changed governing body) shall be required to assume Subrecipient’s duties and obligations contained in this Agreement and complete them to the satisfaction of County. Where the assignment is completed by means of a sale or transfer document, such document shall include that the new assignee shall comply with Subrecipient’s duties and obligations contained in this Agreement and complete them to the satisfaction of County. County reserves the right to immediately terminate the Agreement in the event County determines, in its sole discretion, that the assignee (including the changed governing body) is not qualified or is otherwise unacceptable to County for the provision of services under the Agreement. Any attempted assignment, as defined below, in derogation of this subparagraph shall be void.

a. Nonprofit Entity Assignment. If Subrecipient is a nonprofit organization, any change from a nonprofit corporation to any other corporate structure of Subrecipient shall be deemed an assignment. Assignment also includes changes in more than fifty percent (50%) of the composition of the board of directors within a two (2) month period of time. In said case, Subrecipient shall notify the County within fifteen (15) calendar days after the change in more than fifty percent (50%) of the board of director’s composition.

b. For-Profit Entity Assignment. If Subrecipient is a for-profit organization, any change in the business structure, including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of Subrecipient, change to another corporate structure, including a change to a sole proprietorship, shall be deemed an assignment. Assignment also includes a change in fifty percent (50%) or more of board of directors or any governing body of Subrecipient at one time. In said case, Subrecipient shall notify the County within fifteen (15) calendar days after the change.
in more than fifty percent (50%) of the board of director’s composition.

c. Governmental Entity Assignment. If Subrecipient is a governmental organization, any change to another structure shall be deemed an assignment. Assignment also includes a change in more than fifty percent (50%) of the composition of its governing body (e.g. board of supervisors, city council, school board, commission, etc.) within a two (2) month period of time. In said case, Subrecipient shall notify the County within fifteen (15) calendar days after the change in more than fifty percent (50%) of the governing body’s composition.

d. Whether Subrecipient is a nonprofit, for-profit, or a governmental organization, Subrecipient shall provide written notification within thirty (30) calendar days to Administrator when there is change of less than fifty percent (50%) of Board of Directors or any governing body of Subrecipient at one time.

3. Subrecipient’s obligations undertaken pursuant to this Agreement may be carried out by means of subcontracts, provided such sub-subrecipients meet the requirements of this Agreement as they relate to the service or activity under subcontract.

a. No subcontract shall terminate or alter the responsibilities of Subrecipient to County pursuant to this Agreement.

4. Subrecipient shall notify County in writing of any change in the Subrecipient’s status with respect to a mere name change. Subrecipient is also obligated to notify County in writing if the Subrecipient becomes a party to any litigation against County, or a party to litigation that may reasonably affect the Subrecipient’s performance under the Agreement, as well as any potential conflicts of interest between Subrecipient and County that may arise prior to or during the period of Agreement performance.

E. DISPUTE RESOLUTION

1. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute is concerning a question of fact arising under the terms of this Agreement, and it is not disposed of in a reasonable period of time by the Subrecipient and the Administrator, such matter shall be resolved by the County Purchasing Agency by way of the following process:

a. Subrecipient shall submit to the County Purchasing Agency a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Agreement, unless County, on its own initiative, has already rendered such a final decision.

b. Subrecipient’s written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Agreement, Subrecipient shall include with the demand a written statement signed by an authorized representative indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Agreement adjustment for which Subrecipient believes County is liable.
c. Any final decision of the County Purchasing Agency shall be expressly identified as such, shall be in writing, and shall be signed by a County Deputy Purchasing Agent or designee. If the County Purchasing Agency fails to render a decision within ninety (90) calendar days after receipt of Subrecipient's demand, it shall be deemed a final decision adverse to Subrecipient's contentions.

2. Pending the final resolution of any dispute arising under, related to, or involving this Agreement, Subrecipient agrees to proceed diligently with the performance of services secured via this Agreement, including the delivery of goods and/or provision of services. Subrecipient's failure to proceed diligently shall be considered a material breach of this Agreement.

3. This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.

F. EMPLOYEE ELIGIBILITY VERIFICATION

Subrecipient attests that it shall fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees meet the citizenship or alien status requirements set forth in federal statutes and regulations. Subrecipient shall obtain from all employees, verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently exist and as they may be hereafter amended. Subrecipient shall retain all such documentation for all covered employees for the period prescribed by the law.

G. FACILITIES, PAYMENTS, AND SERVICES

1. Subrecipient shall operate continuously throughout the term of this Agreement with the appropriate facilities for its licensure and with at least the minimum number and type of staff which meet applicable federal and state requirements.

2. Subrecipient shall, at its own expense, provide and maintain the organizational and administrative capabilities required to carry out its duties and responsibilities under this Agreement and in accordance with all the applicable statutes and regulations pertaining to Medi-Cal Providers.

H. INDEMNIFICATION AND INSURANCE

1. Subrecipient agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which County's Board of Supervisors acts as the governing Board ("County Indemnites") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage,
arising from or related to the services, products or other performance provided by
Subrecipient pursuant to this Agreement. If judgment is entered against Subrecipient
and County by a court of competent jurisdiction because of the concurrent active
negligence of County or County Indemnitees, Subrecipient and County agree that liability
will be apportioned as determined by the court. Neither Party shall request a jury
apportionment.

2. Throughout the term of this Agreement, Subrecipient shall have and maintain such
insurance as is necessary and sufficient to provide coverage for any and all associated
claims and liabilities arising from Subrecipient’s acceptance and use of CARES Act grant
funding allocated to Subrecipient under this Agreement.

3. It is the obligation of Subrecipient to provide notice of insurance requirements to sub-
subrecipients and to receive proof of insurance. Such proof of insurance must be
maintained by Subrecipient.

I. INSPECTIONS AND AUDITS

1. Administrator, any authorized representative of County, any authorized representative of
the State of California, the Secretary of the United States Department of Health and
Human Services, the Comptroller General of the United States, or any other of their
authorized representatives, shall to the extent permissible under applicable law have
access to any books, documents, and records, including but not limited to, financial
statements, general ledgers, relevant accounting systems, medical and Client records,
of Subrecipient that are directly pertinent to this Agreement, for the purpose of conducting
an audit, review, evaluation, or examination, or making transcripts during the periods of
retention set forth in the Records Management and Maintenance Paragraph of this
Agreement. Such persons may at all reasonable times inspect or otherwise evaluate
Subrecipient pursuant to this Agreement, and Subrecipient’s premises.

2. Subrecipient shall actively participate and cooperate with any person specified in
Subparagraph I.1. above in any evaluation or monitoring pursuant to this Agreement, and
shall provide the above–mentioned persons adequate office space to conduct such
evaluation or monitoring.

3. Audit Response
   a. Following an audit report, in the event of non–compliance with applicable laws and
   regulations governing funds provided through this Agreement, County may terminate
   this Agreement as provided for in the Termination Paragraph or direct Subrecipient
to immediately implement appropriate corrective action. A CAP shall be submitted to
   Administrator in writing within thirty (30) calendar days after receiving notice from
   Administrator.

   b. If the audit reveals that money is payable from one Party to the other, that is,
   reimbursement by Subrecipient to County, or payment of sums due from County to
   Subrecipient, said funds shall be due and payable from one Party to the other within
   sixty (60) calendar days of receipt of the audit results. If reimbursement is due from
   Subrecipient to County, and such reimbursement is not received within said sixty (60)
calendar days, County may, in addition to any other remedies provided by law, reduce any amount owed Subrecipient by an amount not to exceed the reimbursement due County.

4. Subrecipient shall forward to Administrator a copy of any audit report within fourteen (14) calendar days of receipt. Such audit shall include, but not be limited to, management, financial, programmatic or any other type of audit of Subrecipient’s operations, whether or not the cost of such operation or audit is reimbursed in whole or in part through this Agreement.

J. LICENSES AND LAWS

1. Subrecipient, its officers, agents, employees, affiliates, and sub-subrecipients shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates, accreditations, waivers, and exemptions necessary pursuant to the terms and conditions of this Agreement and required by the laws, regulations and requirements of the United States, the State of California, County, and all other applicable governmental agencies.

2. Subrecipient shall comply with all applicable governmental laws, regulations, and requirements as they exist now or may be hereafter amended or changed.

3. The Parties acknowledge that each is a Covered Entity, as defined by the Health Insurance Portability and Accountability Act (HIPAA) and is responsible for complying with said regulations for purposes of safeguarding any Protected Health Information (PHI) generated by each party for its own purposes. Except as otherwise limited by said regulation or law, Subrecipient shall provide to County, and County may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Subrecipient as specified in this Agreement, provided such use or disclosure would not violate the Privacy Rule if done by Subrecipient or the Minimum Necessary policies and procedures of Subrecipient as required and/or defined by HIPAA.

4. Subrecipient attests, to the best of its knowledge, that all skilled nursing facility-based medical/professional staff providing services at Subrecipient’s facility(ies), under this Agreement, are and will continue to be as long as this Agreement remains in effect, the holders of currently valid licenses and/or certifications in the State of California required to perform the services for which they have been hired by SNF to provide and are members in “good standing” of the medical/professional staff of Subrecipient’s facility(ies).

5. Subrecipient shall:

   a. fully comply with all applicable federal and state reporting requirements regarding its employees; and

   b. fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment.

6. Failure of Subrecipient to comply with all federal and state employee reporting requirements for child support enforcement, or to comply with all lawfully served Wage
and Earnings Assignment Orders and Notices of Assignment, shall constitute a material breach of this Agreement; and failure to cure such breach within sixty (60) calendar days shall constitute grounds for termination of this Agreement.

7. It is expressly understood that County may transmit information regarding Subrecipient’s noncompliance to governmental agencies charged with the establishment and enforcement of child support orders or Wage and Earnings Assignment Orders and Notices of Assignment, or as permitted by federal and/or state statute.

K. PERMITS, LICENSES, APPROVALS, AND LEGAL OBLIGATIONS

Subrecipient shall be responsible for obtaining any and all permits, licenses, and approvals required for performing any work under this Agreement. Subrecipient shall be responsible for observing and complying with any applicable Federal, State, or local laws, or rules or regulations affecting any such work. Subrecipient shall provide copies of permits and approvals to the County upon request.

L. STATUTES AND REGULATIONS APPLICABLE TO GRANT

Subrecipient must comply with all applicable requirements of State, Federal, and County of Orange laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Agreement. Subrecipient must comply with applicable State and Federal laws and regulations pertaining to labor, wages, hours, and other conditions of employment. Subrecipient must comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

1. Office of Management and Budget (OMB) Circulars. Subrecipient must comply with OMB Circulars, as applicable: OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments); Common Rule, Subpart C for public agencies or OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations.

2. Single Audit Act. Since Federal funds are used in the performance of this Agreement, Subrecipient must, as applicable, adhere to the rules and regulations of the Single Audit Act (31 USC Sec. 7501 et seq.), OMB Circular A-133 and any administrative regulation or field memoranda implementing the Act.

3. Political Activity Prohibited. None of the funds, materials, property or services provided directly or indirectly under this Agreement may be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Funds provided under this Agreement may not be used for any purpose designed to support or defeat any pending legislation or administrative regulation.
M. COMPLIANCE WITH GRANT REQUIREMENTS

To obtain the Grant funds, the Department of the Treasury required an authorized representative of the County to agree to certain promises regarding the way the grant funds would be spent. This certification is attached hereto as Attachment E. By signing this certification, the County made material representations to the Department of Treasury in order to receive payments from the Department of Treasury pursuant to section 601(b) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (Mar. 27, 2020). In accordance with Paragraph H, above, Subrecipient agrees to indemnify, defend, and hold harmless the County of Orange for any sums the State or Federal government contends or determines Subrecipient used in violation of the certification. Subrecipient shall immediately return to the County any funds the County or any responsible State or Federal agency, including the Department of Treasury, determines the Subrecipient has used in a manner that is inconsistent with Paragraph 2, above, of this Agreement. Coronavirus Relief Fund Frequently Asked Questions can be found at https://home.treasury.gov/policy-issues/cares/state-and-local-governments. The provisions of this Paragraph shall survive termination of this Agreement.

Subrecipient shall adhere to the Federal Government issued reporting requirements (July 31, 2020) for states and local governments that receive direct funds from the Coronavirus Relief Fund (CRF) established by the CARES Act. Subrecipient shall be responsible for meeting and completing County’s reporting responsibility for CARES Act funding received by Subrecipient under this Agreement. Subrecipient of CRF monies must register at the System for Award Management (SAM) website https://sam.gov/SAM/ within ten (10) business days of Agreement execution, and be prepared to be monitored by County or other regulatory body with auspices over CARES Act funding in accordance with Uniform Guidance.

N. AGGREGATE GRANT ASSISTANCE AMOUNT

1. The Aggregate Grant Assistance Amount of County to be distributed in accordance with all Agreements for Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant for Skilled Nursing Facilities Eligible Medical Expenses is two and a half million dollars ($2,500,000), as specified in the Referenced Agreement Provisions of this Agreement. This specific Agreement with Subrecipient is only one of several Agreements to which this Grant Amount applies. It therefore is understood by the parties that amount distributed to Subrecipient will be only a fraction of the Aggregate Grant Amount.

2. CFDA Information - This Agreement includes federal funds paid to Subrecipient. The CFDA number(s) and associated information for federal funds paid through this Agreement are as specified below:
a. Subrecipient may be required to have an audit conducted in accordance with federal regulations. Subrecipient shall be responsible for complying with any federal audit requirements within the reporting period.

b. Administrator may revise the CFDA information listed above, and shall notify Subrecipient in writing of said revisions.

O. NOTICES

1. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements authorized or required by this Agreement shall be effective:

   a. When written and deposited in the United States mail, first class postage prepaid and addressed as specified in the Referenced Agreement Provisions of this Agreement or as otherwise directed by Administrator;

   b. When faxed, transmission confirmed;

   c. When sent by Email; or

   d. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or any other expedited delivery service.

2. Formal Notices, such as Termination Notices or notices modifying terms and conditions of this Agreement, as allowed pursuant to this Agreement, shall be effective:

   a. When written and deposited in the United States mail, first class postage prepaid, certified mail, return receipt requested, and addressed as specified in the Referenced Agreement Provisions of this Agreement or as otherwise directed by Administrator; or

   b. When delivered by U.S. Postal Service Express Mail, Federal Express, United Parcel Service or any other expedited delivery service.

3. Subrecipient shall notify Administrator, in writing, within twenty-four (24) hours of becoming aware of any occurrence of a serious nature, which may expose County to liability. Such occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or damage to any County property in possession of Subrecipient.
4. For purposes of this Agreement, any notice to be provided by County may be given by Administrator.

P. USE OF GRANT AMOUNT

1. Subrecipient shall use the Grant amount provided under this Agreement to pay for Eligible Expenses, as described in more detail in Attachment A of this Agreement, that: (1) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (2) were not accounted for in the budget most recently approved by Subrecipient as of March 27, 2020; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

2. Subrecipient must utilize the Grant amount in accordance with all Federal and State laws, including but not limited to 42 U.S.C. § 801, subsection (d), and all applicable regulations and guidelines, including guidance issued by the Department of Treasury regarding costs that are payable from Coronavirus Relief Funds, which includes but is not limited to Guidance for State, Territorial, Local, and Tribal Governments dated April 22, 2020 (Attachment D) and Coronavirus Relief Fund Frequently Asked Questions as listed at https://home.treasury.gov/policy-issues/cares/state-and-local-governments.

Q. PAYMENT OF GRANT AMOUNT

1. The County shall pay Subrecipient an advanced Grant amount of «Grant_Amount» upon full execution of this Agreement. All of Subrecipient’s expenditures of the Grant amount must be for Eligible Expense, as described in more detail in Paragraph B and C of Attachment A to this Agreement.

2. It is understood that the County makes no commitment to fund this Agreement beyond the terms set forth herein.

3. If Subrecipient has not spent any portion of the Grant amount it has received under this Agreement to cover Eligible Expenses by December 30, 2020, Subrecipient shall return to the County by February 1, 2021 the amount remaining unspent as of December 30, 2020.

R. RECORDS MAINTENANCE

Records, in their original form, must be maintained in accordance with requirements prescribed by the County with respect to all matters specified in this Agreement. Original forms are to be maintained on file for all documents specified in this Agreement. Such records must be retained for a period of four (4) years after termination of this Agreement and after final disposition of all pending matters unless otherwise specified herein. “Pending matters” include, but are not limited to, an audit, litigation or other actions involving records. Records, in their original form pertaining to matters covered by this Agreement, must at all times be retained within the County of Orange unless authorization to remove them is granted in writing by the County.

S. RECORDS MANAGEMENT AND MAINTENANCE

1. Subrecipient, its officers, agents, employees and sub-subrecipients shall, throughout the
term of this Agreement, prepare, maintain and manage such records as appropriate to the services provided and in accordance with this Agreement and all applicable requirements. This obligation includes maintaining all records needed to support claims submitted by Subrecipient or County for purposes of receiving or spending CARES Act funds.

2. Subrecipient shall ensure appropriate financial records related to cost reporting, expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately, shall retain all such financial records for a minimum of seven (7) years from the commencement of the Agreement, unless a longer period is required due to legal proceedings such as litigation and/or settlement of claims.

3. Subrecipient shall make records pertaining to the costs of services, patient fees, charges, billings, and revenues available at one (1) location within the limits of the County of Orange.

4. If Subrecipient is unable to meet the record location criteria above, Administrator may provide written approval to Subrecipient to maintain records in a single location, identified by Subrecipient.

5. Subrecipient may be required to retain all records involving litigation proceedings and settlement of claims for a longer term as reasonably directed by Administrator.

6. Subrecipient, unless Subrecipient is a public institution, shall notify Administrator of any PRA requests related to, or arising out of, this Agreement, within forty-eight (48) hours. Subrecipient shall provide Administrator all information that is requested by the PRA request.

7. If Subrecipient is a public institution, County understands and agrees that Subrecipient is subject to the provisions of the California Public Records Act. In the event Subrecipient receives a request to produce this Agreement, or identify any term, condition, or aspect of this Agreement, Subrecipient shall notify County. Subrecipient shall make its best efforts to notify County no less than three (3) business days prior to releasing such information.

T. SEVERABILITY

If a court of competent jurisdiction declares any provision of this Agreement or application thereof to any person or circumstances to be invalid or if any provision of this Agreement contravenes any federal, state or county statute, ordinance, or regulation, the remaining provisions of this Agreement or the application thereof shall remain valid, and the remaining provisions of this Agreement shall remain in full force and effect, and to that extent the provisions of this Agreement are severable.

U. STATUS OF PARTIES

1. Each party is, and shall at all times be deemed to be, an independent Subrecipient and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this Agreement. Each party is entirely responsible for compensating staff
and consultants employed by that party. This Agreement shall not be construed as creating the relationship of employer and employee, or principal and agent, between County and Subrecipient or of either party’s employees, agents, consultants, or Subrecipients. Each party assumes exclusively the responsibility for the acts of its employees, agents, consultants, or Subrecipients as they relate to the services to be provided during the course and scope of their employment or respective contracts.

2. County shall neither have, nor exercise, any control or direction over the methods by which Subrecipient shall perform its obligations under this Agreement. The standards of medical care and professional duties of Subrecipient’s employees performing medical services under this Agreement shall be determined, as applicable, by Subrecipient’s Board of Directors and the standards of care in the community in which Subrecipient is located, and all applicable provisions of law and other rules and regulations of any and all governmental authorities relating to licensure and regulation of Subrecipient.

V. TERM

1. The term of this Agreement shall commence as specified in the Referenced Agreement Provisions of this Agreement or the execution date, whichever is later. This Agreement shall terminate as specified in the Referenced Agreement Provisions of this Agreement unless otherwise sooner terminated as provided in this Agreement; provided, however, Subrecipient shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to, obligations with respect to confidentiality, indemnification, audits, reporting and accounting.

2. Any administrative duty or obligation to be performed pursuant to this Agreement on a weekend or holiday may be performed on the next regular business day.

W. TERMINATION

1. Neither party shall be liable nor deemed to be in default for any delay or failure in performance under this Agreement resulting, directly or indirectly, from Acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, machinery or suppliers, vandalism, strikes or other work interruptions by a party’s officers, agents, employees, affiliates, or Subrecipients, or any similar cause beyond the reasonable control of any party to this Agreement. However, all parties shall make good faith efforts to perform under this Agreement in the event of any such circumstance.

2. County may terminate this Agreement immediately, upon written notice, on the occurrence of any of the following events:

   a. The loss by Subrecipient of legal capacity.

   b. Failure of Subrecipient to meet any of its obligations under this Agreement.

   c. The loss of accreditation or any license required by the Licenses and Law Paragraph of this Agreement.
d. The delegation or assignment by Subrecipient of obligations hereunder to another entity without the prior written consent of County.

3. Contingent Funding

a. Any obligation of County under this Agreement shall be contingent upon the following:

1) The continued availability of federal, state and county funds for reimbursement of County's expenditures, and

2) Inclusion of sufficient funding for the services hereunder in the applicable budget approved by the Board of Supervisors.

3) In the event the Grant Assistance under this Agreement is not available or limited pursuant to Subparagraph 3.a, above, County may at its sole discretion terminate the Agreement upon thirty (30) calendar days prior written notice to Subrecipient or reduce the Grant Assistance to an amount as deemed appropriate by County.

4. After receiving a notice of termination, Subrecipient shall do the following:

a. Comply with termination instructions provided by Administrator in a manner that is consistent with prudent business practices.

b. Obtain immediate clarification from Administrator of any unsettled issues of the Agreement during the remaining allocation period.

c. Until the date of termination, continue to adhere all contractual obligations required by this Agreement.

5. The rights and remedies of County and Subrecipient provided in this Termination Paragraph shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.

X. THIRD PARTY BENEFICIARY

Neither party hereto intends that this Agreement shall create rights hereunder in third parties including, but not limited to, any sub-subrecipients or any clients provided services pursuant to this Agreement.

Y. WAIVER OF DEFAULT OR BREACH

Waiver by either party of any default by the other party shall not be considered a waiver of any other or subsequent default. Waiver by either party of any breach by the other party of any provision of this Agreement shall not be considered a waiver of any other or subsequent breach. Waiver by the other party of any default or any breach by the other party shall not be considered a modification of the terms of this Agreement.

SIGNATURE PAGE FOLLOWS
SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have executed this Agreement. If the company is a corporation, Subrecipient shall provide two signatures as follows: 1) the first signature must be either the Chairman of the Board, President, or any Vice President; 2) the second signature must be that of the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution or by-laws demonstrating the legal authority of the signature to bind the company.

Subrecipient: «Legal_Name»

Print Name

Title

Signature

Date

Print Name

Title

Signature

Date

County of Orange, a political subdivision of the State of California

Purchasing Agent/Designee Authorized Signature:

Print Name

Title

Signature

Date

APPROVED AS TO FORM
Office of the County Counsel
Orange County, California

Massoud Shamel

Deputy County Counsel

Title

Print Name

10/14/2020

Signature

Date
ATTACHMENT A
TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT
AGREEMENT NO. MA-042-21010443 FOR SKILLED NURSING FACILITIES
ELIGIBLE MEDICAL EXPENSES

SCOPE OF WORK

A. BACKGROUND

Orange County relies on public-private partnership to ensure access and treatment for County’s acute and skilled care medical needs. In order to maintain this vital asset at current levels during the current emergency caused by the Coronavirus pandemic (COVID-19) pandemic/outbreak, continued access to a high quality medical system and the ability of the County’s private partners, e.g. hospitals, clinics, skilled nursing facilities, etc., to handle COVID-19 impending surges are critical County interests. These facilities require continued funding support to prepare for and respond to COVID-19 pandemic/outbreak.

Therefore, County is providing grant assistance using CARES Act Fund to County’s private partners, such as skilled nursing facilities, to respond to County’s skilled nursing facilities needs during the period beginning on March 1, 2020 and ending on December 30, 2020.

B. PURPOSE

This Agreement proposes to utilize CARES Act funds distributed to the County of Orange Health Care Agency to provide grant assistance to sixty-six (66) Skilled Nursing Facilities for such expenditures as are eligible under the CARES Act in the amount of two and a half million dollars ($2,500,000) during the period of March 1, 2020 through December 30, 2020 in the following three (3) primary objectives:

1. Equipment and Supplies Inventory - Increase inventory and regulate rotation of near-expired items with new inventory to ensure fresh, usable medical supplies and equipment, PPE, and ventilators.

2. Disaster Resource Centers - Support Health Care Coalition (up to 66 skilled nursing facilities) to secure Technical, Medical, Infection Control Experts dedicated to COVID-19 Pandemic response and planning.

3. Support skilled nursing facilities in providing COVID-19 Pandemic training(s) and exercises.

C. ELIGIBLE EXPENSES – Eligible costs shall be such expenditures made on the items listed in Paragraph B of this Attachment A, and must (i) be necessary expenditures incurred due to the public health emergency with respect to COVID–19; (ii) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and (iii) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. Examples of eligible cost categories include, but are not limited to, financial assistance to other private skilled nursing facilities.
D. ALLOCATION METHODOLOGY

1. Each participating SNF will receive a proportionate share of the available funds based on the facility’s percentage of total licensed beds for participating SNFs in the county.

2. In Administrator’s sole discretion, the distribution calculations may be amended by Administrator under one or more of the following circumstances, and for each occurrence, Administrator will prepare an amended Subparagraph A of Attachment B to the Agreement:
   a. Deletion of a SNF participant in this Agreement;
   b. Any change in corporate ownership of a participating SNF;
   c. Any change in Subrecipient eligibility for funding; and
   d. Any correction to the distribution amount as a result of calculation error.

3. Subrecipient agrees that, should revised distribution calculations be necessary pursuant to Subparagraph 2 above, an amended Subparagraph A of Attachment B to the Agreement may be provided via E-Mail notification to each participating Subrecipient, along with explanation for the change within fifteen (15) days of Administrator becoming aware of the need for such modification.

E. SUBRECIPIENT’S OBLIGATIONS

1. Subrecipient shall incur and pay out (expend) costs for CARES Act Eligible Expenses, in accordance with Paragraph B and C of this Attachment A, within the term of this Agreement.

2. Subrecipient shall make best effort to maintain, throughout the term of this Agreement, for each facility included under this Agreement, a minimum of a fourteen (14) calendar day supply of PPE.
   a. Resource Requests of Subrecipient to County shall be given lower priority through the end of calendar year 2020 as the funding under this Agreement should cover Subrecipient’s PPE needs.

3. Subrecipient shall maintain the licensed bed capacity utilized for the Allocation Methodology referenced in Subparagraph D.1. of this Attachment A, throughout the term of this Agreement.

4. Subrecipient shall maintain the resources necessary to meet the COVID-19 SNF licensed bed number for the Allocation Methodology referenced in Paragraph D of this Attachment A, throughout the term of this Agreement.

5. Subrecipient shall not claim costs for any ineligible expenditure, for Eligible Expenditures incurred and paid out (expended) after December 30, 2020, or for any Eligible Expenditures not reported to County on or before December 30, 2020, except as otherwise provided under the Agreement.
6. Subrecipient shall submit reports, in the fashion and form, as specified under Paragraph F of this Attachment A to the Agreement.

7. Subrecipient shall collect and maintain all source documentation in support of all Eligible Expenses.

8. Subrecipient shall return any and all unexpended CARES Act funding, to County to the attention of the Administrator Contract Manager, referenced below in Paragraph G. of this Attachment A, within thirty (30) calendar days of termination or expiration of this Agreement, whichever is earlier.

9. Subrecipient shall make key staff and all source documentation available to County and/or other regulatory body with auspices over CARES Act funding, upon written notice by Administrator and/or other regulatory body with auspices over CARES Act funding, within seven (7) days for the purposes of review, auditing, or other purpose as appropriate for proper oversight of this Agreement.

F. REPORTS

1. Progress Report. Within ten (10) business days of Subrecipient’s receipt of funds, Subrecipient shall provide a report to the County that shall: (1) identify the Eligible Expenses paid from or charged against the grant amount; (2) demonstrate how Subrecipient used the grant amount consistent with the use requirements of Paragraphs B and C above as well as Paragraph P of the main Agreement; and (3) identify the balance of the grant amount that Subrecipient has not spent.

2. Final Report. Upon the earlier of Subrecipient’s expenditure of the balance of the grant amount or January 15, 2021, Subrecipient shall provide a report to the County that shall: (1) identify the Eligible Expenses paid from the grant amount as of December 30, 2020; (2) demonstrate how Subrecipient used the grant amount consistent with the use requirements of Paragraphs B and C above as well as Paragraph P of the main Agreement; and (3) identify the balance of the grant amount that Subrecipient has not spent, if any.

3. The Subrecipient shall provide a certification signed by its chief executive officer with each report required under this Paragraph F that the statements contained in the report are true and that the expenditures described in the report comply with the uses permitted under Paragraphs B and C above as well as Paragraph P of the main Agreement.

4. Subrecipient shall maintain supporting documentation for the reports required by this Paragraph F consistent with the requirements of Paragraphs R and S of the main Agreement.

5. FISCAL

   a. Expenditure and Revenue Report. Subrecipient shall submit monthly Expenditure and Revenue Reports to Administrator. These reports will be on a form approved by Administrator and will report year-to-date actual costs and revenues for Subrecipient as described in this Agreement.
b. Year-End Projections. In conjunction with the Expenditure and Revenue Report, Subrecipient shall provide monthly year-end projections that shall include year-to-date actual costs and revenues and anticipated year-end actual costs and revenues for Subrecipient as described in this Agreement.

c. The Expenditure and Revenue and Year-End Projection report shall be received by Administrator no later than the twentieth (20th) day following the end of the month being reported.

7. PROGRAMMATIC - Subrecipient shall submit, on forms provided or approved by County, fiscal and/or programmatic reports as requested by County concerning Subrecipient’s activities as they relate to this Agreement. County will be specific as to the nature of the information requested and allow fifteen (15) calendar days for Subrecipient to respond.

8. ADDITIONAL REPORTS – Subrecipient shall submit, on forms provided or approved by Administrator, any additional programmatic reports, as requested by Administrator or other regulatory body with auspices over CARES Act funding, concerning Subrecipient’s activities as they relate to this Agreement. Administrator will be specific as to the nature of the information requested and allow fifteen (15) calendar days calendar days for Subrecipient to respond, unless deadlines imposed by regulatory bodies dictate otherwise.

9. Subrecipient must request in writing any extensions to the due date of the monthly required report(s). If an extension is approved by Administrator, the total extension will not exceed more than five (5) calendar days.

G. County Contact Information: To direct communications to the above referenced County staff, Subrecipient shall initiate contact as indicated herein. County reserves the right to make changes to the contact information below by verbal or written notice to Subrecipient. Said changes shall not require an amendment to this Attachment or the Agreement to which it is incorporated.

Administrator Program Manager
County of Orange
Health Care Agency
405 W. Santa Ana Boulevard, Suite 458
Santa Ana, California  92701
Attention:  Cheryl Meronk
E-mail: cmeronk@ochca.com
Telephone:  (714) 834-4099

Administrator Contract Manager
County of Orange
Health Care Agency
405 W. 5th Street, Suite 600
Santa Ana, California  92701
Attention:  Brian Greene
E-mail: bgreene@ochca.com
Telephone:  (714) 834-3019
Administrator Privacy Officer
County of Orange
Orange County Information Technology (OCIT)
1055 N. Main Street
Santa Ana, California  92701
Attention:  Linda Le
E-mail: linda.le@ocit.ocgov.com
Telephone:  (714) 834-4082

Administrator Information Security Officer
County of Orange
Health Care Agency
200 W. 5th Street
Santa Ana, California  92701
Attention:  David Castellanos
E-mail: dcastellanos@ochca.com
Telephone:  (714) 834-3433

H. Subrecipient and Administrator may mutually agree, in writing, to modify any and all Paragraphs of this Attachment A to the Agreement.
ATTACHMENT B

TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT AGREEMENT NO. MA-042-21010443 FOR SKILLED NURSING FACILITIES ELIGIBLE MEDICAL EXPENSES

FUNDING ALLOCATION AND PAYMENT METHODOLOGY

A. Funding Allocation Table – funding shall be allocated to Subrecipient in accordance with the Allocation Methodology described in Paragraph D. of Attachment A to this Agreement, and as formulated in the table below:

<table>
<thead>
<tr>
<th>Skilled Nursing Facility</th>
<th>Licensed Beds</th>
<th>% of Total</th>
<th>Allocation</th>
</tr>
</thead>
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<td>Advanced Rehab Center Of Tustin</td>
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<td>Alamitos West Health And Rehabilitation</td>
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<td>$54,593.10</td>
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<td>129</td>
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<td>Anaheim Terrace Care Center</td>
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</tr>
<tr>
<td>Brookdale Yorba Linda</td>
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<td>$16,377.93</td>
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<td>Buena Park Nursing Center</td>
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<tr>
<td>Country Villa Plaza Convalescent Center</td>
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<td>$52,773.33</td>
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<tr>
<td>Coventry Court Health Center</td>
<td>97</td>
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<td>Crystal Cove Care Center</td>
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<td>Extended Care Hospital Of Westminster</td>
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<td>Flagship Healthcare Center</td>
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<td>French Park Care Center</td>
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<td>Garden Grove Post Acute</td>
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<td>Garden Park Care Center</td>
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<td>Harbor Villa Care Center</td>
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<td>Healthcare Center Of Orange County</td>
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<td>1.44%</td>
<td>$36,031.45</td>
</tr>
<tr>
<td>Skilled Nursing Facility</td>
<td>Licensed Beds</td>
<td>% of Total</td>
<td>Allocation</td>
</tr>
<tr>
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<td>La Habra Convalescent Hospital</td>
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<td>La Palma Nursing Center</td>
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<td>Leisure Court Nursing Center</td>
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<td>Mission Palms Healthcare Center</td>
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<tr>
<td>New Orange Hills</td>
<td>145</td>
<td>2.11%</td>
<td>$52,773.33</td>
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<td>Newport Subacute Healthcare Center</td>
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<td>Orange Healthcare And Wellness Centre Llc</td>
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<tr>
<td>Orangegrove Rehabilitation Hospital</td>
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<td>$35,303.54</td>
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<td>Pacific Haven Subacute And Healthcare Center</td>
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<td>$36,031.45</td>
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<td>Park Anaheim Healthcare Center</td>
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<td>$41,854.71</td>
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<tr>
<td>Park Regency Care Center</td>
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<td>Park Vista At Morningside</td>
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<td>Rowntree Gardens</td>
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<td>St Edna Subacute And Rehabilitation Center</td>
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<td>The Covington Care Center</td>
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<td>The Pavilion At Sunny Hills</td>
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<td>Town And Country Manor</td>
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<td>Villa Valencia</td>
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<td>$56,048.91</td>
</tr>
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</table>

**TOTAL** 6,869 100.00% **$ 2,500,000.00**
B. PAYMENTS

1. Subrecipient shall incur and pay out (expend) costs for CARES Act Eligible Expenses, in accordance with Paragraph B and C. of Attachment A, within the term of this Agreement.

2. Subrecipient’s Eligible Expenses shall not exceed Subrecipient’s allocation in accordance with Paragraph D. of Attachment A, and as formulated in the Funding Allocation Table referenced above in Paragraph A of this Attachment B.

C. PAYMENT METHOD

1. County shall pay without Subrecipient invoicing, such as County shall pay Subrecipient a lump sum, within sixty (60) business days of Agreement execution in accordance with Funding Allocation Table in Paragraph A of this Attachment B.

2. Subrecipient understands and agrees that the total of all payments to Subrecipient shall not exceed Subrecipient's allocation in accordance with the Allocation Methodology described in Paragraph D. of Attachment A to this Agreement, and as formulated in the Funding Allocation Table referenced above in Paragraph A of this Attachment B. Subrecipient accepts further that the total of all payments to all Subrecipients shall not exceed the Aggregate Grant Assistance Amount as specified in the Referenced Agreement Provisions of this Agreement.

3. Subrecipient agrees that all payments are interim payments only, and subject to auditing by County and/or other regulatory body with auspices over CARES Act funding and maybe subject to recoupment in the event said expenditures:

   a. are not in accordance with Paragraphs B and C of Attachment A; and

   b. cannot be substantiated by source documentation collected and maintain by Subrecipient, to include but not be limited to receipts, purchase orders, ledgers, books, check stubs, invoices, records, etc. confirming expenses incurred and paid out (expended). Lack of supporting source documentation of any expenditure claimed to County and granted to Subrecipient under this Agreement shall be immediately subject to recoupment by County.

4. County may withhold any or all of the funds specified in this Attachment B of the Agreement, consistent with the regulations pertaining to the specific funding source, in order to recover any overpayments made of said funds to Subrecipient in previous agreements or to recover funds due County from Subrecipient pursuant, but not limited, to the following:

   a. Subrecipient’s failure to comply with the provisions of this Agreement.

   b. Subrecipient is found to be non-compliant with the conditions for receiving funds including, but not limited to, inability to document eligible expenditures.

   c. Audit exceptions and/or fiscal disallowances by the state and/or County for funds received by Subrecipient pursuant to this this Agreement.


d. Recovery of any overpayments made in previous agreements between Subrecipient and County for other contracted services.

5. County shall not reimburse Subrecipient for expenditures under this Agreement incurred and paid out (expended) after December 30, 2020.

D. Subrecipient and Administrator may mutually agree, in writing, to modify any and all Paragraphs of this Attachment B to the Agreement.
ATTACHMENT C
TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT AGREEMENT NO. MA-042-21010443 FOR SKILLED NURSING FACILITIES ELIGIBLE MEDICAL EXPENSES

ADDITIONAL FUNDING REGULATIONS

A. Contract Work Hours and Safety Standards Act

1. Overtime requirements. No Subrecipient or sub-subrecipient contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Subrecipient and any sub-subrecipient responsible therefor shall be liable for the unpaid wages. In addition, such Subrecipient and sub-subrecipient shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Subrecipient or sub-subrecipient under any such contract or any other Federal contract with the same prime Subrecipient, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Subrecipient, such sums as may be determined to be necessary to satisfy any liabilities of such Subrecipient or sub-subrecipient for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

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

B. Clean Air Act and The Federal Water Pollution Control Act

1. Clean Air Act

   a. The Subrecipient agrees to comply with all applicable standards, orders or regulations
issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

b. The Subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

c. The Subrecipient agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

2. Federal Water Pollution Control Act

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

b. The Subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

c. The Subrecipient agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

C. Suspension and Debarment

1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Subrecipient is required to verify that none of the Subrecipient’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

2. The Subrecipient must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

3. This certification is a material representation of fact relied upon by County. If it is later determined that the Subrecipient did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

4. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.
D. Byrd Anti-Lobbying Amendment - 31 U.S.C. § 1352 (as amended) Subrecipients who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency. Subrecipient must execute the certification, as provided in Attachment C.

E. Procurement of Recovered Materials

1. In the performance of this contract, the Subrecipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired

2. Competitively within a timeframe providing for compliance with the contract performance schedule;

3. Meeting contract performance requirements; or

4. At a reasonable price.

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

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

F. Access To Records

1. The Subrecipient agrees to provide County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Subrecipient which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

2. The Subrecipient agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

3. The Subrecipient agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

4. In compliance with the Disaster Recovery Act of 2018, the County and the Subrecipient acknowledge and agree that no language in this contract is intended to prohibit audits or
internal reviews by the FEMA Administrator or the Comptroller General of the United States.

G. Department of Homeland Security (DHS) Seal, Logo, and Flags - The Subrecipient shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

H. Compliance with Federal Law, Regulations, And Executive Orders - This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Subrecipient will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

I. No Obligation by Federal Government - The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Subrecipient, or any other party pertaining to any matter resulting from the contract.

J. Program Fraud and False or Fraudulent Statements or Related Acts - The Subrecipient acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Subrecipient's actions pertaining to this contract.

K. Equal Employment Opportunity - The Subrecipient shall comply with U.S. Executive Order 11246 entitled, “Equal Employment Opportunity” as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable State of California regulations as may now exist or be amended in the future. The Subrecipient shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

L. Regarding handicapped persons, the Subrecipient will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Subrecipient agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

M. Regarding Americans with disabilities, Subrecipient agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.
ATTACHMENT 1 to ATTACHMENT C

TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT AGREEMENT NO. MA-042-21010443 FOR SKILLED NURSING FACILITIES ELIGIBLE MEDICAL EXPENSES

CERTIFICATION REGARDING ANTI-LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

The Subrecipient, «Legal_Name», certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Subrecipient understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

___________________________________
Signature of Subrecipient’s Authorized Official

___________________________________
Name and Title of Subrecipient’s Authorized Official

___________________________________
Date
ATTACHMENT D
Coronavirus Relief Fund
Guidance for State, Territorial, Local, and Tribal Governments Updated September 2, 2020

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund (the “Fund”) and appropriated $150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency

The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

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1 On June 30, 2020, the guidance provided under “Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020” was updated. On September 2, 2020, the “Supplemental Guidance on Use of Funds to Cover Payroll and Benefits of Public Employees” and “Supplemental Guidance on Use of Funds to Cover Administrative Costs” sections were added.

2 See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.
Costs not accounted for in the budget most recently approved as of March 27, 2020

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

Finally, the CARES Act provides that payments from the Fund may only be used to cover costs that were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (the “covered period”). Putting this requirement together with the other provisions discussed above, section 601(d) may be summarized as providing that a State, local, or tribal government may use payments from the Fund only to cover previously unbudgeted costs of necessary expenditures incurred due to the COVID–19 public health emergency during the covered period.

Initial guidance released on April 22, 2020, provided that the cost of an expenditure is incurred when the recipient has expended funds to cover the cost. Upon further consideration and informed by an understanding of State, local, and tribal government practices, Treasury is clarifying that for a cost to be considered to have been incurred, performance or delivery must occur during the covered period but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred). For instance, in the case of a lease of equipment or other property, irrespective of when payment occurs, the cost of a lease payment shall be considered to have been incurred for the period of the lease that is within the covered period but not otherwise. Furthermore, in all cases it must be necessary that performance or delivery take place during the covered period. Thus the cost of a good or service received during the covered period will not be considered eligible under section 601(d) if there is no need for receipt until after the covered period has expired.

Goods delivered in the covered period need not be used during the covered period in all cases. For example, the cost of a good that must be delivered in December in order to be available for use in January could be covered using payments from the Fund. Additionally, the cost of goods purchased in bulk and delivered during the covered period may be covered using payments from the Fund if a portion of the goods is ordered for use in the covered period, the bulk purchase is consistent with the recipient’s usual procurement policies and practices, and it is impractical to track and record when the items were used. A recipient may use payments from the Fund to purchase a durable good that is to be used during the current period and in subsequent periods if the acquisition in the covered period was necessary due to the public health emergency.

Given that it is not always possible to estimate with precision when a good or service will be needed, the touchstone in assessing the determination of need for a good or service during the covered period will be reasonableness at the time delivery or performance was sought, e.g., the time of entry into a procurement contract specifying a time for delivery. Similarly, in recognition of the likelihood of supply chain disruptions and increased demand for certain goods and services during the COVID-19
public health emergency, if a recipient enters into a contract requiring the delivery of goods or performance of services by December 30, 2020, the failure of a vendor to complete delivery or services by December 30, 2020, will not affect the ability of the recipient to use payments from the Fund to cover the cost of such goods or services if the delay is due to circumstances beyond the recipient’s control.

This guidance applies in a like manner to costs of subrecipients. Thus, a grant or loan, for example, provided by a recipient using payments from the Fund must be used by the subrecipient only to purchase (or reimburse a purchase of) goods or services for which receipt both is needed within the covered period and occurs within the covered period. The direct recipient of payments from the Fund is ultimately responsible for compliance with this limitation on use of payments from the Fund.

**Nonexclusive examples of eligible expenditures**

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
   - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
   - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
   - Costs of providing COVID-19 testing, including serological testing.
   - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.

2. Public health expenses such as:
   - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
   - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
   - Expenses for disinfection of public areas and other facilities, e.g., nursing homes, in response to the COVID-19 public health emergency.
   - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
   - Expenses for quarantining individuals.

3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
• Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
• Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
• Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
• Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
• COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
• Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.

5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
• Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
• Expenditures related to a State, territorial, local, or Tribal government payroll support program.
• Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund’s eligibility criteria.

Nonexclusive examples of ineligible expenditures

The following is a list of examples of costs that would not be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

3 In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.
Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

4 See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.
4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.

5. Reimbursement to donors for donated items or services.

6. Workforce bonuses other than hazard pay or overtime.

7. Severance pay.

8. Legal settlements.

Supplemental Guidance on Use of Funds to Cover Payroll and Benefits of Public Employees

As discussed in the Guidance above, the CARES Act provides that payments from the Fund must be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. As reflected in the Guidance and FAQs, Treasury has not interpreted this provision to limit eligible costs to those that are incremental increases above amounts previously budgeted. Rather, Treasury has interpreted this provision to exclude items that were already covered for their original use (or a substantially similar use). This guidance reflects the intent behind the Fund, which was not to provide general fiscal assistance to state governments but rather to assist them with COVID-19-related necessary expenditures. With respect to personnel expenses, though the Fund was not intended to be used to cover government payroll expenses generally, the Fund was intended to provide assistance to address increased expenses, such as the expense of hiring new personnel as needed to assist with the government’s response to the public health emergency and to allow recipients facing budget pressures not to have to lay off or furlough employees who would be needed to assist with that purpose.

Substantially different use

As stated in the Guidance above, Treasury considers the requirement that payments from the Fund be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020, to be met if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

Treasury has provided examples as to what would constitute a substantially different use. Treasury provided (in FAQ A.3) that costs incurred for a substantially different use would include, for example, the costs of redeploying educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty’s ordinary responsibilities.

Substantially dedicated

Within this category of substantially different uses, as stated in the Guidance above, Treasury has included payroll and benefits expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. The full amount of payroll and benefits expenses of substantially dedicated employees may be covered using payments from the Fund. Treasury has not developed a precise definition of what “substantially dedicated” means given that there is not a precise way to define this term across different employment types. The relevant unit of government should maintain documentation of the “substantially dedicated” conclusion with respect to its employees.

If an employee is not substantially dedicated to mitigating or responding to the COVID-19 public
health emergency, his or her payroll and benefits expenses may not be covered *in full* with payments from the Fund. A *portion* of such expenses may be able to be covered, however, as discussed below.

**Public health and public safety**

In recognition of the particular importance of public health and public safety workers to State, local, and tribal government responses to the public health emergency, Treasury has provided, as an administrative accommodation, that a State, local, or tribal government may presume that public health and public safety employees meet the substantially dedicated test, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. This means that, if this presumption applies, work performed by such employees is considered to be a substantially different use than accounted for in the most recently approved budget as of March 27, 2020. All costs of such employees may be covered using payments from the Fund for services provided during the period that begins on March 1, 2020, and ends on December 30, 2020.

In response to questions regarding which employees are within the scope of this accommodation, Treasury is supplementing this guidance to clarify that public safety employees would include police officers (including state police officers), sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel. Public health employees would include employees involved in providing medical and other health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions, and other support services essential for patient care (*e.g.*, laboratory technicians) as well as employees of public health departments directly engaged in matters related to public health and related supervisory personnel.

**Not substantially dedicated**

As provided in FAQ A.47, a State, local, or tribal government may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department. This means, for example, that a government could cover payroll expenses allocated on an hourly basis to employees’ time dedicated to mitigating or responding to the COVID-19 public health emergency. This result provides equitable treatment to governments that, for example, instead of having a few employees who are substantially dedicated to the public health emergency, have many employees who have a minority of their time dedicated to the public health emergency.

**Covered benefits**

Payroll and benefits of a substantially dedicated employee may be covered using payments from the Fund to the extent incurred between March 1 and December 30, 2020.

Payroll includes certain hazard pay and overtime, but not workforce bonuses. As discussed in FAQ A.29, hazard pay may be covered using payments from the Fund if it is provided for performing hazardous duty or work involving physical hardship that in each case is related to COVID-19. This means that, whereas payroll and benefits of an employee who is substantially dedicated to mitigating or responding to the COVID-19 public health emergency may generally be covered in full using payments from the Fund, hazard pay specifically may only be covered to the extent it is related to COVID-19. For example, a recipient may use payments from the Fund to cover hazard pay for a police officer coming in close contact with members of the public to enforce public health or public safety orders, but across-the-board hazard pay for all members of a police department regardless of their duties would not be able to be covered with payments from the Fund. This position reflects the statutory intent discussed above: the Fund was intended to be used to help governments address the...
public health emergency both by providing funds for incremental expenses (such as hazard pay related to COVID-19) and to allow governments not to have to furlough or lay off employees needed to address the public health emergency but was not intended to provide across-the-board budget support (as would be the case if hazard pay regardless of its relation to COVID-19 or workforce bonuses were permitted to be covered using payments from the Fund).

Relatedly, both hazard pay and overtime pay for employees that are not substantially dedicated may only be covered using the Fund if the hazard pay and overtime pay is for COVID-19-related duties. As discussed above, governments may allocate payroll and benefits of such employees with respect to time worked on COVID-19-related matters.

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes).

Supplemental Guidance on Use of Funds to Cover Administrative Costs

General

Payments from the Fund are not administered as part of a traditional grant program and the provisions of the Uniform Guidance, 2 C.F.R. Part 200, that are applicable to indirect costs do not apply. Recipients may not apply their indirect costs rates to payments received from the Fund.

Recipients may, if they meet the conditions specified in the guidance for tracking time consistently across a department, use payments from the Fund to cover the portion of payroll and benefits of employees corresponding to time spent on administrative work necessary due to the COVID-19 public health emergency. (In other words, such costs would be eligible direct costs of the recipient). This includes, but is not limited to, costs related to disbursing payments from the Fund and managing new grant programs established using payments from the Fund.

As with any other costs to be covered using payments from the Fund, any such administrative costs must be incurred by December 30, 2020, with an exception for certain compliance costs as discussed below. Furthermore, as discussed in the Guidance above, as with any other cost, an administrative cost that has been or will be reimbursed under any federal program may not be covered with the Fund. For example, if an administrative cost is already being covered as a direct or indirect cost pursuant to another federal grant, the Fund may not be used to cover that cost.

Compliance costs related to the Fund

As previously stated in FAQ B.11, recipients are permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act, subject to the limitations set forth in 2 C.F.R. § 200.425. Pursuant to that provision of the Uniform Guidance, recipients and subrecipients subject to the Single Audit Act may use payments from the Fund to cover a reasonably proportionate share of the costs of audits attributable to the Fund.

To the extent a cost is incurred by December 30, 2020, for an eligible use consistent with section 601 of the Social Security Act and Treasury’s guidance, a necessary administrative compliance expense that relates to such underlying cost may be incurred after December 30, 2020. Such an expense would include, for example, expenses incurred to comply with the Single Audit Act and reporting and recordkeeping requirements imposed by the Office of Inspector General. A recipient with such necessary administrative expenses, such as an ongoing audit continuing past December 30, 2020, that
relates to Fund expenditures incurred during the covered period, must report to the Treasury Office of Inspector General by the quarter ending September 2021 an estimate of the amount of such necessary administrative expenses.
ATTACHMENT E
Coronavirus Relief Fund Frequently Asked Questions
Updated as of September 2, 2020\(^1\)

The following answers to frequently asked questions supplement Treasury’s Coronavirus Relief Fund (“Fund”) Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, (“Guidance”).\(^2\) Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

A. Eligible Expenditures

1. Are governments required to submit proposed expenditures to Treasury for approval?

   No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

2. The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the “substantially dedicated” condition?

   The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

3. The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a “substantially different use” for purposes of the Fund eligibility?

   Costs incurred for a “substantially different use” include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty’s ordinary responsibilities.

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\(^1\) On August 10, 2020, these Frequently Asked Questions were revised to add Questions A.49–52. On September 2, 2020, Questions A.53–56 were added, and Questions A.34 and A.38 were revised.

Note that a public function does not become a “substantially different use” merely because it is provided from a different location or through a different manner. For example, although developing online instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

4. **May a State receiving a payment transfer funds to a local government?**

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

5. **May a unit of local government receiving a Fund payment transfer funds to another unit of government?**

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

6. **Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?**

No. For example, a county recipient is not required to transfer funds to smaller cities within the county’s borders.

7. **Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?**

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

8. **Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?**

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

9. **Are States permitted to use Fund payments to support state unemployment insurance funds generally?**

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State’s obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.
10. Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

11. The Guidance states that the Fund may support a “broad range of uses” including payroll expenses for several classes of employees whose services are “substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” What are some examples of types of covered employees?

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

12. In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers’ compensation coverage. Is the cost of this expanded workers compensation coverage eligible?

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

13. If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

14. May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

15. May Fund payments be used for COVID-19 public health emergency recovery planning?
Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

16. Are expenses associated with contact tracing eligible?

   Yes, expenses associated with contact tracing are eligible.

17. To what extent may a government use Fund payments to support the operations of private hospitals?

   Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

18. May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?

   Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

19. May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?

   Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

20. Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?

   Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

21. May recipients create a “payroll support program” for public employees?

   Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

22. May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?

   Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

23. May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?
Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

24. **The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a “small business,” and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?**

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

25. **The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?**

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

26. **May Fund payments be used to assist impacted property owners with the payment of their property taxes?**

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

27. **May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?**

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

28. **Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?**

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.
29. The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of “hazard pay”?

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

30. The Guidance provides that ineligible expenditures include “[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” Is this intended to relate only to public employees?

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers’ employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

31. May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

32. Must a stay-at-home order or other public health mandate be in effect in order for a government to provide assistance to small businesses using payments from the Fund?

No. The Guidance provides, as an example of an eligible use of payments from the Fund, expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. Such assistance may be provided using amounts received from the Fund in the absence of a requirement to close businesses if the relevant government determines that such expenditures are necessary in response to the public health emergency.

33. Should States receiving a payment transfer funds to local governments that did not receive payments directly from Treasury?

Yes, provided that the transferred funds are used by the local government for eligible expenditures under the statute. To facilitate prompt distribution of Title V funds, the CARES Act authorized Treasury to make direct payments to local governments with populations in excess of 500,000, in amounts equal to 45% of the local government’s per capita share of the statewide allocation. This statutory structure was based on a recognition that it is more administratively feasible to rely on States, rather than the federal government, to manage the transfer of funds to smaller local governments. Consistent with the needs of all local governments for funding to address the public health emergency, States should transfer funds to local governments with populations of 500,000 or less, using as a benchmark the per capita allocation formula that governs payments to larger local governments. This approach will ensure equitable treatment among local governments of all sizes.

For example, a State received the minimum $1.25 billion allocation and had one county with a population over 500,000 that received $250 million directly. The State should distribute 45 percent of the $1 billion it received, or $450 million, to local governments within the State with a population of 500,000 or less.

34. May a State impose restrictions on transfers of funds to local governments?
Yes, to the extent that the restrictions facilitate the State’s compliance with the requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance and other applicable requirements such as the Single Audit Act, discussed below. Other restrictions, such as restrictions on reopening that do not directly concern the use of funds, are not permissible.

35. **If a recipient must issue tax anticipation notes (TANs) to make up for tax due date deferrals or revenue shortfalls, are the expenses associated with the issuance eligible uses of Fund payments?**

If a government determines that the issuance of TANs is necessary due to the COVID-19 public health emergency, the government may expend payments from the Fund on the interest expense payable on TANs by the borrower and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

36. **May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?**

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments.

37. **Are costs associated with increased solid waste capacity an eligible use of payments from the Fund?**

Yes, costs to address increase in solid waste as a result of the public health emergency, such as relates to the disposal of used personal protective equipment, would be an eligible expenditure.

38. **May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?**

No. Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19. Payments from the fund may only be used to cover such hazard pay.

39. **May Fund payments be used for expenditures related to the administration of Fund payments by a State, territorial, local, or Tribal government?**

Yes, if the administrative expenses represent an increase over previously budgeted amounts and are limited to what is necessary. For example, a State may expend Fund payments on necessary administrative expenses incurred with respect to a new grant program established to disburse amounts received from the Fund.

40. **May recipients use Fund payments to provide loans?**

Yes, if the loans otherwise qualify as eligible expenditures under section 601(d) of the Social Security Act as implemented by the Guidance. Any amounts repaid by the borrower before December 30, 2020, must be either returned to Treasury upon receipt by the unit of government providing the loan or used for another expense that qualifies as an eligible expenditure under section 601(d) of the Social Security Act. Any amounts not repaid by the borrower until after December 30, 2020, must be returned to Treasury upon receipt by the unit of government lending the funds.

41. **May Fund payments be used for expenditures necessary to prepare for a future COVID-19 outbreak?**
Fund payments may be used only for expenditures necessary to address the current COVID-19 public health emergency. For example, a State may spend Fund payments to create a reserve of personal protective equipment or develop increased intensive care unit capacity to support regions in its jurisdiction not yet affected, but likely to be impacted by the current COVID-19 pandemic.

42. May funds be used to satisfy non-federal matching requirements under the Stafford Act?

Yes, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund’s eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA’s determination of eligibility under the Stafford Act.

43. Must a State, local, or tribal government require applications to be submitted by businesses or individuals before providing assistance using payments from the Fund?

Governments have discretion to determine how to tailor assistance programs they establish in response to the COVID-19 public health emergency. However, such a program should be structured in such a manner as will ensure that such assistance is determined to be necessary in response to the COVID-19 public health emergency and otherwise satisfies the requirements of the CARES Act and other applicable law. For example, a per capita payment to residents of a particular jurisdiction without an assessment of individual need would not be an appropriate use of payments from the Fund.

44. May Fund payments be provided to non-profits for distribution to individuals in need of financial assistance, such as rent relief?

Yes, non-profits may be used to distribute assistance. Regardless of how the assistance is structured, the financial assistance provided would have to be related to COVID-19.

45. May recipients use Fund payments to remarket the recipient’s convention facilities and tourism industry?

Yes, if the costs of such remarketing satisfy the requirements of the CARES Act. Expenses incurred to publicize the resumption of activities and steps taken to ensure a safe experience may be needed due to the public health emergency. Expenses related to developing a long-term plan to reposition a recipient’s convention and tourism industry and infrastructure would not be incurred due to the public health emergency and therefore may not be covered using payments from the Fund.

46. May a State provide assistance to farmers and meat processors to expand capacity, such to cover overtime for USDA meat inspectors?

If a State determines that expanding meat processing capacity, including by paying overtime to USDA meat inspectors, is a necessary expense incurred due to the public health emergency, such as if increased capacity is necessary to allow farmers and processors to donate meat to food banks, then such expenses are eligible expenses, provided that the expenses satisfy the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance.

47. The guidance provides that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. May Fund payments be used to cover such an employee’s entire payroll cost or just the portion of time spent
on mitigating or responding to the COVID-19 public health emergency?

As a matter of administrative convenience, the entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020. An employer may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department.

48. May Fund payments be used to cover increased administrative leave costs of public employees who could not telework in the event of a stay at home order or a case of COVID-19 in the workplace?

The statute requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. As stated in the Guidance, a cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. If the cost of an employee was allocated to administrative leave to a greater extent than was expected, the cost of such administrative leave may be covered using payments from the Fund.

49. Are States permitted to use Coronavirus Relief Fund payments to satisfy non-federal matching requirements under the Stafford Act, including “lost wages assistance” authorized by the Presidential Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 (August 8, 2020)?

Yes. As previous guidance has stated, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund’s eligibility criteria and the Stafford Act. States are fully permitted to use payments from the Fund to satisfy 100% of their cost share for lost wages assistance recently made available under the Stafford Act.

50. At what point would costs be considered to be incurred in the case of a grant made by a State, local, or tribal government to cover interest and principal amounts of a loan, such as might be provided as part of a small business assistance program in which the loan is made by a private institution?

A grant made to cover interest and principal costs of a loan, including interest and principal due after the period that begins on March 1, 2020, and ends on December 30, 2020 (the “covered period”), will be considered to be incurred during the covered period if (i) the full amount of the loan is advanced to the borrower within the covered period and (ii) the proceeds of the loan are used by the borrower to cover expenses incurred during the covered period. In addition, if these conditions are met, the amount of the grant will be considered to have been used during the covered period for purposes of the requirement that expenses be incurred within the covered period. Such a grant would be analogous to a loan provided by the Fund recipient itself that incorporates similar loan forgiveness provisions. As with any other assistance provided by a Fund recipient, such a grant would need to be determined by the recipient to be necessary due to the public health emergency.

51. If governments use Fund payments as described in the Guidance to establish a grant program to support businesses, would those funds be considered gross income taxable to a business receiving the grant under the Internal Revenue Code (Code)?

Please see the answer provided by the Internal Revenue Service (IRS) available at https://www.irs.gov/newsroom/ cares-act-coronavirus-relief-fund-frequently-asked-questions.
52. **If governments use Fund payments as described in the Guidance to establish a loan program to support businesses, would those funds be considered gross income taxable to a business receiving the loan under the Code?**

Please see the answer provided by the IRS available at https://www.irs.gov/newsroom/cares-act-coronavirus-relief-fund-frequently-asked-questions.

53. **May Fund recipients incur expenses associated with the safe reopening of schools?**

Yes, payments from the Fund may be used to cover costs associated with providing distance learning (e.g., the cost of laptops to provide to students) or for in-person learning (e.g., the cost of acquiring personal protective equipment for students attending schools in-person or other costs associated with meeting Centers for Disease Control guidelines).

To this end, as an administrative convenience, Treasury will presume that expenses of up to $500 per elementary and secondary school student to be eligible expenditures, such that schools do not need to document the specific use of funds up to that amount.

54. **May Fund recipients upgrade critical public health infrastructure, such as providing access to running water for individuals and families in rural and tribal areas to allow them to maintain proper hygiene and defend themselves against the virus?**

Yes, fund recipients may use payments from the Fund to upgrade public health infrastructure, such as providing individuals and families access to running water to help reduce the further spread of the virus. As required by the CARES Act, expenses associated with such upgrades must be incurred by December 30, 2020. Please see Treasury’s Guidance as updated on June 30 regarding when a cost is considered to be incurred for purposes of the requirement that expenses be incurred within the covered period.

55. **How does a government address the requirement that the allowable expenditures are not accounted for in the budget most recently approved as of March 27, 2020, once the government enters its new budget year on July 1, 2020 (for governments with June 30 fiscal year ends) or October 1, 2020 (for governments with September 30 year ends)?**

As provided in the Guidance, the “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Furthermore, the budget most recently approved as of March 27, 2020, provides the spending baseline against which expenditures should be compared for purposes of determining whether they may be covered using payments from the Fund. This spending baseline will carry forward to a subsequent budget year if a Fund recipient enters a different budget year between March 27, 2020 and December 30, 2020. The spending baseline may be carried forward without adjustment for inflation.

56. **Does the National Environmental Policy Act, 42 U.S.C. § 4321 et seq, (NEPA) apply to projects supported by payments from the Fund?**

NEPA does not apply to Treasury’s administration of the Fund. Projects supported with payments from the Fund may still be subject to NEPA review if they are also funded by other federal financial assistance programs.
B. Questions Related to Administration of Fund Payments

1. Do governments have to return unspent funds to Treasury?
   Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

2. What records must be kept by governments receiving payment?
   A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act.

3. May recipients deposit Fund payments into interest bearing accounts?
   Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government’s general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

4. May governments retain assets purchased with payments from the Fund?
   Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

5. What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?
   If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

6. Are Fund payments to State, territorial, local, and tribal governments considered grants?
   No. Fund payments made by Treasury to State, territorial, local, and Tribal governments are not considered to be grants but are “other financial assistance” under 2 C.F.R. § 200.40.

7. Are Fund payments considered federal financial assistance for purposes of the Single Audit Act?
   Yes, Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

8. Are Fund payments subject to other requirements of the Uniform Guidance?
   Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.
9. **Is there a Catalog of Federal Domestic Assistance (CFDA) number assigned to the Fund?**

Yes. The CFDA number assigned to the Fund is 21.019.

10. **If a State transfers Fund payments to its political subdivisions, would the transferred funds count toward the subrecipients’ total funding received from the federal government for purposes of the Single Audit Act?**

Yes. The Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend $750,000 or more in federal awards during their fiscal year.

11. **Are recipients permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act?**

Yes, such expenses would be eligible expenditures, subject to the limitations set forth in 2 C.F.R. § 200.425.

12. **If a government has transferred funds to another entity, from which entity would the Treasury Department seek to recoup the funds if they have not been used in a manner consistent with section 601(d) of the Social Security Act?**

The Treasury Department would seek to recoup the funds from the government that received the payment directly from the Treasury Department. State, territorial, local, and Tribal governments receiving funds from Treasury should ensure that funds transferred to other entities, whether pursuant to a grant program or otherwise, are used in accordance with section 601(d) of the Social Security Act as implemented in the Guidance.
ATTACHMENT F

County of Orange

County Executive Office

April 13, 2020

I, Frank Kim, am the chief executive of the County of Orange, and I certify that:

1. I have the authority on behalf of the County of Orange to request direct payment from the Department of the Treasury ('Treasury') pursuant to section 601(b) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (Mar. 27, 2020).

2. I understand that Treasury will rely on this certification as a material representation in making a direct payment to the County of Orange.

3. The County of Orange’s proposed uses of the funds provided as direct payment under section 601(b) of the Social Security Act will be used only to cover those costs that:
   a. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
   b. were not accounted for in the budget most recently approved as of March 27, 2020,
      for [insert name of local government entity]; and
   c. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

By: Frank Kim

Signature:

Title: County Executive Officer

Date: 4/13/20

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is two hour per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

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OIG-CA-20-021

MEMORANDUM FOR CORONAVIRUS RELIEF FUND RECIPIENTS

FROM: Richard K. Delmar /s/
Deputy Inspector General

SUBJECT: Coronavirus Relief Fund Reporting and Record Retention Requirements

July 2, 2020

Title VI of the Social Security Act, as amended by Title V of Division A of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 115-136), provides that the Department of the Treasury (Treasury) Office of Inspector General (OIG) is responsible for monitoring and oversight of the receipt, disbursement, and use of Coronavirus Relief Fund payments. Treasury OIG also has authority to recover funds in the event that it is determined a recipient of a Coronavirus Relief Fund payment failed to comply with requirements of subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)). Accordingly, we are providing recipient reporting and record retention requirements that are essential for the exercise of these responsibilities, including our conduct of audits and investigations.

REPORTING REQUIREMENTS AND TIMELINES

Each prime recipient of Coronavirus Relief Fund payments1 shall report Coronavirus Disease 2019 (COVID-19) related “costs incurred” during the “covered period”2 (the period beginning on March 1, 2020 and ending on December 30, 2020), in the manner of and according to the timelines outlined in this memorandum. As described below, each prime recipient shall report interim and quarterly data and other recipient data according to these requirements. Treasury OIG is working on development of a portal with GrantSolutions3 that is expected to be operational on

1 Prime recipients include all 50 States, Units of Local Governments, the District of Columbia, U.S. Territories, and Tribal Governments that received a direct payment from Treasury in accordance with Title V.

2 Refer to Treasury’s guidance dated June 30, 2020 for more information on costs incurred and the covered period.

3 A grant management service provider under the U.S. Department of Health and Human Services.
September 1, 2020, for recipients to report data on a quarterly basis. Until the GrantSolutions portal is operational, each prime recipient shall follow the interim reporting requirements. Treasury OIG will notify each prime recipient when GrantSolutions is operational or of any changes to the expected September 1, 2020 start date.

**Interim Reporting for the period March 1 through June 30, 2020**

By no later than July 17, 2020, each prime recipient is responsible for reporting costs incurred during the period March 1 through June 30, 2020. For this interim report, prime recipients need only report totals by the following broad categories:

a. Amount transferred to other governments;
b. Amount spent on payroll for public health and safety employees;
c. Amount spent on budgeted personnel and services diverted to a substantially different use;
d. Amount spent to improve telework capabilities of public employees;
e. Amount spent on medical expenses;
f. Amount spent on public health expenses;
g. Amount spent to facilitate distance learning;
h. Amount spent providing economic support;
i. Amount spent on expenses associated with the issuance of tax anticipation notes; and
j. Amount spent on items not listed above.

Recipients should consult Treasury’s guidance and Frequently Asked Questions in reporting costs incurred during the period March 1 through June 30, 2020. The total of all categories must equal the total of all costs incurred during that period. A spreadsheet is attached for your use in providing the data. As discussed below, the prime recipient will be required to report information for the period March 1 through June 30, 2020 into GrantSolutions once it is operational.

**Quarterly Reporting**

Each prime recipient of Coronavirus Relief Fund payments shall report COVID-19 related costs into the GrantSolutions portal. Data required to be reported includes, but is not limited to, the following:

1. the total amount of payments from the Coronavirus Relief Fund received from Treasury;
2. the amount of funds received that were expended or obligated for each project or activity;
3. a detailed list of all projects or activities for which funds were expended or obligated, including:
   a. the name of the project or activity;
   b. a description of the project or activity; and
4. detailed information on any loans issued; contracts and grants awarded; transfers made to other government entities; and direct payments made by the recipient that are greater than $50,000.

The prime recipient is responsible for reporting into the GrantSolutions portal information on uses of Coronavirus Relief Fund payments.

**Recipient Portal Access:** For future quarterly reporting, each prime recipient will have GrantSolutions portal access for three (3) individuals: two (2) designees (preparers) to input quarterly data and one (1) official authorized to certify that the data is true, accurate, and complete. By no later than July 17, 2020, please provide the name, title, email address, phone number, and postal address of these individuals so that portal access can be granted. After this information is received, guidance on the GrantSolutions portal access and data submission instructions will be issued separately.

**Reporting timeline**

By no later than September 21, 2020, recipients shall submit via the portal the first detailed quarterly report, which shall cover the period March 1 through June 30, 2020. Thereafter, quarterly reporting will be due no later than 10 days after each calendar quarter. For example, the period July 1 through September 30, 2020, must be reported no later than October 13, 2020 (Tuesday after the 10th day of October and the Columbus Day Holiday). Reporting shall end with either the calendar quarter after the COVID-19 related costs and expenditures have been liquidated and paid or the calendar quarter ending September 30, 2021, whichever comes first.

**RECORD RETENTION REQUIREMENTS**

Recipients of Coronavirus Relief Fund payments shall maintain and make available to the Treasury OIG upon request all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)), which provides:

(d) USE OF FUNDS.—A State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government that—

1. are necessary expenditures incurred due to the public health emergency with respect to COVID-19;
2. were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and

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4 The certifying official is an authorized representative of the recipient organization with the legal authority to give assurances, make commitments, enter into contracts, and execute such documents on behalf of the recipient.
3. were incurred\(^5\) during the period that begins on March 1, 2020, and ends on December 30, 2020.

Records to support compliance with subsection 601(d) may include, but are not limited to, copies of the following:

1. general ledger and subsidiary ledgers used to account for (a) the receipt of Coronavirus Relief Fund payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19;
2. budget records for 2019 and 2020;
3. payroll, time records, human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
4. receipts of purchases made related to addressing the public health emergency due to COVID-19;
5. contracts and subcontracts entered into using Coronavirus Relief Fund payments and all documents related to such contracts;
6. grant agreements and grant subaward agreements entered into using Coronavirus Relief Fund payments and all documents related to such awards;
7. all documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients;
8. all documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards;
9. all internal and external email/electronic communications related to use of Coronavirus Relief Fund payments; and
10. all investigative files and inquiry reports involving Coronavirus Relief Fund payments.

Records shall be maintained for a period of five (5) years after final payment is made using Coronavirus Relief Fund monies. These record retention requirements are applicable to all prime recipients and their grantees and subgrant recipients, contractors, and other levels of government that received transfers of Coronavirus Relief Fund payments from prime recipients.

Thank you and we appreciate your assistance.

\(^5\) Refer to Treasury’s guidance dated June 30, 2020 for more information on the definition of costs incurred.
August 28, 2020

OIG-CA-20-028

Department of the Treasury Office of Inspector General Coronavirus Relief Fund Frequently Asked Questions Related to Reporting and Recordkeeping

The Department of the Treasury (Treasury) Office of Inspector General (OIG) is responsible for monitoring and oversight of the receipt, disbursement, and use of Coronavirus Relief Fund (CRF) payments as authorized by Title VI of the Social Security Act, as amended by Title V of Division A of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).¹ Treasury OIG was also assigned authority to recover funds in the event that it is determined a recipient of a CRF payment failed to comply with requirements of subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)). Recipient reporting and record retention requirements are essential for the exercise of these responsibilities, including our conduct of audits and investigations.

Beginning September 1, 2020, the prime recipient of CRF payments will begin reporting Coronavirus Disease 2019 (COVID-19) related costs incurred from March 1, 2020 to December 30, 2020 in the GrantSolutions portal. This document addresses frequently asked questions (FAQ) from CRF prime recipients regarding their reporting and record keeping requirements and supplements Treasury OIG’s memorandums Coronavirus Relief Fund Recipient Reporting and Record Retention Requirements (OIG-CA-20-021; July 2, 2020)² and Coronavirus Relief Fund Reporting Requirements Update (OIG-CA-20-025; July 31, 2020).³

A. Prime Recipients

1. Who is a prime recipient?

A prime recipient is an entity that received a CRF payment directly from Treasury in accordance with the CARES Act, including:

- All 50 States,
- Units of local governments with populations over 500,000 that submitted required certifications to Treasury,
- The District of Columbia,

¹ P. L. 116 136 (March 27, 2020)
² https://www.treasury.gov/about/organizational-structure/ig/Audit%20Reports%20and%20Testimonies/OIG-CA-20-021.pdf
³ https://www.treasury.gov/about/organizational-structure/ig/Audit%20Reports%20and%20Testimonies/OIG-CA-20-025.pdf
• U.S. Territories, and
• Tribal Governments

2. Who is a sub-recipient?

For purposes of reporting in the GrantSolutions portal, a sub-recipient is any entity to which a prime recipient issues a contract, grant, loan, direct payment, or transfer to another government entity of $50,000 or more.

3. The definition of a sub-recipient provided by Treasury OIG is different than the definition of a sub-recipient in the Office of Management and Budget’s (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal, 2 CFR Part 200 (Uniform Guidance). Which definition is a prime recipient expected to comply with?

The prime recipient must comply with the Treasury OIG definition. For purposes of reporting in the GrantSolutions portal, a prime recipient is to report on sub-recipients, as defined in Question 2 above. In addition, Treasury has issued guidance as described in Treasury’s Coronavirus Relief Fund Frequently Asked Questions (FAQs), noting that prime recipients are to monitor and manage sub-recipients as defined in 2 CFR sec. 200.330 through 200.332.

4. Who is responsible for reporting in the GrantSolutions portal, the prime or sub-recipient?

Only the prime recipient is required to report COVID-19 related costs in the GrantSolutions portal.

5. If the prime recipient distributes funds to an agency or department within the prime recipient’s government, is the agency or department considered the prime recipient or a sub-recipient when funds obligated are $50,000 or more?

The agency or department is considered part of the prime recipient as they are all part of the same legal entity that received a direct CRF payment from Treasury. Obligations and expenditures that the agency or department incurs with the CRF proceeds must be collected by and reported in the GrantSolutions portal by the prime recipient as if they were obligated or expended by the prime recipient.

6. If the prime recipient obligates funds to an entity that provides a public service on behalf of the prime recipient but the prime recipient is not financially accountable of, is the entity considered the prime recipient or a sub-recipient when funds obligated are $50,000 or more (e.g., discreetly presented component unit, quasi agency, etc.)?

The entity is considered a sub-recipient of the prime recipient when funds obligated are $50,000 or more. The prime recipient must report its obligations and expenditures related to the sub-recipient, including associated projects and expenditure categories, in the GrantSolutions portal. If the prime recipient obligated less than $50,000, the prime recipient must report its obligations and expenditures related to the sub-recipient entity in aggregate in the GrantSolutions portal.

7. If a prime recipient enters into multiple obligations with an entity, each obligation being less than $50,000 with no agreement (i.e., contract, grant, or loan), however, the total obligations to the entity is above $50,000, is the entity considered a sub-recipient?

The entity is considered a sub-recipient, however since the obligations are below $50,000, the prime recipient must report the multiple obligations to the entity and related expenditures in the aggregate section of the GrantSolutions portal.

8. If a unit of local government received funds as both a prime recipient and as a sub-recipient do they have to track and report obligations and expenditures separately?

Yes. For purposes of reporting in the GrantSolutions portal, the unit of local government is the prime recipient and must report obligations and expenditures related to the funds received directly from Treasury. As a sub-recipient of funds, obligations and expenditures related to the funds received from another prime recipient must be reported by the prime recipient in the GrantSolutions portal. It is recommended that the unit of local government, as a sub-recipient, report obligations and expenditure information to the prime recipient for its reporting purposes.

9. If a third party is hired to review and approve sub-recipient reimbursement requests and supporting documentation, can the prime recipient place reliance on the reviews performed by the third party or is the prime recipient still required to review and approve 100 percent of all costs?

It is up to the prime recipient on how much it relies on third-party review of reimbursement requests. However, the prime recipient is responsible for maintaining documentation to support the use of CRF proceeds. Per Treasury’s Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments, the direct (or prime) recipient is ultimately
responsible for compliance with the limitation on the use of payments from the CRF.

B. System for Award Management (SAM.gov) Registration

10. Treasury OIG’s memorandum, Coronavirus Relief Fund Reporting Requirements Update, states that “each prime recipient should ensure that any current or potential sub-recipients are registered in SAM.gov.” Are all sub-recipients required to register in SAM.gov?

No, all sub-recipients are not required to register in SAM.gov. This statement is a recommendation to help reduce the reporting burden on the prime recipient when entering sub-recipient details in the GrantSolutions portal. SAM.gov registration allows sub-recipient identifying and demographic details to be automatically populated in the portal after the prime recipient inputs a valid Data Universal Numbering System (DUNS) number assigned to the sub-recipient.

11. What are the identifying and demographic data elements that automatically populate in the GrantSolutions portal if a sub-recipient is registered in SAM.gov with a valid DUNS number?

The following identifying and demographic data elements will automatically populate in the GrantSolutions portal if a sub-recipient is registered in SAM.gov with a valid DUNS number:

- Legal Name
- Address Line 1
- Address Line 2, if applicable
- Address Line 3, if applicable
- City Name
- State Code
- Zip +4
- Congressional District
- Country Name
- Country Code
- Organization Type

6 A DUNS number is a unique nine-character number used to identify an organization.
12. If a sub-recipient does not have a DUNS number, can another unique identification number be used in the GrantSolutions portal to automatically populate sub-recipient details (e.g. Federal Employment Identification Number, Federal Tax Identification Number, etc.)?

No. The DUNS number is the only unique identification number that the GrantSolutions portal can associate with a SAM.gov registration in order to automatically populate sub-recipient details.

13. Where does a prime recipient direct a sub-recipient to obtain a DUNS number?

If a sub-recipient does not already have a DUNS number, they can call 1-866-705-5711 or access http://fedgov.dnb.com/webform to get a DUNS number assigned for free.

14. Where does a prime recipient direct a sub-recipient to register in SAM.gov?

Refer the sub-recipient to https://sam.gov.

15. What if a sub-recipient is not registered in SAM.gov?

For each sub-recipient that is not registered in SAM.gov, the prime recipient will be responsible for manually entering the following data elements in the GrantSolutions portal:

- Legal Name
- Address Line 1
- Address Line 2, if applicable
- Address Line 3, if applicable
- City Name
- State Code
- Zip Code
- Country Name (selection menu)
- Organization Type (selection menu)

16. If a sub-recipient is registered in SAM.gov, are they required to report any information on a quarterly basis in SAM.gov?

No. There are no reporting requirements for a sub-recipient; the prime recipient is required to report in the GrantSolutions portal on behalf of the sub-recipient.
17. Is an entity that a prime recipient obligates a contract, grant, loan, direct payment, or transfer to another government entity of less than $50,000 recommended to register in SAM.gov?

No. Detailed information of an entity that the prime recipient obligates less than $50,000 to will not be reported in the GrantSolutions portal. The obligations and related expenditure(s) to entities that the prime recipient obligates less than $50,000 to will be reported in the aggregate.

18. Is an individual that a prime recipient obligates a contract, grant, loan, or direct payment recommended to register in SAM.gov?

No. Detailed information of an individual that the prime recipient obligates any amount to will not be reported in the GrantSolutions portal; the obligations and related expenditure(s) to individuals will be reported in the aggregate.

C. Terminology

18. What is an obligation?

For purposes of reporting in the GrantSolutions portal, an obligation is a commitment to pay a third party with CRF proceeds based on a contract, grant, loan, or other arrangement.

19. What is an expenditure?

For purposes of reporting in the GrantSolutions portal, an expenditure is the amount that has been incurred as a liability of the entity (the service has been rendered or the good has been delivered to the entity). As outlined in Treasury’s Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments, performance or delivery must occur between March 1 and December 30, 2020 in order for the cost to be considered incurred; payment of funds need not be made during that time (though it is generally expected that payment will take place within 90 days of a cost being incurred).

20. What is a project?

A project is a grouping of related activities that together are intended to achieve a specific goal (e.g., building a temporary medical facility, offering an economic support program for small businesses, offering a housing support program, etc.).

21. What is a contract?

A contract is an obligation to an entity associated with an agreement to acquire goods.
22. **What is a grant?**

A grant is an obligation to an entity that is associated with a grant agreement. A grant agreement is a legal instrument of financial assistance between the prime recipient and entity that is used to enter into a relationship to carry out a public purpose and does not include an agreement to acquire goods or services or provide a loan.

23. **What is the primary place of performance for a contract or a grant?**

The primary place of performance is the address where the predominant performance of the contract or grant will be accomplished.

24. **What is the period of performance start date and end date for a contract or a grant?**

The period of performance start date is the date on which efforts begin or the contract or grant is otherwise effective. The period of performance end date is the date on which all effort is completed or the contract or grant is otherwise ended.

25. **What is a transfer to another government entity?**

A transfer to another government entity is a disbursement or payment to a government entity that is legally distinct from the prime recipient. See the list of government entities in Question 26 below.

26. **For transfers to another government entity, what type of entity is considered another government entity?**

The following organization types are considered another government entity:

- State government
- County government
- City/Township Government
- Special District Government
- US Territory or Possession
- Indian/Native American Tribal Government (Federally Recognized)
- Indian/Native American Tribal Designated Organization

27. **What is a direct payment?**

A direct payment is a disbursement (with or without an existing obligation) to an entity that is not associated with a contract, grant, loan, or transfer to another government entity. If the direct payment is associated with an obligation, then the obligation and
expenditure should be reported. If the direct payment does not involve a previous obligation, the direct payment will be recorded when the expenditure is incurred.

D. Reporting

28. If a prime recipient received CARES Act funding from different Federal agencies, are all costs incurred related to CARES funding to be reported in the GrantSolutions portal, regardless of the funding source?

No. The GrantSolutions portal is only for the reporting of costs incurred related to CRF proceeds received from Treasury. Financial assistance that a prime recipient may have received from other sources are not to be reported in this portal.

29. Will CRF proceeds be subject to Federal Funding Accountability and Transparency Act (FFATA) reporting requirements? If so, what general information are recipients expected to report?

No, FFATA reporting is not required since CRF payments are not grants.

30. Are prime recipients required to report on an accrual or cash basis?

The prime recipient should report on an accrual basis, unless the prime recipient’s practice is traditionally to report on a cash basis for all its financial reporting.

31. Are the reporting requirements different for lump sum payments versus payments made on a reimbursable basis?

No. Reporting of obligations and expenditures related to lump sum payments and reimbursed payments are the same.

32. How should a reimbursable payment to a sub-recipient be reported?

The prime recipient should first report the total obligation to the sub-recipient. As reimbursements are made to the sub-recipient, the prime recipient should report the reimbursements as expenditures to the obligation by expenditure category.

33. How should a lump sum payment to a sub-recipient be reported?

The prime recipient must report the total obligation for the lump sum payment to the sub-recipient. As the sub-recipient uses the funds it received, the prime recipient is responsible for collecting and reporting on the uses as expenditures to the obligation by expenditure category.
34. What level of sub-recipient data will prime recipients be required to report?

The prime recipient is required to report on the first sub-recipient level only. For example: The prime recipient enters into a grant with Entity A to provide assistance to small businesses. For reporting purposes, the prime recipient must report the details of the grant with Entity A as an obligation. As Entity A provides assistance to small businesses, the prime recipient must report the assistance provided as expenditures to the obligation. However, details of the small businesses that received funding is not required.

35. Is every obligation and expenditure required to be associated with a project?

No. We understand that not all uses of funds will be associated with a project. If an obligation or expenditure is not associated with a project, in the GrantSolutions portal, the recipient would select “No Associated Project”.

36. How did Treasury OIG determine the $50,000 reporting threshold?

Sec. 15011 of the CARES Act states that any entity that receives large covered funds (or funds more than $150,000) is considered a covered recipient. All prime recipients of CRF proceeds are covered recipients as no prime recipient received payment less than $150,000. Sec. 15011 further requires that each covered recipient (in this case, prime recipient) should submit a report that contains, among other items, detailed information on subcontracts or subgrants awarded by the covered recipient allowing for aggregate reporting on awards below $50,000.

37. Is the $50,000 threshold on a project basis?

No. The $50,000 threshold dictates the specific sub-recipients that must be identified by the prime recipient on a detailed basis rather than in an aggregate total for related obligations and expenditures, regardless of any projects.

38. What is the reporting structure?

The reporting structure is as follows:

A. Projects
B. Obligations of $50,000 or more and related expenditures
   a. Contracts of $50,000 or more
      i. Obligations (individually reported) and link to projects, if applicable
      ii. Related expenditures (individually reported) and link to projects, if applicable
   b. Grants of $50,000 or more
      i. Obligations (individually reported) and link to projects, if applicable
ii. Related expenditures (individually reported) and link to projects, if applicable

c. Loans of $50,000 or more
   i. Obligations (individually reported) and link to projects, if applicable
   ii. Related expenditures (individually reported) and link to projects, if applicable

d. Transfers to other government entities of $50,000 or more
   i. Obligations (individually reported) and link to projects, if applicable
   ii. Related expenditures (individually reported) and link to projects, if applicable

e. Direct Payments of $50,000 or more
   i. Obligations (individually reported) and link to projects, if applicable
   ii. Related expenditures (individually reported) and link to projects, if applicable

C. Aggregate obligations and expenditures of contracts, grants, loans, direct payments, and transfers to other government entities below $50,000 (reported in total by obligation type)

D. Aggregate obligations and expenditures to individuals, regardless of the amount (reported in total)

39. If a prime recipient obligates funds to another government entity in the form of a grant, are the obligated funds to be reported as a transfer to another government entity or as a grant?

If a grant agreement in place, the obligation should be reported as a grant.

40. Treasury OIG’s reporting timeline indicates six reporting cycles with three cycles for reporting periods of January 1, 2021 through September 30, 2021. If costs related to CRF proceeds must be incurred by December 30, 2020, why are there reporting cycles after December 30, 2020?

Treasury’s Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments addresses the concept of incurred costs. Specifically, “for a cost to be considered to have been incurred, performance of services or delivery of goods must occur during the covered period (March 1, 2020 through December 30, 2020) but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred).” As a result, we determined to allow reporting through September 30, 2021 to ensure that the prime recipient has sufficient time to capture and report all expenditures incurred that were covered with CRF, including loan repayments, the related obligations of which must have occurred, and been reported, during the covered period. In addition, any final close out reconciliations and adjustments should occur during the time period before September 30, 2021.

41. Are forgivable loans to be reported as a grant or loan?

The forgivable portion of a loan should be reported as a grant. If the forgiving of the loan is conditional, then the loan will originally be reported as a loan for the total amount.
42. For each reporting period, should a prime recipient report all costs that are eligible to be covered with CRF proceeds or only report costs for which the prime recipient has made a final determination to cover with CRF proceeds?

The prime recipient should only report eligible costs for which obligations have been made with CRF payments or specific determinations have been made related to using CRF funds.

43. Do the expenditure categories apply to aggregate reporting?

No. The only information collected during aggregate reporting are obligations (in total) and expenditures (in total) by obligation type (contract, grant, loan, transfer to another government entity, and direct payments) and for individuals.

44. For aggregate reporting of obligations to individuals, what information is required to be reported about the individuals?

None. The only information collected during aggregate reporting are obligations (in total) and expenditures (in total).

45. Where can recipients and sub-recipients access training tools or archived training sessions to assist with reporting?

The only entity responsible for reporting in the portal is the prime recipient. Training on the GrantSolutions portal will be provided to prime recipients by September 1, 2020.

E. Reporting Corrections

46. If a prime recipient submitted information in its interim report of costs incurred as of June 30, 2020 and some information has changed, can we correct this information in the portal?

Yes. Keep in mind that for purposes of meeting the interim reporting requirement, reporting estimated costs incurred was allowed. For the first quarterly reporting period (March 1, 2020 through June 30, 2020) beginning September 1, 2020, the prime recipient must report actual obligations and expenditures in the GrantSolutions portal. The amounts reported in the GrantSolutions portal and certified will be considered the official reporting.

47. If an error is identified or an addition/modification needs to be made, is there an ability to amend the previous submitted data?


Yes, if a prime recipient determines corrections or additions are necessary, the current GrantSolutions submission may be recalled, corrected, and resubmitted within the first 10 days after the quarter end. Also, changes to a previous quarterly submission may be made in a current reporting submission. If a Treasury OIG reviewer determines corrections or additions to the quarterly submission may be required, feedback and the submission will be returned to the prime recipient for resolution. The prime recipient is ultimately responsible for certifying that the quarterly submissions are true, complete, and accurate in the GrantSolutions portal. If an error is identified or a modification needs to be made after a report is already approved by the Treasury OIG, the prime recipient will need to make the modification or correction in the next quarterly reporting cycle.

48. For forgivable loans originally reported as a grant, in a subsequent reporting period, if the recipient has not met the terms of forgiveness, should this obligation be changed to a loan in subsequent reporting period?

See question 41 above. The loan should be recorded as a loan in total until the condition is met. Only at that time will the forgivable portion of the loan be removed and recorded as a grant.

49. Is there a process to modify prior quarter numbers that change significantly due to the Department of Homeland Security’s Federal Emergency Management Agency (FEMA) Public Assistance reimbursement?

Yes, if a prime recipient determines corrections or additions to a quarterly submission are necessary and the quarterly submission has already been approved by Treasury OIG, changes to a previous quarterly submission may be made in the subsequent reporting submission. The prime recipient will not be able to re-open the previous quarter, but instead will make necessary adjustments in the open quarter. The prime recipient is ultimately responsible for certifying that the quarterly submissions are true, complete, and accurate in the GrantSolutions portal.

50. If a prime recipient reports a cost allocated to the CRF in one reporting cycle, but subsequently determines to allocate that cost to a different funding source, can the prime recipient remove the obligations and related expenditures from its CRF reporting submission?

Yes, if a prime recipient determines corrections or additions to a quarterly submission are necessary and the quarterly submission has already been approved by Treasury OIG, changes to a previous quarterly submission may be made in the subsequent reporting submission. The prime recipient will not be able to re-open the previous quarter, but instead will make necessary adjustments in the open quarter. The prime recipient is ultimately responsible for certifying that the quarterly submissions are true, complete, and accurate.
in the GrantSolutions portal.

Keep in mind, if a prime recipient has not used funds it has received to cover costs that incurred between March 1, 2020 and December 30, 2020, as required by the statute, those funds must be returned to the Treasury.

**51. Do we need a budget set up for FEMA Cares Act monies received or just to track and report monies used?**

The prime recipient is required to report obligations and expenditures of CRF proceeds. It is at the discretion of the prime recipient to determine a budget setup related to CRF payments.

**F. Reporting Deadline**

**52. Can the CRF reporting submission deadline be modified to 30 days, opposed to 10 days, after the quarter end?**

We do not have the authority to change the quarterly recipient reporting deadline. Section 15011 of the CARES Act requires CRF reporting within 10 days after the end of each calendar quarter. Prime recipients’ GrantSolutions data will be reported to the Pandemic Response and Accountability Committee (PRAC) for display on its website.

**53. Can a prime recipient request extensions in filing their quarterly reports?**

Yes, requests to extend the quarterly reporting deadline should be sent to Treasury OIG at CARES@oig.treas.gov for extension approval/disapproval. These decisions will be made on a case-by-case basis and consider extenuating circumstances.

**54. If a prime recipient does not close its records by 10 days after the reporting period ends, how should these costs be reported?**

Record closing times vary and may not align with the GrantSolutions reporting deadlines. If a prime recipient is not able to report within 10 days after the reporting period ends, the prime recipient is responsible for submitting the missing data in the GrantSolutions portal as part of the next quarter’s reporting cycle.

**G. GrantSolutions Portal**

**55. Is the portal still on schedule for becoming available on September 1, 2020?**

Yes for most users. An upload feature will be available for select very high volume prime recipients. The upload feature will be available after September and timing of that schedule will be communicated to those select recipients.
56. If a prime recipient's designated users already have accounts with GrantSolutions, does the prime recipient still need to submit each user's name, title, email address, and phone number to Treasury OIG?

Yes.

57. Can portal access be granted to users if they share the same email address?

No. In order to grant portal access, each user must have a unique email address; users cannot have the same email address.

58. Can a prime recipient designate more than two preparers?

No. The GrantSolutions portal can only sustain up to three users per prime recipient: two preparers and one authorizing official.

59. Can the authorizing official also be one of the preparers?

No. The authorizing official cannot be both a designee/preparer and an authorizing official.

60. What is the best way to import data from a large number of sub-recipients?

Only the prime recipient is required to report CRF related obligations and expenditures in the GrantSolutions portal. We are currently working with GrantSolutions regarding a data upload feature. The upload feature will be available for certain prime recipients with the most sub-recipient activity. See question 55.

61. Will the portal provide a cumulated view of obligations and expenditures a prime recipient has reported?

Yes.

H. Record Retention/Audit

62. According to Treasury's FAQs, for administrative convenience, a State can presume that all payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency and, thus, can be covered by CRF. Will Treasury OIG or the PRAC ever question the applicability of this presumption in the audit context? If so, under what circumstances?

Yes, the CARES Act provides that Treasury OIG is responsible for monitoring and oversight of the receipt, disbursement, and use of CRF payments. Documents and financial records, as
defined in the Treasury OIG memorandum _Coronavirus Relief Fund Recipient Reporting and Record Retention Requirements_ must be maintained to support the use of CRF payments for when the presumption is made that payroll costs is substantially dedicated to mitigating or responding to the COVID-19 emergency. Documents should include those sufficient to support decisions made with respect to its use of CRF payments. See questions 69, 70, and 71.

63. **How far down will the audit cascade?**

The CARES Act provides that Treasury OIG is responsible for monitoring and oversight of the receipt, disbursement, and use of CRF payments. As such, all CRF payments received by the prime recipient are subject to audit. In this regard, an audit will be at the prime recipient level and may involve reviewing the prime’s sub-recipients. In the event that it is determined the prime recipient failed to comply with requirements of subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)), those funds will be recouped by Treasury OIG.

64. **If providing Small Business Assistance, do we have to receive actual documentation of the expense or business interruption? If we provide thousands of grants to small businesses and are audited, what would be need to provide to satisfy an audit?**

The prime recipient of CRF payments must maintain and make available to Treasury OIG upon request, all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended (42 U.S.C. 801(d)). Records include, but are not limited to, general ledger and subsidiary ledgers used to account for (a) the receipt of CRF payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19. The prime recipient is responsible for determining the level and detail of documentation needed from the sub-recipient of Small Business Assistance to satisfy these requirements, however, there would need to be some proof that the small business was impacted by the public health emergency and was thus eligible for the CRF funds.

65. **Is there an audit plan at this point? For example, will there be interim audits, or only after Dec 30 or final reporting? Also, do you have criteria upon which you will decide which awards to audit?**

Treasury OIG will perform monitoring of the prime recipient’s receipt, disbursements, and uses of CRF payments and has developed procedures for this purpose. There are procedures for monitoring, reviewing, and approving prime recipient’s quarterly GrantSolutions submissions. Treasury OIG will also conduct desk reviews, for which other procedures have been developed, to further evaluate the prime recipient’s documentation supporting the reported uses of CRF proceeds, as well as, results of other audits (i.e. Single Audit), among other things. The desk review may result in a site visit to the prime recipient.
for a more in-depth review. Based on results of the quarterly monitoring, desk reviews, site reviews, and our risk assessments, Treasury OIG will determine the need for a more in-depth audit. In addition to ongoing monitoring, Treasury OIG will initiate audits as deemed necessary based on other referrals and ongoing risk assessments of the prime recipients.

66. **Will Treasury OIG audit the sub-recipient as part of its prime recipient audit?**

Treasury OIG may audit the sub-recipient as part of its audit of the prime recipient.

67. **What cost principles will Treasury OIG be applying to determine allowability of costs during audit if Subpart E of 2 CFR 200 is not applicable to this funding?**

The CARES Act and the Treasury guidance and FAQs will be used as criteria for allowability of costs. According to Treasury’s FAQs, provisions of the Uniform Guidance, 2 C.F.R. sec. 200.303 regarding internal controls, 2 C.F.R. sec. 200.330 through 200.332 regarding sub-recipient monitoring and management, and subpart F regarding audit requirements are applicable to CRF payments. Subpart E is not applicable.

68. **How does the CRF audit relate to Single Audit?**

CRF payments are considered to be Federal financial assistance subject to the Single Audit Act (31 U.S.C. sec. 7501-7507). The related provisions of the Uniform Guidance, 2 C.F.R. sec. 200.303 regarding internal controls, sec. 200.330 through 200.332 regarding sub-recipient monitoring and management, and subpart F regarding audit requirements provides detailed information. The results of a prime recipient’s Single Audit will be evaluated as part of the Treasury OIG’s desk reviews and any audits initiated.

69. **To what level of documentation will a government be held to support the reimbursement of public safety payroll that was “presumed” to be substantially dedicated to mitigating the emergency?**

The recipient of CRF payments must maintain and make available to Treasury OIG upon request, all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended (42 U.S.C. 801(d)). Documents/records include payroll records and documentation that support an employee’s time dedicated to mitigating the COVID-19 health emergency for the covered period March 1 through December 30, 2020. Records include, but are not limited to (1) general and subsidiary ledgers used to account for the receipt of CRF payments and subsequent disbursements; and (2) payroll, time, and human resource records to support costs incurred for payroll expenses related to addressing the COVID-19 health
emergency. Please refer to the Treasury OIG memorandum, Coronavirus Relief Fund Reporting and Record Retention Requirements (OIG-20-021; July 2, 2020).

    a. Will government have to demonstrate/substantiate that an employee’s function/duties were in fact substantially dedicated to mitigating the emergency?

Yes, through documentation and financial records as defined above and any other documents/records that support employee’s function/duties and/or time was substantially dedicated to mitigating the COVID-19 emergency. Please refer to the Treasury OIG record retention requirements memorandum OIG-20-021 noted in response to question 69.

    b. For payroll that was accounted for in the FY2020 budget but was then "presumed" to be substantially dedicated to mitigating the emergency, will the government have to demonstrate/substantiate that an employee’s function was a substantially different use?

Yes, the government is required to maintain documents and financial records supporting payroll substantially dedicated to mitigating the emergency to support the use of CRF payments regardless of whether the payroll was originally budgeted. Please refer to response to question 69. The Treasury OIG also requires the government to maintain budgetary records to support the fiscal years 2019 and 2020 budgets.

70. Is the government required to perform any analysis or maintain documentation of the “substantially dedicated” conclusion for payroll expenses of public safety, public health, health care, and human service employees?

Yes, the government is required to maintain documents and financial records to support all payroll expenses, including payroll of public safety, public health, health care, and human service employees, substantially dedicated to mitigating the emergency. Documents should include those to support conclusions made with respect to the “substantially dedicated” use of CRF payments. If an analysis is performed, it should be supported by documentation as outlined in the record retention requirements memorandum OIG-20-021. Please refer to response to question 69.

71. Treasury’s FAQs indicate a “State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.”

    a. What level of documentation needs to be maintained to indicate the chief executive did not determine “specific circumstances indicate otherwise?”
Documents and financial records, as defined in the Treasury OIG memorandum OIG-CA-20-021 must be maintained to support the use of CRF payments for when the presumption is made that payroll costs is substantially dedicated to mitigating or responding to the COVID-19 emergency. Documents should include those sufficient to support decisions made with respect to its use of CRF payments. No specific documentation of the negative assurance of the chief executive (or equivalent) is required.

b. Is the absence of documentation indicating “specific circumstances indicate otherwise” sufficient, or does an affirmative decision need to be documented?

See previous responses.

72. Are CRF funds required to be accounted for in a separate fund of the government? At least one state thinks it should be.

These are individual management decisions, however, the documentation required above should be easily understandable by the auditors.
This Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant Agreement for Acute Community Clinic Eligible Medical Expenses (Agreement) is made and entered into on October 20, 2020 (Effective Date) between «Legal_Name» (Subrecipient), with a place of business at «Address», and the County of Orange, a political subdivision of the State of California (County), through its Health Care Agency (Administrator), with a place of business at 405 W. 5th St., Ste. 600, Santa Ana, CA 92701. Subrecipient and County may hereinafter sometimes be referred to individually as “Party” or collectively as “Parties”.

ATTACHMENTS

This Agreement is comprised of this document and the following Attachments, which are attached hereto and incorporated by reference into this Agreement:

Attachment A – Scope of Work
Attachment B – Funding Allocation and Payment Methodology
Attachment C – Additional Funding Regulations
Attachment 1 to Attachment C – Byrd Anti-Lobbying Certification
Attachment D – Guidance for State, Territorial, Local, and Tribal Governments updated September 2, 2020
Attachment E – Coronavirus Relief Fund Frequently Asked Questions Updated as of September 2, 2020
Attachment F - County of Orange CARES Act Certification – 4.13.20
Attachment G – Coronavirus Relief Fund Reporting and Record Retention Requirements dated July 2, 2020
Attachment H – Department of the Treasury Office of Inspector General Coronavirus Relief Fund Frequently Asked Questions Related to Reporting and Recordkeeping

RECITALS

WHEREAS, on February 26, 2020, County’s Health Officer declared a Local Health Emergency in response to the novel coronavirus (named “COVID-19”) emergency and outbreak threat in Orange County, as necessary for the preservation of public health and safety; and

WHEREAS, on March 2, 2020, the Board of Supervisors adopted Resolution No. 2020-11 ratifying the local health emergency declared by the County’s Health Officer; and
WHEREAS, on March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in the State of California as a result of the COVID-19 emergency and outbreak; and

WHEREAS, on March 12, 2020, the Governor of the State of California issued Executive Order N-25-20, ordering all California residents to heed any orders and guidance of State and local public health officials, including but not limited to imposition of social distancing measures, to control the spread of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States issued a Proclamation on Declaring a National Emergency Concerning the COVID-19 Outbreak; and

WHEREAS, on March 22, 2020, the President of United States declared a major disaster exists in the State of California and ordered Federal assistance to supplement State and local recovery efforts in the areas affected by the COVID-19 pandemic; and

WHEREAS, the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) has issued the Public Assistance Program and Policy Guide, Version 4 (Guide) that provides guidance on the availability of federal funding to states and local governments during emergencies pursuant to Section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act); and

WHEREAS, the Guide identifies the services described herein as an eligible cost during emergencies; and

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed by Congress and signed into law by the President of the United States on March 27th, 2020; and

WHEREAS, the CARES Act established the Coronavirus Relief Fund and the County received an allocation of funds from the Coronavirus Relief Fund under section 601(a) of the Social Security Act, as added by section 5001 of the CARES Act; and

WHEREAS, Section 601(a) and 601(d) of the Social Security Act, as added by Section 5001 of the CARES Act, provides that payments from the CARES Act funds may only be used to cover costs that (1) are necessary expenditures incurred due to the public health emergency with respect to the COVID-19; (2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or local government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and

WHEREAS, County is in need of the services/commodities described herein in order to support its efforts to respond to the COVID-19 pandemic in a manner consistent with the above declarations and authorities, including the CARES Act, and any continuing executive orders and declarations as part of the on-going emergencies; and

WHEREAS, the County and Subrecipient desire to enter into this Agreement for the County to provide CARES Act Grant Assistance to Subrecipient to use said Grant Assistance for CARES Act eligible medical expenditures such as staffing, commodities, services, and supplies necessary to respond to the COVID-19 pandemic during the period beginning on March 1, 2020 and ending on December 30, 2020, as set forth in more detail in this Agreement.
NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein, County and Subrecipient do hereby agree as follows:

A. REFERENCED AGREEMENT PROVISIONS

Term: October 20, 2020 through December 30, 2020

Basis for Payment: Formulated Amount

Payment Method: Lump sum, in advance

Aggregate Grant Assistance Amount: $2,000,000

Subrecipient DUNS Number: «DUNS»

Subrecipient TAX ID Number: «TAX_ID»

Notices to County and Subrecipient:

County: County of Orange
Health Care Agency
Procurement and Contract Services
405 West 5th Street, Suite 600
Santa Ana, CA 92701-4637

Subrecipient: «Lname»
«dba»
«Street»
«City», CA «Zip»
«Contact_Name», «Contact_Title»
«Contact_Email»

B. ALTERATION OF TERMS

1. This Agreement, together with Attachment(s) A, B, C, Attachment 1 to Attachment C, D, E, F, G, and H attached hereto and incorporated herein, fully expresses the complete understanding of County and Subrecipient with respect to the subject matter of this Agreement.

2. Unless otherwise expressly stated in this Agreement, no addition to, or alteration of the terms of this Agreement or any Exhibits and Attachments, whether written or verbal, made by the Parties, their officers, employees or agents shall be valid unless made in the form of a written amendment to this Agreement, which has been formally approved and executed by both Parties.

C. CONFLICT OF INTEREST

Subrecipient shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to Subrecipient, this obligation shall apply to Subrecipient’s employees, agents, and sub-subrecipients pursuant to the terms
and conditions of this Agreement. Subrecipient's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and sub-subrecipients from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

D. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS

1. Subrecipient may not delegate the obligations hereunder, either in whole or in part, without prior written consent of County. Subrecipient shall provide written notification of Subrecipient's intent to delegate the obligations hereunder, either in whole or part, to Administrator not less than thirty (30) days prior to the effective date of the delegation. Any attempted delegation in derogation of this subparagraph shall be void.

2. Subrecipient may not assign the rights hereunder, either in whole or in part, without the written consent of County. Assignment is defined for purposes of this Agreement in Subparagraphs a, b, and c, below. Subrecipient shall provide written notification of the assignment, either in whole or part, to Administrator not less than thirty (30) calendar days, or such other reasonable advance notice as may be appropriate to the situation, prior to the effective date of the assignment. For notification regarding a change in the composition of the Subrecipient’s governing body, see Subparagraphs a, b, and c, below. Subrecipient agrees that if there is an assignment of this Agreement by Subrecipient, as defined below, prior to completion of this Agreement, and County agrees to such assignment, the new assignee (including a changed governing body) shall be required to assume Subrecipient’s duties and obligations contained in this Agreement and complete them to the satisfaction of County. Where the assignment is completed by means of a sale or transfer document, such document shall include that the new assignee shall comply with Subrecipient’s duties and obligations contained in this Agreement and complete them to the satisfaction of County. County reserves the right to immediately terminate the Agreement in the event County determines, in its sole discretion, that the assignee (including the changed governing body) is not qualified or is otherwise unacceptable to County for the provision of services under the Agreement. Any attempted assignment, as defined below, in derogation of this subparagraph shall be void.

   a. Nonprofit Entity Assignment. If Subrecipient is a nonprofit organization, any change from a nonprofit corporation to any other corporate structure of Subrecipient shall be deemed an assignment. Assignment also includes changes in more than fifty percent (50%) of the composition of the board of directors within a two (2) month period of time. In said case, Subrecipient shall notify the County within fifteen (15) calendar days after the change in more than fifty percent (50%) of the board of director’s composition.

   b. For-Profit Entity Assignment. If Subrecipient is a for-profit organization, any change in the business structure, including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of Subrecipient, change to another corporate structure, including a change to a sole proprietorship, shall be deemed an assignment. Assignment also includes a change in fifty percent (50%) or more of board of directors or any governing body of Subrecipient at one time. In said case, Subrecipient shall notify the County within fifteen (15) calendar days after the change.
in more than fifty percent (50%) of the board of director’s composition.

c. Governmental Entity Assignment. If Subrecipient is a governmental organization, any change to another structure shall be deemed an assignment. Assignment also includes a change in more than fifty percent (50%) of the composition of its governing body (e.g. board of supervisors, city council, school board, commission, etc.) within a two (2) month period of time. In said case, Subrecipient shall notify the County within fifteen (15) calendar days after the change in more than fifty percent (50%) of the governing body’s composition.

d. Whether Subrecipient is a nonprofit, for-profit, or a governmental organization, Subrecipient shall provide written notification within thirty (30) calendar days to Administrator when there is change of less than fifty percent (50%) of Board of Directors or any governing body of Subrecipient at one time.

3. Subrecipient’s obligations undertaken pursuant to this Agreement may be carried out by means of subcontracts, provided such sub-subrecipients meet the requirements of this Agreement as they relate to the service or activity under subcontract.

   a. No subcontract shall terminate or alter the responsibilities of Subrecipient to County pursuant to this Agreement.

4. Subrecipient shall notify County in writing of any change in the Subrecipient’s status with respect to a mere name change. Subrecipient is also obligated to notify County in writing if the Subrecipient becomes a party to any litigation against County, or a party to litigation that may reasonably affect the Subrecipient’s performance under the Agreement, as well as any potential conflicts of interest between Subrecipient and County that may arise prior to or during the period of Agreement performance.

E. DISPUTE RESOLUTION

1. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute is concerning a question of fact arising under the terms of this Agreement, and it is not disposed of in a reasonable period of time by the Subrecipient and the Administrator, such matter shall be resolved by the County Purchasing Agency by way of the following process:

   a. Subrecipient shall submit to the County Purchasing Agency a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Agreement, unless County, on its own initiative, has already rendered such a final decision.

   b. Subrecipient’s written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Agreement, Subrecipient shall include with the demand a written statement signed by an authorized representative indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Agreement adjustment for which Subrecipient believes County is liable.
c. Any final decision of the County Purchasing Agency shall be expressly identified as such, shall be in writing, and shall be signed by a County Deputy Purchasing Agent or designee. If the County Purchasing Agency fails to render a decision within ninety (90) calendar days after receipt of Subrecipient's demand, it shall be deemed a final decision adverse to Subrecipient's contentions.

2. Pending the final resolution of any dispute arising under, related to, or involving this Agreement, Subrecipient agrees to proceed diligently with the performance of services secured via this Agreement, including the delivery of goods and/or provision of services. Subrecipient's failure to proceed diligently shall be considered a material breach of this Agreement.

3. This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.

F. EMPLOYEE ELIGIBILITY VERIFICATION

Subrecipient attests that it shall fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees meet the citizenship or alien status requirements set forth in federal statutes and regulations. Subrecipient shall obtain from all employees, verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently exist and as they may be hereafter amended. Subrecipient shall retain all such documentation for all covered employees for the period prescribed by the law.

G. FACILITIES, PAYMENTS, AND SERVICES

1. Subrecipient shall operate continuously throughout the term of this Agreement with the appropriate facilities for its licensure and with at least the minimum number and type of staff which meet applicable federal and state requirements.

2. Subrecipient shall, at its own expense, provide and maintain the organizational and administrative capabilities required to carry out its duties and responsibilities under this Agreement and in accordance with all the applicable statutes and regulations pertaining to Medi-Cal Providers.

H. INDEMNIFICATION AND INSURANCE

1. Subrecipient agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which County’s Board of Supervisors acts as the governing Board (“County Indemnitees”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage,
arising from or related to the services, products or other performance provided by Subrecipient pursuant to this Agreement. If judgment is entered against Subrecipient and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Subrecipient and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

2. Throughout the term of this Agreement, Subrecipient shall have and maintain such insurance as is necessary and sufficient to provide coverage for any and all associated claims and liabilities arising from Subrecipient’s acceptance and use of CARES Act grant funding allocated to Subrecipient under this Agreement.

3. It is the obligation of Subrecipient to provide notice of insurance requirements to sub-subrecipients and to receive proof of insurance. Such proof of insurance must be maintained by Subrecipient.

I. INSPECTIONS AND AUDITS

1. Administrator, any authorized representative of County, any authorized representative of the State of California, the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States, or any other of their authorized representatives, shall to the extent permissible under applicable law have access to any books, documents, and records, including but not limited to, financial statements, general ledgers, relevant accounting systems, medical and Client records, of Subrecipient that are directly pertinent to this Agreement, for the purpose of conducting an audit, review, evaluation, or examination, or making transcripts during the periods of retention set forth in the Records Management and Maintenance Paragraph of this Agreement. Such persons may at all reasonable times inspect or otherwise evaluate Subrecipient pursuant to this Agreement, and Subrecipient’s premises.

2. Subrecipient shall actively participate and cooperate with any person specified in Subparagraph I.1. above in any evaluation or monitoring pursuant to this Agreement, and shall provide the above–mentioned persons adequate office space to conduct such evaluation or monitoring.

3. Audit Response

   a. Following an audit report, in the event of non–compliance with applicable laws and regulations governing funds provided through this Agreement, County may terminate this Agreement as provided for in the Termination Paragraph or direct Subrecipient to immediately implement appropriate corrective action. A CAP shall be submitted to Administrator in writing within thirty (30) calendar days after receiving notice from Administrator.

   b. If the audit reveals that money is payable from one Party to the other, that is, reimbursement by Subrecipient to County, or payment of sums due from County to Subrecipient, said funds shall be due and payable from one Party to the other within sixty (60) calendar days of receipt of the audit results. If reimbursement is due from Subrecipient to County, and such reimbursement is not received within said sixty (60)
calendar days, County may, in addition to any other remedies provided by law, reduce any amount owed Subrecipient by an amount not to exceed the reimbursement due County.

4. Subrecipient shall forward to Administrator a copy of any audit report within fourteen (14) calendar days of receipt. Such audit shall include, but not be limited to, management, financial, programmatic or any other type of audit of Subrecipient’s operations, whether or not the cost of such operation or audit is reimbursed in whole or in part through this Agreement.

J. LICENSES AND LAWS

1. Subrecipient, its officers, agents, employees, affiliates, and sub-subrecipients shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates, accreditations, waivers, and exemptions necessary pursuant to the terms and conditions of this Agreement and required by the laws, regulations and requirements of the United States, the State of California, County, and all other applicable governmental agencies.

2. Subrecipient shall comply with all applicable governmental laws, regulations, and requirements as they exist now or may be hereafter amended or changed.

3. The Parties acknowledge that each is a Covered Entity, as defined by the Health Insurance Portability and Accountability Act (HIPAA) and is responsible for complying with said regulations for purposes of safeguarding any Protected Health Information (PHI) generated by each party for its own purposes. Except as otherwise limited by said regulation or law, Subrecipient shall provide to County, and County may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Subrecipient as specified in this Agreement, provided such use or disclosure would not violate the Privacy Rule if done by Subrecipient or the Minimum Necessary policies and procedures of Subrecipient as required and/or defined by HIPAA.

4. Subrecipient attests, to the best of its knowledge, that all community clinic facility-based medical/professional staff providing services at Subrecipient’s facility(ies), under this Agreement, are and will continue to be as long as this Agreement remains in effect, the holders of currently valid licenses and/or certifications in the State of California required to perform the services for which they have been hired by community clinic to provide and are members in “good standing” of the medical/professional staff of Subrecipient’s facility(ies).

5. Subrecipient shall:
   a. fully comply with all applicable federal and state reporting requirements regarding its employees; and
   b. fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment.

6. Failure of Subrecipient to comply with all federal and state employee reporting requirements for child support enforcement, or to comply with all lawfully served Wage
and Earnings Assignment Orders and Notices of Assignment, shall constitute a material breach of this Agreement; and failure to cure such breach within sixty (60) calendar days shall constitute grounds for termination of this Agreement.

7. It is expressly understood that County may transmit information regarding Subrecipient’s noncompliance to governmental agencies charged with the establishment and enforcement of child support orders or Wage and Earnings Assignment Orders and Notices of Assignment, or as permitted by federal and/or state statute.

K. PERMITS, LICENSES, APPROVALS, AND LEGAL OBLIGATIONS

Subrecipient shall be responsible for obtaining any and all permits, licenses, and approvals required for performing any work under this Agreement. Subrecipient shall be responsible for observing and complying with any applicable Federal, State, or local laws, or rules or regulations affecting any such work. Subrecipient shall provide copies of permits and approvals to the County upon request.

L. STATUTES AND REGULATIONS APPLICABLE TO GRANT

Subrecipient must comply with all applicable requirements of State, Federal, and County of Orange laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Agreement. Subrecipient must comply with applicable State and Federal laws and regulations pertaining to labor, wages, hours, and other conditions of employment. Subrecipient must comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

1. Office of Management and Budget (OMB) Circulars. Subrecipient must comply with OMB Circulars, as applicable: OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments); Common Rule, Subpart C for public agencies or OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations).

2. Single Audit Act. Since Federal funds are used in the performance of this Agreement, Subrecipient must, as applicable, adhere to the rules and regulations of the Single Audit Act (31 USC Sec. 7501 et seq.), OMB Circular A-133 and any administrative regulation or field memoranda implementing the Act.

3. Political Activity Prohibited. None of the funds, materials, property or services provided directly or indirectly under this Agreement may be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Funds provided under this Agreement may not be used for any purpose designed to support or defeat any pending legislation or administrative regulation.
M. COMPLIANCE WITH GRANT REQUIREMENTS

To obtain the Grant funds, the Department of the Treasury required an authorized representative of the County to agree to certain promises regarding the way the grant funds would be spent. This certification is attached hereto as Attachment E. By signing this certification, the County made material representations to the Department of Treasury in order to receive payments from the Department of Treasury pursuant to section 601(b) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (Mar. 27, 2020). In accordance with Paragraph H, above, Subrecipient agrees to indemnify, defend, and hold harmless the County of Orange for any sums the State or Federal government contends or determines Subrecipient used in violation of the certification. Subrecipient shall immediately return to the County any funds the County or any responsible State or Federal agency, including the Department of Treasury, determines the Subrecipient has used in a manner that is inconsistent with Paragraph 2, above, of this Agreement. Coronavirus Relief Fund Frequently Asked Questions can be found at https://home.treasury.gov/policy-issues/cares/state-and-local-governments. The provisions of this Paragraph shall survive termination of this Agreement.

Subrecipient shall adhere to the Federal Government issued reporting requirements (July 31, 2020) for states and local governments that receive direct funds from the Coronavirus Relief Fund (CRF) established by the CARES Act. Subrecipient shall be responsible for meeting and completing County’s reporting responsibility for CARES Act funding received by Subrecipient under this Agreement. Subrecipient of CRF monies must register at the System for Award Management (SAM) website https://sam.gov/SAM/ within ten (10) business days of Agreement execution, and be prepared to be monitored by County or other regulatory body with auspices over CARES Act funding in accordance with Uniform Guidance.

N. AGGREGATE GRANT ASSISTANCE AMOUNT

1. The Aggregate Grant Assistance Amount of County to be distributed in accordance with all Agreements for Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant for Community Clinic Eligible Medical Expenses is two and a half million dollars ($2,000,000), as specified in the Referenced Agreement Provisions of this Agreement. This specific Agreement with Subrecipient is only one of several Agreements to which this Grant Amount applies. It therefore is understood by the parties that amount distributed to Subrecipient will be only a fraction of the Aggregate Grant Amount.

2. CFDA Information - This Agreement includes federal funds paid to Subrecipient. The CFDA number(s) and associated information for federal funds paid through this Agreement are as specified below:
<table>
<thead>
<tr>
<th>CFDA#</th>
<th>FAIN#</th>
<th>Program/ Service Title</th>
<th>Federal Funding Agency</th>
<th>Federal Award Date</th>
<th>Federal Award Indirect Rate</th>
<th>Amount</th>
<th>R&amp;D Award (Y/N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>21.019</td>
<td>SLT012</td>
<td>Coronavirus Relief Fund (CRF)</td>
<td>US Department of Treasury</td>
<td>4/22/20</td>
<td>10% de minimus rate</td>
<td>$554,133,765</td>
<td>N</td>
</tr>
</tbody>
</table>

a. Subrecipient may be required to have an audit conducted in accordance with federal regulations. Subrecipient shall be responsible for complying with any federal audit requirements within the reporting period.

b. Administrator may revise the CFDA information listed above, and shall notify Subrecipient in writing of said revisions.

O. NOTICES

1. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements authorized or required by this Agreement shall be effective:

a. When written and deposited in the United States mail, first class postage prepaid and addressed as specified in the Referenced Agreement Provisions of this Agreement or as otherwise directed by Administrator;

b. When faxed, transmission confirmed;

c. When sent by Email; or

d. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or any other expedited delivery service.

2. Formal Notices, such as Termination Notices or notices modifying terms and conditions of this Agreement, as allowed pursuant to this Agreement, shall be effective:

a. When written and deposited in the United States mail, first class postage prepaid, certified mail, return receipt requested, and addressed as specified in the Referenced Agreement Provisions of this Agreement or as otherwise directed by Administrator; or

b. When delivered by U.S. Postal Service Express Mail, Federal Express, United Parcel Service or any other expedited delivery service.

3. Subrecipient shall notify Administrator, in writing, within twenty-four (24) hours of becoming aware of any occurrence of a serious nature, which may expose County to liability. Such occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or damage to any County property in possession of Subrecipient.
4. For purposes of this Agreement, any notice to be provided by County may be given by Administrator.

P. USE OF GRANT AMOUNT

1. Subrecipient shall use the Grant amount provided under this Agreement to pay for Eligible Expenses, as described in more detail in Attachment A of this Agreement, that: (1) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (2) were not accounted for in the budget most recently approved by Subrecipient as of March 27, 2020; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

2. Subrecipient must utilize the Grant amount in accordance with all Federal and State laws, including but not limited to 42 U.S.C. § 801, subsection (d), and all applicable regulations and guidelines, including guidance issued by the Department of Treasury regarding costs that are payable from Coronavirus Relief Funds, which includes but is not limited to Guidance for State, Territorial, Local, and Tribal Governments dated April 22, 2020 (Attachment D) and Coronavirus Relief Fund Frequently Asked Questions as listed at https://home.treasury.gov/policy-issues/cares/state-and-local-governments.

Q. PAYMENT OF GRANT AMOUNT

1. The County shall pay Subrecipient an advanced Grant amount of «Grant_Amount» upon full execution of this Agreement. All of Subrecipient’s expenditures of the Grant amount must be for Eligible Expense, as described in more detail in Paragraph B and C of Attachment A to this Agreement.

2. It is understood that the County makes no commitment to fund this Agreement beyond the terms set forth herein.

3. If Subrecipient has not spent any portion of the Grant amount it has received under this Agreement to cover Eligible Expenses by December 30, 2020, Subrecipient shall return to the County by February 1, 2021 the amount remaining unspent as of December 30, 2020.

R. RECORDS MAINTENANCE

Records, in their original form, must be maintained in accordance with requirements prescribed by the County with respect to all matters specified in this Agreement. Original forms are to be maintained on file for all documents specified in this Agreement. Such records must be retained for a period of four (4) years after termination of this Agreement and after final disposition of all pending matters unless otherwise specified herein. “Pending matters” include, but are not limited to, an audit, litigation or other actions involving records. Records, in their original form pertaining to matters covered by this Agreement, must at all times be retained within the County of Orange unless authorization to remove them is granted in writing by the County.

S. RECORDS MANAGEMENT AND MAINTENANCE

1. Subrecipient, its officers, agents, employees and sub-subrecipients shall, throughout the
term of this Agreement, prepare, maintain and manage such records as appropriate to the services provided and in accordance with this Agreement and all applicable requirements. This obligation includes maintaining all records needed to support claims submitted by Subrecipient or County for purposes of receiving or spending CARES Act funds.

2. Subrecipient shall ensure appropriate financial records related to cost reporting, expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately, shall retain all such financial records for a minimum of seven (7) years from the commencement of the Agreement, unless a longer period is required due to legal proceedings such as litigation and/or settlement of claims.

3. Subrecipient shall make records pertaining to the costs of services, patient fees, charges, billings, and revenues available at one (1) location within the limits of the County of Orange.

4. If Subrecipient is unable to meet the record location criteria above, Administrator may provide written approval to Subrecipient to maintain records in a single location, identified by Subrecipient.

5. Subrecipient may be required to retain all records involving litigation proceedings and settlement of claims for a longer term as reasonably directed by Administrator.

6. Subrecipient, unless Subrecipient is a public institution, shall notify Administrator of any PRA requests related to, or arising out of, this Agreement, within forty-eight (48) hours. Subrecipient shall provide Administrator all information that is requested by the PRA request.

7. If Subrecipient is a public institution, County understands and agrees that Subrecipient is subject to the provisions of the California Public Records Act. In the event Subrecipient receives a request to produce this Agreement, or identify any term, condition, or aspect of this Agreement, Subrecipient shall notify County. Subrecipient shall make its best efforts to notify County no less than three (3) business days prior to releasing such information.

T. SEVERABILITY

If a court of competent jurisdiction declares any provision of this Agreement or application thereof to any person or circumstances to be invalid or if any provision of this Agreement contravenes any federal, state or county statute, ordinance, or regulation, the remaining provisions of this Agreement or the application thereof shall remain valid, and the remaining provisions of this Agreement shall remain in full force and effect, and to that extent the provisions of this Agreement are severable.

U. STATUS OF PARTIES

1. Each party is, and shall at all times be deemed to be, an independent Subrecipient and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this Agreement. Each party is entirely responsible for compensating staff
and consultants employed by that party. This Agreement shall not be construed as creating the relationship of employer and employee, or principal and agent, between County and Subrecipient or of either party’s employees, agents, consultants, or Subrecipients. Each party assumes exclusively the responsibility for the acts of its employees, agents, consultants, or Subrecipients as they relate to the services to be provided during the course and scope of their employment or respective contracts.

2. County shall neither have, nor exercise, any control or direction over the methods by which Subrecipient shall perform its obligations under this Agreement. The standards of medical care and professional duties of Subrecipient’s employees performing medical services under this Agreement shall be determined, as applicable, by Subrecipient's Board of Directors and the standards of care in the community in which Subrecipient is located, and all applicable provisions of law and other rules and regulations of any and all governmental authorities relating to licensure and regulation of Subrecipient.

V. TERM

1. The term of this Agreement shall commence as specified in the Referenced Agreement Provisions of this Agreement or the execution date, whichever is later. This Agreement shall terminate as specified in the Referenced Agreement Provisions of this Agreement unless otherwise sooner terminated as provided in this Agreement; provided, however, Subrecipient shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to, obligations with respect to confidentiality, indemnification, audits, reporting and accounting.

2. Any administrative duty or obligation to be performed pursuant to this Agreement on a weekend or holiday may be performed on the next regular business day.

W. TERMINATION

1. Neither party shall be liable nor deemed to be in default for any delay or failure in performance under this Agreement resulting, directly or indirectly, from Acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, machinery or suppliers, vandalism, strikes or other work interruptions by a party’s officers, agents, employees, affiliates, or Subrecipients, or any similar cause beyond the reasonable control of any party to this Agreement. However, all parties shall make good faith efforts to perform under this Agreement in the event of any such circumstance.

2. County may terminate this Agreement immediately, upon written notice, on the occurrence of any of the following events:

   a. The loss by Subrecipient of legal capacity.

   b. Failure of Subrecipient to meet any of its obligations under this Agreement.

   c. The loss of accreditation or any license required by the Licenses and Law Paragraph of this Agreement.
d. The delegation or assignment by Subrecipient of obligations hereunder to another entity without the prior written consent of County.

3. Contingent Funding

a. Any obligation of County under this Agreement shall be contingent upon the following:

1) The continued availability of federal, state and county funds for reimbursement of County’s expenditures, and

2) Inclusion of sufficient funding for the services hereunder in the applicable budget approved by the Board of Supervisors.

3) In the event the Grant Assistance under this Agreement is not available or limited pursuant to Subparagraph 3.a, above, County may at its sole discretion terminate the Agreement upon thirty (30) calendar days prior written notice to Subrecipient or reduce the Grant Assistance to an amount as deemed appropriate by County.

4. After receiving a notice of termination, Subrecipient shall do the following:

a. Comply with termination instructions provided by Administrator in a manner that is consistent with prudent business practices.

b. Obtain immediate clarification from Administrator of any unsettled issues of the Agreement during the remaining allocation period.

c. Until the date of termination, continue to adhere all contractual obligations required by this Agreement.

5. The rights and remedies of County and Subrecipient provided in this Termination Paragraph shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.

X. THIRD PARTY BENEFICIARY

Neither party hereto intends that this Agreement shall create rights hereunder in third parties including, but not limited to, any sub-subrecipients or any clients provided services pursuant to this Agreement.

Y. WAIVER OF DEFAULT OR BREACH

Waiver by either party of any default by the other party shall not be considered a waiver of any other or subsequent default. Waiver by either party of any breach by the other party of any provision of this Agreement shall not be considered a waiver of any other or subsequent breach. Waiver by the other party of any default or any breach by the other party shall not be considered a modification of the terms of this Agreement.
SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have executed this Agreement. If the company is a corporation, Subrecipient shall provide two signatures as follows: 1) the first signature must be either the Chairman of the Board, President, or any Vice President; 2) the second signature must be that of the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution or by-laws demonstrating the legal authority of the signature to bind the company.

Subrecipient: «Legal_Name»

<table>
<thead>
<tr>
<th>Print Name</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature</td>
<td>Date</td>
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<tr>
<th>Print Name</th>
<th>Title</th>
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<tbody>
<tr>
<td>Signature</td>
<td>Date</td>
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</tbody>
</table>

County of Orange, a political subdivision of the State of California

Purchasing Agent/Designee Authorized Signature:

<table>
<thead>
<tr>
<th>Print Name</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature</td>
<td>Date</td>
</tr>
</tbody>
</table>

APPROVED AS TO FORM
Office of the County Counsel
Orange County, California

Massoud Shamel

<table>
<thead>
<tr>
<th>Print Name</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature</td>
<td>Date</td>
</tr>
</tbody>
</table>

Deputy County Counsel

10/14/2020
ATTACHMENT A
TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT
AGREEMENT NO. MA-042-21010633 FOR COMMUNITY CLINIC
ELIGIBLE MEDICAL EXPENSES

SCOPE OF WORK

A. BACKGROUND

Orange County relies on public-private partnership to ensure access and treatment for County's medical needs. In order to maintain this vital asset at current levels during the current emergency caused by the Coronavirus pandemic (COVID-19) pandemic/outbreak, continued access to a high quality medical system and the ability of the County’s private partners, e.g. hospitals, clinics, skilled nursing facilities, etc., to handle COVID-19 impending surges are critical County interests. These facilities require continued funding support to prepare for and respond to COVID-19 pandemic/outbreak.

Therefore, County is providing grant assistance using CARES Act Fund to County’s private partners, such as community clinics, to respond to County’s community clinic needs during the period beginning on March 1, 2020 and ending on December 30, 2020.

B. PURPOSE

This Agreement proposes to utilize CARES Act funds distributed to the County of Orange Health Care Agency to provide grant assistance to twenty-three (23) community clinics for such expenditures as are eligible under the CARES Act in the amount of two million dollars ($2,000,000) during the period of March 1, 2020 through December 30, 2020 in the following three (3) primary objectives:

1. Equipment and Supplies Inventory - Increase inventory and regulate rotation of near-expired items with new inventory to ensure fresh, usable medical supplies and equipment, PPE, and ventilators.

2. Staffing Resources – Support up to 23 Community Clinics to secure Technical, Medical, and/or Infection Control Experts dedicated to COVID-19 Pandemic response and planning.

3. Support community clinics in providing COVID-19 Pandemic training(s) and exercises.

C. ELIGIBLE EXPENSES – Eligible costs shall be such expenditures made on the items listed in Paragraph B of this Attachment A, and must (i) be necessary expenditures incurred due to the public health emergency with respect to COVID–19; (ii) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and (iii) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. Examples of eligible cost categories include, but are not limited to, financial assistance to other private community clinics.
D. ALLOCATION METHODOLOGY

1. Each participating community clinic will receive a proportionate share of the available funds based on the following:
   a. A base amount to be distributed equally across all clinics
   b. Tier assignment based on the clinic’s total number of COVID-19 PCR tests performed and the number of COVID-19 patients being managed

2. In Administrator’s sole discretion, the distribution calculations may be amended by Administrator under one or more of the following circumstances, and for each occurrence, Administrator will prepare an amended Subparagraph A of Attachment B to the Agreement:
   a. Deletion of a community clinic participant in this Agreement;
   b. Any change in corporate ownership of a participating community clinic;
   c. Any change in Subrecipient eligibility for funding; and
   d. Any correction to the distribution amount as a result of calculation error.

3. Subrecipient agrees that, should revised distribution calculations be necessary pursuant to Subparagraph 2 above, an amended Subparagraph A of Attachment B to the Agreement may be provided via E-Mail notification to each participating Subrecipient, along with explanation for the change within fifteen (15) days of Administrator becoming aware of the need for such modification.

E. SUBRECIPIENT’S OBLIGATIONS

1. Subrecipient shall incur and pay out (expend) costs for CARES Act Eligible Expenses, in accordance with Paragraph B and C of this Attachment A, within the term of this Agreement.

2. Subrecipient shall make best effort to maintain, throughout the term of this Agreement, for each facility included under this Agreement, a minimum of a fourteen (14) calendar day supply of PPE.
   a. Resource Requests of Subrecipient to County shall be given lower priority through the end of calendar year 2020 as the funding under this Agreement should cover Subrecipient’s PPE needs.

3. Subrecipient shall not claim costs for any ineligible expenditure, for Eligible Expenditures incurred and paid out (expended) after December 30, 2020, or for any Eligible Expenditures not reported to County on or before December 30, 2020, except as otherwise provided under the Agreement.

4. Subrecipient shall submit reports, in the fashion and form, as specified under Paragraph F of this Attachment A to the Agreement.
5. Subrecipient shall collect and maintain all source documentation in support of all Eligible Expenses.

6. Subrecipient shall return any and all unexpended CARES Act funding, to County to the attention of the Administrator Contract Manager, referenced below in Paragraph G. of this Attachment A, within thirty (30) calendar days of termination or expiration of this Agreement, whichever is earlier.

7. Subrecipient shall make key staff and all source documentation available to County and/or other regulatory body with auspices over CARES Act funding, upon written notice by Administrator and/or other regulatory body with auspices over CARES Act funding, within seven (7) days for the purposes of review, auditing, or other purpose as appropriate for proper oversight of this Agreement.

F. REPORTS

1. Progress Report. Within ten (10) business days of Subrecipient’s receipt of funds, Subrecipient shall provide a report to the County that shall: (1) identify the Eligible Expenses paid from or charged against the grant amount; (2) demonstrate how Subrecipient used the grant amount consistent with the use requirements of Paragraphs B and C above as well as Paragraph P of the main Agreement; and (3) identify the balance of the grant amount that Subrecipient has not spent.

2. Final Report. Upon the earlier of Subrecipient’s expenditure of the balance of the grant amount or January 15, 2021, Subrecipient shall provide a report to the County that shall: (1) identify the Eligible Expenses paid from the grant amount as of December 30, 2020; (2) demonstrate how Subrecipient used the grant amount consistent with the use requirements of Paragraphs B and C above as well as Paragraph P of the main Agreement; and (3) identify the balance of the grant amount that Subrecipient has not spent, if any.

3. The Subrecipient shall provide a certification signed by its chief executive officer with each report required under this Paragraph F that the statements contained in the report are true and that the expenditures described in the report comply with the uses permitted under Paragraphs B and C above as well as Paragraph P of the main Agreement.

4. Subrecipient shall maintain supporting documentation for the reports required by this Paragraph F consistent with the requirements of Paragraphs R and S of the main Agreement.

5. FISCAL

a. Expenditure and Revenue Report. Subrecipient shall submit monthly Expenditure and Revenue Reports to Administrator. These reports will be on a form approved by Administrator and will report year-to-date actual costs and revenues for Subrecipient as described in this Agreement.

b. Year-End Projections. In conjunction with the Expenditure and Revenue Report, Subrecipient shall provide monthly year-end projections that shall include year-to-date actual costs and revenues and anticipated year-end actual costs and revenues.
for Subrecipient as described in this Agreement.

c. The Expenditure and Revenue and Year-End Projection report shall be received by Administrator no later than the twentieth (20th) day following the end of the month being reported.

7. PROGRAMMATIC - Subrecipient shall submit, on forms provided or approved by County, fiscal and/or programmatic reports as requested by County concerning Subrecipient’s activities as they relate to this Agreement. County will be specific as to the nature of the information requested and allow fifteen (15) calendar days for Subrecipient to respond.

8. ADDITIONAL REPORTS – Subrecipient shall submit, on forms provided or approved by Administrator, any additional programmatic reports, as requested by Administrator or other regulatory body with auspices over CARES Act funding, concerning Subrecipient’s activities as they relate to this Agreement. Administrator will be specific as to the nature of the information requested and allow fifteen (15) calendar days for Subrecipient to respond, unless deadlines imposed by regulatory bodies dictate otherwise.

9. Subrecipient must request in writing any extensions to the due date of the monthly required report(s). If an extension is approved by Administrator, the total extension will not exceed more than five (5) calendar days.

G. County Contact Information: To direct communications to the above referenced County staff, Subrecipient shall initiate contact as indicated herein. County reserves the right to make changes to the contact information below by verbal or written notice to Subrecipient. Said changes shall not require an amendment to this Attachment or the Agreement to which it is incorporated.

Administrator Program Manager
County of Orange
Health Care Agency
405 W. Santa Ana Boulevard, Suite 458
Santa Ana, California 92701
Attention: Cheryl Meronk
E-mail: cmeronk@ochca.com
Telephone: (714) 834-4099

Administrator Contract Manager
County of Orange
Health Care Agency
405 W. 5th Street, Suite 600
Santa Ana, California 92701
Attention: Brian Greene
E-mail: bgreene@ochca.com
Telephone: (714) 834-3019

Administrator Privacy Officer
County of Orange
Orange County Information Technology (OCIT)
1055 N. Main Street
Santa Ana, California  92701
Attention:  Linda Le
E-mail: linda.le@ocit.ocgov.com
Telephone:  (714) 834-4082

Administrator Information Security Officer
County of Orange
Health Care Agency
200 W. 5th Street
Santa Ana, California  92701
Attention:  David Castellanos
E-mail: dcastellanos@ochca.com
Telephone:  (714) 834-3433

H. Subrecipient and Administrator may mutually agree, in writing, to modify any and all Paragraphs of this Attachment A to the Agreement.
ATTACHMENT B
TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT
AGREEMENT NO. MA-042-21010633 FOR COMMUNITY CLINIC
ELIGIBLE MEDICAL EXPENSES

FUNDING ALLOCATION AND PAYMENT METHODOLOGY

A. Funding Allocation Table – funding shall be allocated to Subrecipient in accordance with the Allocation Methodology described in Paragraph D. of Attachment A to this Agreement, and as formulated in the table below:

<table>
<thead>
<tr>
<th>Clinic Name</th>
<th>Location(s)</th>
<th>Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>AltaMed Health Services Corporation</td>
<td>Anaheim, Garden Grove, Huntington Beach, Orange, Santa Ana</td>
<td>$166,086.95</td>
</tr>
<tr>
<td>Buena Park Community Clinic</td>
<td>Buena Park</td>
<td>$26,086.96</td>
</tr>
<tr>
<td>Camino Health Centers</td>
<td>Lake Forest, San Clemente, San Juan Capistrano</td>
<td>$83,944.10</td>
</tr>
<tr>
<td>Central City Health Centers</td>
<td>Orange</td>
<td>$64,420.29</td>
</tr>
<tr>
<td>CHOC Foundation</td>
<td>Anaheim, Garden Grove, Stanton</td>
<td>$108,944.10</td>
</tr>
<tr>
<td>Center for Inherited Blood Disorders</td>
<td>Santa Ana, Orange, Garden Grove</td>
<td>$51,086.96</td>
</tr>
<tr>
<td>Families Together Orange County</td>
<td>Tustin, Garden Grove</td>
<td>$166,086.95</td>
</tr>
<tr>
<td>North Orange County Regional Health Foundation</td>
<td>Fullerton</td>
<td>$83,944.10</td>
</tr>
<tr>
<td>Friends of Family</td>
<td>La Habra, Tustin</td>
<td>$83,944.10</td>
</tr>
<tr>
<td>Hurtt Family Health Clinic</td>
<td>Tustin</td>
<td>$66,086.96</td>
</tr>
<tr>
<td>Korean Community Services</td>
<td>Buena Park</td>
<td>$83,944.10</td>
</tr>
<tr>
<td>Laguna Beach Community Clinic</td>
<td>Laguna Beach</td>
<td>$64,420.29</td>
</tr>
<tr>
<td>St. Jean de Lestonnac Free Clinic</td>
<td>Orange, Fullerton, Los Alamitos, Garden Grove, Irvine</td>
<td>$26,086.96</td>
</tr>
<tr>
<td>Livingstone Community Development Corporation</td>
<td>Stanton</td>
<td>$64,420.29</td>
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<td>Nhan Hoa Comprehensive Healthcare Clinic</td>
<td>Garden Grove</td>
<td>$108,944.10</td>
</tr>
<tr>
<td>Obria Medical Clinics of Southern California</td>
<td>Santa Ana</td>
<td>$26,086.96</td>
</tr>
<tr>
<td>Serve The People</td>
<td>Santa Ana</td>
<td>$141,086.96</td>
</tr>
<tr>
<td>Share Our Selves</td>
<td>Costa Mesa, Mission Viejo, Newport Beach, Santa Ana</td>
<td>$83,944.10</td>
</tr>
<tr>
<td>Reproductive Health Care Center</td>
<td>Fullerton</td>
<td>$64,420.29</td>
</tr>
<tr>
<td>Southland Integrated Services</td>
<td>Garden Grove, Anaheim, Santa Ana, Westminster</td>
<td>$64,420.29</td>
</tr>
<tr>
<td>Clinic Name</td>
<td>Location(s)</td>
<td>Allocation</td>
</tr>
<tr>
<td>-----------------------------------</td>
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<td>-------------</td>
</tr>
<tr>
<td>St. Jude Neighborhood Health</td>
<td>Fullerton</td>
<td>$141,086.95</td>
</tr>
<tr>
<td>UCI</td>
<td>Anaheim, Santa Ana</td>
<td>$166,086.95</td>
</tr>
<tr>
<td>Vista Community Clinics</td>
<td>La Habra</td>
<td>$64,420.29</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$2,000,000.00</strong></td>
</tr>
</tbody>
</table>

B. PAYMENTS

1. Subrecipient shall incur and pay out (expend) costs for CARES Act Eligible Expenses, in accordance with Paragraph B and C. of Attachment A, within the term of this Agreement.

2. Subrecipient’s Eligible Expenses shall not exceed Subrecipient’s allocation in accordance with Paragraph D. of Attachment A, and as formulated in the Funding Allocation Table referenced above in Paragraph A of this Attachment B.

C. PAYMENT METHOD

1. County shall pay without Subrecipient invoicing, such as County shall pay Subrecipient a lump sum, within sixty (60) business days of Agreement execution in accordance with Funding Allocation Table in Paragraph A of this Attachment B.

2. Subrecipient understands and agrees that the total of all payments to Subrecipient shall not exceed Subrecipient’s allocation in accordance with the Allocation Methodology described in Paragraph D. of Attachment A to this Agreement, and as formulated in the Funding Allocation Table referenced above in Paragraph A of this Attachment B. Subrecipient accepts further that the total of all payments to all Subrecipients shall not exceed the Aggregate Grant Assistance Amount as specified in the Referenced Agreement Provisions of this Agreement.

3. Subrecipient agrees that all payments are interim payments only, and subject to auditing by County and/or other regulatory body with auspices over CARES Act funding and maybe subject to recoupment in the event said expenditures:

   a. are not in accordance with Paragraphs B and C of Attachment A; and

   b. cannot be substantiated by source documentation collected and maintain by Subrecipient, to include but not be limited to receipts, purchase orders, ledgers, books, check stubs, invoices, records, etc. confirming expenses incurred and paid out (expended). Lack of supporting source documentation of any expenditure claimed to County and granted to Subrecipient under this Agreement shall be immediately subject to recoupment by County.

4. County may withhold any or all of the funds specified in this Attachment B of the Agreement, consistent with the regulations pertaining to the specific funding source, in order to recover any overpayments made of said funds to Subrecipient in previous agreements or to recover funds due County from Subrecipient pursuant, but not limited, to the following:
a. Subrecipient’s failure to comply with the provisions of this Agreement.

b. Subrecipient is found to be non-compliant with the conditions for receiving funds including, but not limited to, inability to document eligible expenditures.

c. Audit exceptions and/or fiscal disallowances by the state and/or County for funds received by Subrecipient pursuant to this Agreement.

d. Recovery of any overpayments made in previous agreements between Subrecipient and County for other contracted services.

5. County shall not reimburse Subrecipient for expenditures under this Agreement incurred and paid out (expended) after December 30, 2020.

D. Subrecipient and Administrator may mutually agree, in writing, to modify any and all Paragraphs of this Attachment B to the Agreement.
ATTACHMENT C
TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT
AGREEMENT NO. MA-042-21010633 FOR COMMUNITY CLINIC
ELIGIBLE MEDICAL EXPENSES

ADDITIONAL FUNDING REGULATIONS

A. Contract Work Hours and Safety Standards Act

1. Overtime requirements. No Subrecipient or sub-subrecipient contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Subrecipient and any sub-subrecipient responsible therefor shall be liable for the unpaid wages. In addition, such Subrecipient and sub-subrecipient shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Subrecipient or sub-subrecipient under any such contract or any other Federal contract with the same prime Subrecipient, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Subrecipient, such sums as may be determined to be necessary to satisfy any liabilities of such Subrecipient or sub-subrecipient for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

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

B. Clean Air Act and The Federal Water Pollution Control Act

1. Clean Air Act

   a. The Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
b. The Subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

c. The Subrecipient agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

2. Federal Water Pollution Control Act

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

b. The Subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

c. The Subrecipient agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

C. Suspension and Debarment

1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Subrecipient is required to verify that none of the Subrecipient’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

2. The Subrecipient must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

3. This certification is a material representation of fact relied upon by County. If it is later determined that the Subrecipient did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

4. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

D. Byrd Anti-Lobbying Amendment - 31 U.S.C. § 1352 (as amended) Subrecipients who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies
to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency. Subrecipient must execute the certification, as provided in Attachment C.

E. Procurement of Recovered Materials

1. In the performance of this contract, the Subrecipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired

2. Competitively within a timeframe providing for compliance with the contract performance schedule;

3. Meeting contract performance requirements; or

4. At a reasonable price.

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

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

F. Access To Records

1. The Subrecipient agrees to provide County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Subrecipient which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

2. The Subrecipient agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

3. The Subrecipient agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

4. In compliance with the Disaster Recovery Act of 2018, the County and the Subrecipient acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.
G. Department of Homeland Security (DHS) Seal, Logo, and Flags - The Subrecipient shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

H. Compliance with Federal Law, Regulations, And Executive Orders - This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Subrecipient will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

I. No Obligation by Federal Government - The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Subrecipient, or any other party pertaining to any matter resulting from the contract.

J. Program Fraud and False or Fraudulent Statements or Related Acts - The Subrecipient acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Subrecipient’s actions pertaining to this contract.

K. Equal Employment Opportunity - The Subrecipient shall comply with U.S. Executive Order 11246 entitled, “Equal Employment Opportunity” as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable State of California regulations as may now exist or be amended in the future. The Subrecipient shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

L. Regarding handicapped persons, the Subrecipient will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Subrecipient agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

M. Regarding Americans with disabilities, Subrecipient agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.
ATTACHMENT 1 to ATTACHMENT C

TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT AGREEMENT NO. MA-042-21010633 FOR COMMUNITY CLINIC ELIGIBLE MEDICAL EXPENSES

CERTIFICATION REGARDING ANTI-LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

The Subrecipient, «Legal_Name», certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Subrecipient understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

___________________________________
Signature of Subrecipient’s Authorized Official

___________________________________
Name and Title of Subrecipient’s Authorized Official

___________________________________
Date
ATTACHMENT D

Coronavirus Relief Fund
Guidance for State, Territorial, Local, and Tribal Governments Updated September 2, 2020

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund (the “Fund”) and appropriated $150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.2

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency

The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

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1 On June 30, 2020, the guidance provided under “Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020” was updated. On September 2, 2020, the “Supplemental Guidance on Use of Funds to Cover Payroll and Benefits of Public Employees” and “Supplemental Guidance on Use of Funds to Cover Administrative Costs” sections were added.
2 See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.
Costs not accounted for in the budget most recently approved as of March 27, 2020

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

Finally, the CARES Act provides that payments from the Fund may only be used to cover costs that were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (the “covered period”). Putting this requirement together with the other provisions discussed above, section 601(d) may be summarized as providing that a State, local, or tribal government may use payments from the Fund only to cover previously unbudgeted costs of necessary expenditures incurred due to the COVID–19 public health emergency during the covered period.

Initial guidance released on April 22, 2020, provided that the cost of an expenditure is incurred when the recipient has expended funds to cover the cost. Upon further consideration and informed by an understanding of State, local, and tribal government practices, Treasury is clarifying that for a cost to be considered to have been incurred, performance or delivery must occur during the covered period but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred). For instance, in the case of a lease of equipment or other property, irrespective of when payment occurs, the cost of a lease payment shall be considered to have been incurred for the period of the lease that is within the covered period but not otherwise. Furthermore, in all cases it must be necessary that performance or delivery take place during the covered period. Thus the cost of a good or service received during the covered period will not be considered eligible under section 601(d) if there is no need for receipt until after the covered period has expired.

Goods delivered in the covered period need not be used during the covered period in all cases. For example, the cost of a good that must be delivered in December in order to be available for use in January could be covered using payments from the Fund. Additionally, the cost of goods purchased in bulk and delivered during the covered period may be covered using payments from the Fund if a portion of the goods is ordered for use in the covered period, the bulk purchase is consistent with the recipient’s usual procurement policies and practices, and it is impractical to track and record when the items were used. A recipient may use payments from the Fund to purchase a durable good that is to be used during the current period and in subsequent periods if the acquisition in the covered period was necessary due to the public health emergency.

Given that it is not always possible to estimate with precision when a good or service will be needed, the touchstone in assessing the determination of need for a good or service during the covered period will be reasonableness at the time delivery or performance was sought, e.g., the time of entry into a procurement contract specifying a time for delivery. Similarly, in recognition of the likelihood of supply chain disruptions and increased demand for certain goods and services during the COVID-19
public health emergency, if a recipient enters into a contract requiring the delivery of goods or performance of services by December 30, 2020, the failure of a vendor to complete delivery or services by December 30, 2020, will not affect the ability of the recipient to use payments from the Fund to cover the cost of such goods or services if the delay is due to circumstances beyond the recipient’s control.

This guidance applies in a like manner to costs of subrecipients. Thus, a grant or loan, for example, provided by a recipient using payments from the Fund must be used by the subrecipient only to purchase (or reimburse a purchase of) goods or services for which receipt both is needed within the covered period and occurs within the covered period. The direct recipient of payments from the Fund is ultimately responsible for compliance with this limitation on use of payments from the Fund.

Nonexclusive examples of eligible expenditures

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
   - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
   - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
   - Costs of providing COVID-19 testing, including serological testing.
   - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.

2. Public health expenses such as:
   - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
   - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
   - Expenses for disinfection of public areas and other facilities, e.g., nursing homes, in response to the COVID-19 public health emergency.
   - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
   - Expenses for quarantining individuals.

3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
• Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.

• Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.

• Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.

• Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.

• COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.

• Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.

5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:

• Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.

• Expenditures related to a State, territorial, local, or Tribal government payroll support program.

• Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund’s eligibility criteria.

Nonexclusive examples of ineligible expenditures

The following is a list of examples of costs that would not be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.

2. Damages covered by insurance.

3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

3 In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

4 See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.
4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.

5. Reimbursement to donors for donated items or services.

6. Workforce bonuses other than hazard pay or overtime.

7. Severance pay.

8. Legal settlements.

Supplemental Guidance on Use of Funds to Cover Payroll and Benefits of Public Employees

As discussed in the Guidance above, the CARES Act provides that payments from the Fund must be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. As reflected in the Guidance and FAQs, Treasury has not interpreted this provision to limit eligible costs to those that are incremental increases above amounts previously budgeted. Rather, Treasury has interpreted this provision to exclude items that were already covered for their original use (or a substantially similar use). This guidance reflects the intent behind the Fund, which was not to provide general fiscal assistance to state governments but rather to assist them with COVID-19-related necessary expenditures. With respect to personnel expenses, though the Fund was not intended to be used to cover government payroll expenses generally, the Fund was intended to provide assistance to address increased expenses, such as the expense of hiring new personnel as needed to assist with the government’s response to the public health emergency and to allow recipients facing budget pressures not to have to lay off or furlough employees who would be needed to assist with that purpose.

Substantially different use

As stated in the Guidance above, Treasury considers the requirement that payments from the Fund be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020, to be met if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

Treasury has provided examples as to what would constitute a substantially different use. Treasury provided (in FAQ A.3) that costs incurred for a substantially different use would include, for example, the costs of redeploying educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty’s ordinary responsibilities.

Substantially dedicated

Within this category of substantially different uses, as stated in the Guidance above, Treasury has included payroll and benefits expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. The full amount of payroll and benefits expenses of substantially dedicated employees may be covered using payments from the Fund. Treasury has not developed a precise definition of what “substantially dedicated” means given that there is not a precise way to define this term across different employment types. The relevant unit of government should maintain documentation of the “substantially dedicated” conclusion with respect to its employees.

If an employee is not substantially dedicated to mitigating or responding to the COVID-19 public
health emergency, his or her payroll and benefits expenses may not be covered *in full* with payments from the Fund. *A portion* of such expenses may be able to be covered, however, as discussed below.

**Public health and public safety**

In recognition of the particular importance of public health and public safety workers to State, local, and tribal government responses to the public health emergency, Treasury has provided, as an administrative accommodation, that a State, local, or tribal government may presume that public health and public safety employees meet the substantially dedicated test, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. This means that, if this presumption applies, work performed by such employees is considered to be a substantially different use than accounted for in the most recently approved budget as of March 27, 2020. All costs of such employees may be covered using payments from the Fund for services provided during the period that begins on March 1, 2020, and ends on December 30, 2020.

In response to questions regarding which employees are within the scope of this accommodation, Treasury is supplementing this guidance to clarify that public safety employees would include police officers (including state police officers), sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel. Public health employees would include employees involved in providing medical and other health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions, and other support services essential for patient care (*e.g.*, laboratory technicians) as well as employees of public health departments directly engaged in matters related to public health and related supervisory personnel.

**Not substantially dedicated**

As provided in FAQ A.47, a State, local, or tribal government may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department. This means, for example, that a government could cover payroll expenses allocated on an hourly basis to employees’ time dedicated to mitigating or responding to the COVID-19 public health emergency. This result provides equitable treatment to governments that, for example, instead of having a few employees who are substantially dedicated to the public health emergency, have many employees who have a minority of their time dedicated to the public health emergency.

**Covered benefits**

Payroll and benefits of a substantially dedicated employee may be covered using payments from the Fund to the extent incurred between March 1 and December 30, 2020.

Payroll includes certain hazard pay and overtime, but not workforce bonuses. As discussed in FAQ A.29, hazard pay may be covered using payments from the Fund if it is provided for performing hazardous duty or work involving physical hardship that in each case is related to COVID-19. This means that, whereas payroll and benefits of an employee who is substantially dedicated to mitigating or responding to the COVID-19 public health emergency may generally be covered in full using payments from the Fund, hazard pay specifically may only be covered to the extent it is related to COVID-19. For example, a recipient may use payments from the Fund to cover hazard pay for a police officer coming in close contact with members of the public to enforce public health or public safety orders, but across-the-board hazard pay for all members of a police department regardless of their duties would not be able to be covered with payments from the Fund. This position reflects the statutory intent discussed above: the Fund was intended to be used to help governments address the
public health emergency both by providing funds for incremental expenses (such as hazard pay related to COVID-19) and to allow governments not to have to furlough or lay off employees needed to address the public health emergency but was not intended to provide across-the-board budget support (as would be the case if hazard pay regardless of its relation to COVID-19 or workforce bonuses were permitted to be covered using payments from the Fund).

Relatedly, both hazard pay and overtime pay for employees that are not substantially dedicated may only be covered using the Fund if the hazard pay and overtime pay is for COVID-19-related duties. As discussed above, governments may allocate payroll and benefits of such employees with respect to time worked on COVID-19-related matters.

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes).

**Supplemental Guidance on Use of Funds to Cover Administrative Costs**

**General**

Payments from the Fund are not administered as part of a traditional grant program and the provisions of the Uniform Guidance, 2 C.F.R. Part 200, that are applicable to indirect costs do not apply. Recipients may not apply their indirect costs rates to payments received from the Fund.

Recipients may, if they meet the conditions specified in the guidance for tracking time consistently across a department, use payments from the Fund to cover the portion of payroll and benefits of employees corresponding to time spent on administrative work necessary due to the COVID-19 public health emergency. (In other words, such costs would be eligible direct costs of the recipient). This includes, but is not limited to, costs related to disbursing payments from the Fund and managing new grant programs established using payments from the Fund.

As with any other costs to be covered using payments from the Fund, any such administrative costs must be incurred by December 30, 2020, with an exception for certain compliance costs as discussed below. Furthermore, as discussed in the Guidance above, as with any other cost, an administrative cost that has been or will be reimbursed under any federal program may not be covered with the Fund. For example, if an administrative cost is already being covered as a direct or indirect cost pursuant to another federal grant, the Fund may not be used to cover that cost.

**Compliance costs related to the Fund**

As previously stated in FAQ B.11, recipients are permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act, subject to the limitations set forth in 2 C.F.R. § 200.425. Pursuant to that provision of the Uniform Guidance, recipients and subrecipients subject to the Single Audit Act may use payments from the Fund to cover a reasonably proportionate share of the costs of audits attributable to the Fund.

To the extent a cost is incurred by December 30, 2020, for an eligible use consistent with section 601 of the Social Security Act and Treasury’s guidance, a necessary administrative compliance expense that relates to such underlying cost may be incurred after December 30, 2020. Such an expense would include, for example, expenses incurred to comply with the Single Audit Act and reporting and recordkeeping requirements imposed by the Office of Inspector General. A recipient with such necessary administrative expenses, such as an ongoing audit continuing past December 30, 2020, that
relates to Fund expenditures incurred during the covered period, must report to the Treasury Office of Inspector General by the quarter ending September 2021 an estimate of the amount of such necessary administrative expenses.
ATTACHMENT E
Coronavirus Relief Fund Frequently Asked Questions
Updated as of September 2, 2020

The following answers to frequently asked questions supplement Treasury’s Coronavirus Relief Fund (“Fund”) Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, (“Guidance”). Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

A. Eligible Expenditures

1. Are governments required to submit proposed expenditures to Treasury for approval?

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

2. The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the “substantially dedicated” condition?

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

3. The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a “substantially different use” for purposes of the Fund eligibility?

Costs incurred for a “substantially different use” include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty’s ordinary responsibilities.

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1 On August 10, 2020, these Frequently Asked Questions were revised to add Questions A.49–52. On September 2, 2020, Questions A.53–56 were added, and Questions A.34 and A.38 were revised.

Note that a public function does not become a “substantially different use” merely because it is provided from a different location or through a different manner. For example, although developing online instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

4. **May a State receiving a payment transfer funds to a local government?**

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

5. **May a unit of local government receiving a Fund payment transfer funds to another unit of government?**

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

6. **Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?**

No. For example, a county recipient is not required to transfer funds to smaller cities within the county’s borders.

7. **Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?**

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

8. **Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?**

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

9. **Are States permitted to use Fund payments to support state unemployment insurance funds generally?**

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State’s obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.
10. Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

11. The Guidance states that the Fund may support a “broad range of uses” including payroll expenses for several classes of employees whose services are “substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” What are some examples of types of covered employees?

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

12. In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers’ compensation coverage. Is the cost of this expanded workers compensation coverage eligible?

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

13. If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

14. May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

15. May Fund payments be used for COVID-19 public health emergency recovery planning?
Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

16. **Are expenses associated with contact tracing eligible?**

Yes, expenses associated with contact tracing are eligible.

17. **To what extent may a government use Fund payments to support the operations of private hospitals?**

Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

18. **May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?**

Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

19. **May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?**

Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

20. **Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?**

Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

21. **May recipients create a “payroll support program” for public employees?**

Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

22. **May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?**

Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

23. **May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?**
Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

24. The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a “small business,” and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

25. The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

26. May Fund payments be used to assist impacted property owners with the payment of their property taxes?

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

27. May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

28. Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.
29. *The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of “hazard pay”?*

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

30. *The Guidance provides that ineligible expenditures include “[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” Is this intended to relate only to public employees?*

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers’ employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

31. *May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?*

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

32. *Must a stay-at-home order or other public health mandate be in effect in order for a government to provide assistance to small businesses using payments from the Fund?*

No. The Guidance provides, as an example of an eligible use of payments from the Fund, expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. Such assistance may be provided using amounts received from the Fund in the absence of a requirement to close businesses if the relevant government determines that such expenditures are necessary in response to the public health emergency.

33. *Should States receiving a payment transfer funds to local governments that did not receive payments directly from Treasury?*

Yes, provided that the transferred funds are used by the local government for eligible expenditures under the statute. To facilitate prompt distribution of Title V funds, the CARES Act authorized Treasury to make direct payments to local governments with populations in excess of 500,000, in amounts equal to 45% of the local government’s per capita share of the statewide allocation. This statutory structure was based on a recognition that it is more administratively feasible to rely on States, rather than the federal government, to manage the transfer of funds to smaller local governments. Consistent with the needs of all local governments for funding to address the public health emergency, States should transfer funds to local governments with populations of 500,000 or less, using as a benchmark the per capita allocation formula that governs payments to larger local governments. This approach will ensure equitable treatment among local governments of all sizes.

For example, a State received the minimum $1.25 billion allocation and had one county with a population over 500,000 that received $250 million directly. The State should distribute 45 percent of the $1 billion it received, or $450 million, to local governments within the State with a population of 500,000 or less.

34. *May a State impose restrictions on transfers of funds to local governments?*
Yes, to the extent that the restrictions facilitate the State’s compliance with the requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance and other applicable requirements such as the Single Audit Act, discussed below. Other restrictions, such as restrictions on reopening that do not directly concern the use of funds, are not permissible.

35. If a recipient must issue tax anticipation notes (TANs) to make up for tax due date deferrals or revenue shortfalls, are the expenses associated with the issuance eligible uses of Fund payments?

If a government determines that the issuance of TANs is necessary due to the COVID-19 public health emergency, the government may expend payments from the Fund on the interest expense payable on TANs by the borrower and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

36. May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments.

37. Are costs associated with increased solid waste capacity an eligible use of payments from the Fund?

Yes, costs to address increase in solid waste as a result of the public health emergency, such as relates to the disposal of used personal protective equipment, would be an eligible expenditure.

38. May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?

No. Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19. Payments from the fund may only be used to cover such hazard pay.

39. May Fund payments be used for expenditures related to the administration of Fund payments by a State, territorial, local, or Tribal government?

Yes, if the administrative expenses represent an increase over previously budgeted amounts and are limited to what is necessary. For example, a State may expend Fund payments on necessary administrative expenses incurred with respect to a new grant program established to disburse amounts received from the Fund.

40. May recipients use Fund payments to provide loans?

Yes, if the loans otherwise qualify as eligible expenditures under section 601(d) of the Social Security Act as implemented by the Guidance. Any amounts repaid by the borrower before December 30, 2020, must be either returned to Treasury upon receipt by the unit of government providing the loan or used for another expense that qualifies as an eligible expenditure under section 601(d) of the Social Security Act. Any amounts not repaid by the borrower until after December 30, 2020, must be returned to Treasury upon receipt by the unit of government lending the funds.

41. May Fund payments be used for expenditures necessary to prepare for a future COVID-19 outbreak?
Fund payments may be used only for expenditures necessary to address the current COVID-19 public health emergency. For example, a State may spend Fund payments to create a reserve of personal protective equipment or develop increased intensive care unit capacity to support regions in its jurisdiction not yet affected, but likely to be impacted by the current COVID-19 pandemic.

42. **May funds be used to satisfy non-federal matching requirements under the Stafford Act?**

Yes, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund’s eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA’s determination of eligibility under the Stafford Act.

43. **Must a State, local, or tribal government require applications to be submitted by businesses or individuals before providing assistance using payments from the Fund?**

Governments have discretion to determine how to tailor assistance programs they establish in response to the COVID-19 public health emergency. However, such a program should be structured in such a manner as will ensure that such assistance is determined to be necessary in response to the COVID-19 public health emergency and otherwise satisfies the requirements of the CARES Act and other applicable law. For example, a per capita payment to residents of a particular jurisdiction without an assessment of individual need would not be an appropriate use of payments from the Fund.

44. **May Fund payments be provided to non-profits for distribution to individuals in need of financial assistance, such as rent relief?**

Yes, non-profits may be used to distribute assistance. Regardless of how the assistance is structured, the financial assistance provided would have to be related to COVID-19.

45. **May recipients use Fund payments to remarket the recipient’s convention facilities and tourism industry?**

Yes, if the costs of such remarketing satisfy the requirements of the CARES Act. Expenses incurred to publicize the resumption of activities and steps taken to ensure a safe experience may be needed due to the public health emergency. Expenses related to developing a long-term plan to reposition a recipient’s convention and tourism industry and infrastructure would not be incurred due to the public health emergency and therefore may not be covered using payments from the Fund.

46. **May a State provide assistance to farmers and meat processors to expand capacity, such to cover overtime for USDA meat inspectors?**

If a State determines that expanding meat processing capacity, including by paying overtime to USDA meat inspectors, is a necessary expense incurred due to the public health emergency, such as if increased capacity is necessary to allow farmers and processors to donate meat to food banks, then such expenses are eligible expenses, provided that the expenses satisfy the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance.

47. **The guidance provides that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. May Fund payments be used to cover such an employee’s entire payroll cost or just the portion of time spent...**
on mitigating or responding to the COVID-19 public health emergency?

As a matter of administrative convenience, the entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020. An employer may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department.

48. May Fund payments be used to cover increased administrative leave costs of public employees who could not telework in the event of a stay at home order or a case of COVID-19 in the workplace?

The statute requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. As stated in the Guidance, a cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. If the cost of an employee was allocated to administrative leave to a greater extent than was expected, the cost of such administrative leave may be covered using payments from the Fund.

49. Are States permitted to use Coronavirus Relief Fund payments to satisfy non-federal matching requirements under the Stafford Act, including “lost wages assistance” authorized by the Presidential Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 (August 8, 2020)?

Yes. As previous guidance has stated, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund’s eligibility criteria and the Stafford Act. States are fully permitted to use payments from the Fund to satisfy 100% of their cost share for lost wages assistance recently made available under the Stafford Act.

50. At what point would costs be considered to be incurred in the case of a grant made by a State, local, or tribal government to cover interest and principal amounts of a loan, such as might be provided as part of a small business assistance program in which the loan is made by a private institution?

A grant made to cover interest and principal costs of a loan, including interest and principal due after the period that begins on March 1, 2020, and ends on December 30, 2020 (the “covered period”), will be considered to be incurred during the covered period if (i) the full amount of the loan is advanced to the borrower within the covered period and (ii) the proceeds of the loan are used by the borrower to cover expenses incurred during the covered period. In addition, if these conditions are met, the amount of the grant will be considered to have been used during the covered period for purposes of the requirement that expenses be incurred within the covered period. Such a grant would be analogous to a loan provided by the Fund recipient itself that incorporates similar loan forgiveness provisions. As with any other assistance provided by a Fund recipient, such a grant would need to be determined by the recipient to be necessary due to the public health emergency.

51. If governments use Fund payments as described in the Guidance to establish a grant program to support businesses, would those funds be considered gross income taxable to a business receiving the grant under the Internal Revenue Code (Code)?

Please see the answer provided by the Internal Revenue Service (IRS) available at https://www.irs.gov/newsroom/cares-act-coronavirus-relief-fund-frequently-asked-questions.
52. If governments use Fund payments as described in the Guidance to establish a loan program to support businesses, would those funds be considered gross income taxable to a business receiving the loan under the Code?

Please see the answer provided by the IRS available at https://www.irs.gov/newsroom/cares-act-coronavirus-relief-fund-frequently-asked-questions.

53. May Fund recipients incur expenses associated with the safe reopening of schools?

Yes, payments from the Fund may be used to cover costs associated with providing distance learning (e.g., the cost of laptops to provide to students) or for in-person learning (e.g., the cost of acquiring personal protective equipment for students attending schools in-person or other costs associated with meeting Centers for Disease Control guidelines).

To this end, as an administrative convenience, Treasury will presume that expenses of up to $500 per elementary and secondary school student to be eligible expenditures, such that schools do not need to document the specific use of funds up to that amount.

54. May Fund recipients upgrade critical public health infrastructure, such as providing access to running water for individuals and families in rural and tribal areas to allow them to maintain proper hygiene and defend themselves against the virus?

Yes, fund recipients may use payments from the Fund to upgrade public health infrastructure, such as providing individuals and families access to running water to help reduce the further spread of the virus. As required by the CARES Act, expenses associated with such upgrades must be incurred by December 30, 2020. Please see Treasury’s Guidance as updated on June 30 regarding when a cost is considered to be incurred for purposes of the requirement that expenses be incurred within the covered period.

55. How does a government address the requirement that the allowable expenditures are not accounted for in the budget most recently approved as of March 27, 2020, once the government enters its new budget year on July 1, 2020 (for governments with June 30 fiscal year ends) or October 1, 2020 (for governments with September 30 year ends)?

As provided in the Guidance, the “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Furthermore, the budget most recently approved as of March 27, 2020, provides the spending baseline against which expenditures should be compared for purposes of determining whether they may be covered using payments from the Fund. This spending baseline will carry forward to a subsequent budget year if a Fund recipient enters a different budget year between March 27, 2020 and December 30, 2020. The spending baseline may be carried forward without adjustment for inflation.

56. Does the National Environmental Policy Act, 42 U.S.C. § 4321 et seq, (NEPA) apply to projects supported by payments from the Fund?

NEPA does not apply to Treasury’s administration of the Fund. Projects supported with payments from the Fund may still be subject to NEPA review if they are also funded by other federal financial assistance programs.
B. Questions Related to Administration of Fund Payments

1. Do governments have to return unspent funds to Treasury?

Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

2. What records must be kept by governments receiving payment?

A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act.

3. May recipients deposit Fund payments into interest bearing accounts?

Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government’s general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

4. May governments retain assets purchased with payments from the Fund?

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

5. What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?

If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

6. Are Fund payments to State, territorial, local, and tribal governments considered grants?

No. Fund payments made by Treasury to State, territorial, local, and Tribal governments are not considered to be grants but are “other financial assistance” under 2 C.F.R. § 200.40.

7. Are Fund payments considered federal financial assistance for purposes of the Single Audit Act?

Yes, Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

8. Are Fund payments subject to other requirements of the Uniform Guidance?

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.
9. **Is there a Catalog of Federal Domestic Assistance (CFDA) number assigned to the Fund?**

   Yes. The CFDA number assigned to the Fund is 21.019.

10. **If a State transfers Fund payments to its political subdivisions, would the transferred funds count toward the subrecipients’ total funding received from the federal government for purposes of the Single Audit Act?**

   Yes. The Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend $750,000 or more in federal awards during their fiscal year.

11. **Are recipients permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act?**

   Yes, such expenses would be eligible expenditures, subject to the limitations set forth in 2 C.F.R. § 200.425.

12. **If a government has transferred funds to another entity, from which entity would the Treasury Department seek to recoup the funds if they have not been used in a manner consistent with section 601(d) of the Social Security Act?**

   The Treasury Department would seek to recoup the funds from the government that received the payment directly from the Treasury Department. State, territorial, local, and Tribal governments receiving funds from Treasury should ensure that funds transferred to other entities, whether pursuant to a grant program or otherwise, are used in accordance with section 601(d) of the Social Security Act as implemented in the Guidance.
ATTACHMENT F

County of Orange

County Executive Office

April 13, 2020

I, Frank Kim, am the chief executive of the County of Orange, and I certify that:

1. I have the authority on behalf of the County of Orange to request direct payment from the Department of the Treasury ("Treasury") pursuant to section 601(b) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (Mar. 27, 2020).
2. I understand that Treasury will rely on this certification as a material representation in making a direct payment to the County of Orange.
3. The County of Orange's proposed uses of the funds provided as direct payment under section 601(b) of the Social Security Act will be used only to cover those costs that:
   a. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
   b. were not accounted for in the budget most recently approved as of March 27, 2020, for [insert name of local government entity]; and
   c. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

By: Frank Kim

Signature: 

Title: County Executive Officer

Date: 4/13/20

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is two hour per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.
MEMORANDUM FOR CORONAVIRUS RELIEF FUND RECEPIENTS

FROM: Richard K. Delmar /s/
Deputy Inspector General

SUBJECT: Coronavirus Relief Fund Reporting and Record Retention Requirements

July 2, 2020

Title VI of the Social Security Act, as amended by Title V of Division A of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 115-136), provides that the Department of the Treasury (Treasury) Office of Inspector General (OIG) is responsible for monitoring and oversight of the receipt, disbursement, and use of Coronavirus Relief Fund payments. Treasury OIG also has authority to recover funds in the event that it is determined a recipient of a Coronavirus Relief Fund payment failed to comply with requirements of subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)). Accordingly, we are providing recipient reporting and record retention requirements that are essential for the exercise of these responsibilities, including our conduct of audits and investigations.

REPORTING REQUIREMENTS AND TIMELINES

Each prime recipient of Coronavirus Relief Fund payments¹ shall report Coronavirus Disease 2019 (COVID-19) related “costs incurred” during the “covered period”² (the period beginning on March 1, 2020 and ending on December 30, 2020), in the manner of and according to the timelines outlined in this memorandum. As described below, each prime recipient shall report interim and quarterly data and other recipient data according to these requirements. Treasury OIG is working on development of a portal with GrantSolutions³ that is expected to be operational on

¹ Prime recipients include all 50 States, Units of Local Governments, the District of Columbia, U.S. Territories, and Tribal Governments that received a direct payment from Treasury in accordance with Title V.

² Refer to Treasury’s guidance dated June 30, 2020 for more information on costs incurred and the covered period.

³ A grant management service provider under the U.S. Department of Health and Human Services.
September 1, 2020, for recipients to report data on a quarterly basis. Until the GrantSolutions portal is operational, each prime recipient shall follow the interim reporting requirements. Treasury OIG will notify each prime recipient when GrantSolutions is operational or of any changes to the expected September 1, 2020 start date.

Interim Reporting for the period March 1 through June 30, 2020

By no later than July 17, 2020, each prime recipient is responsible for reporting costs incurred during the period March 1 through June 30, 2020. For this interim report, prime recipients need only report totals by the following broad categories:

a. Amount transferred to other governments;
b. Amount spent on payroll for public health and safety employees;
c. Amount spent on budgeted personnel and services diverted to a substantially different use;
d. Amount spent to improve telework capabilities of public employees;
e. Amount spent on medical expenses;
f. Amount spent on public health expenses;
g. Amount spent to facilitate distance learning;
h. Amount spent providing economic support;
i. Amount spent on expenses associated with the issuance of tax anticipation notes; and
j. Amount spent on items not listed above.

Recipients should consult Treasury’s guidance and Frequently Asked Questions in reporting costs incurred during the period March 1 through June 30, 2020. The total of all categories must equal the total of all costs incurred during that period. A spreadsheet is attached for your use in providing the data. As discussed below, the prime recipient will be required to report information for the period March 1 through June 30, 2020 into GrantSolutions once it is operational.

Quarterly Reporting

Each prime recipient of Coronavirus Relief Fund payments shall report COVID-19 related costs into the GrantSolutions portal. Data required to be reported includes, but is not limited to, the following:

1. the total amount of payments from the Coronavirus Relief Fund received from Treasury;
2. the amount of funds received that were expended or obligated for each project or activity;
3. a detailed list of all projects or activities for which funds were expended or obligated, including:
   a. the name of the project or activity;
   b. a description of the project or activity; and
4. detailed information on any loans issued; contracts and grants awarded; transfers made to other government entities; and direct payments made by the recipient that are greater than $50,000.

The prime recipient is responsible for reporting into the GrantSolutions portal information on uses of Coronavirus Relief Fund payments.

Recipient Portal Access: For future quarterly reporting, each prime recipient will have GrantSolutions portal access for three (3) individuals: two (2) designees (preparers) to input quarterly data and one (1) official authorized to certify that the data is true, accurate, and complete. By no later than July 17, 2020, please provide the name, title, email address, phone number, and postal address of these individuals so that portal access can be granted. After this information is received, guidance on the GrantSolutions portal access and data submission instructions will be issued separately.

Reporting timeline

By no later than September 21, 2020, recipients shall submit via the portal the first detailed quarterly report, which shall cover the period March 1 through June 30, 2020. Thereafter, quarterly reporting will be due no later than 10 days after each calendar quarter. For example, the period July 1 through September 30, 2020, must be reported no later than October 13, 2020 (Tuesday after the 10th day of October and the Columbus Day Holiday). Reporting shall end with either the calendar quarter after the COVID-19 related costs and expenditures have been liquidated and paid or the calendar quarter ending September 30, 2021, whichever comes first.

RECORD RETENTION REQUIREMENTS

Recipients of Coronavirus Relief Fund payments shall maintain and make available to the Treasury OIG upon request all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)), which provides:

(d) USE OF FUNDS.—A State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government that—

1. are necessary expenditures incurred due to the public health emergency with respect to COVID-19;
2. were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and

4 The certifying official is an authorized representative of the recipient organization with the legal authority to give assurances, make commitments, enter into contracts, and execute such documents on behalf of the recipient.
3. were incurred\(^5\) during the period that begins on March 1, 2020, and ends on December 30, 2020.

Records to support compliance with subsection 601(d) may include, but are not limited to, copies of the following:

1. general ledger and subsidiary ledgers used to account for (a) the receipt of Coronavirus Relief Fund payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19;
2. budget records for 2019 and 2020;
3. payroll, time records, human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
4. receipts of purchases made related to addressing the public health emergency due to COVID-19;
5. contracts and subcontracts entered into using Coronavirus Relief Fund payments and all documents related to such contracts;
6. grant agreements and grant subaward agreements entered into using Coronavirus Relief Fund payments and all documents related to such awards;
7. all documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients;
8. all documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards;
9. all internal and external email/electronic communications related to use of Coronavirus Relief Fund payments; and
10. all investigative files and inquiry reports involving Coronavirus Relief Fund payments.

Records shall be maintained for a period of five (5) years after final payment is made using Coronavirus Relief Fund monies. These record retention requirements are applicable to all prime recipients and their grantees and subgrant recipients, contractors, and other levels of government that received transfers of Coronavirus Relief Fund payments from prime recipients.

Thank you and we appreciate your assistance.

\(^5\) Refer to Treasury’s guidance dated June 30, 2020 for more information on the definition of costs incurred.
August 28, 2020

OIG-CA-20-028

Department of the Treasury Office of Inspector General Coronavirus Relief Fund Frequently Asked Questions Related to Reporting and Recordkeeping

The Department of the Treasury (Treasury) Office of Inspector General (OIG) is responsible for monitoring and oversight of the receipt, disbursement, and use of Coronavirus Relief Fund (CRF) payments as authorized by Title VI of the Social Security Act, as amended by Title V of Division A of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Treasury OIG was also assigned authority to recover funds in the event that it is determined a recipient of a CRF payment failed to comply with requirements of subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)). Recipient reporting and record retention requirements are essential for the exercise of these responsibilities, including our conduct of audits and investigations.

Beginning September 1, 2020, the prime recipient of CRF payments will begin reporting Coronavirus Disease 2019 (COVID-19) related costs incurred from March 1, 2020 to December 30, 2020 in the GrantSolutions portal. This document addresses frequently asked questions (FAQ) from CRF prime recipients regarding their reporting and recordkeeping requirements and supplements Treasury OIG’s memorandums Coronavirus Relief Fund Recipient Reporting and Record Retention Requirements (OIG-CA-20-021; July 2, 2020) and Coronavirus Relief Fund Reporting Requirements Update (OIG-CA-20-025; July 31, 2020).

A. Prime Recipients

1. Who is a prime recipient?

A prime recipient is an entity that received a CRF payment directly from Treasury in accordance with the CARES Act, including:

- All 50 States,
- Units of local governments with populations over 500,000 that submitted required certifications to Treasury,
- The District of Columbia,

1 P. L. 116 136 (March 27, 2020)
2 https://www.treasury.gov/about/organizational-structure/ig/Audit%20Reports%20and%20Testimonies/OIG-CA-20-021.pdf
3 https://www.treasury.gov/about/organizational-structure/ig/Audit%20Reports%20and%20Testimonies/OIG-CA-20-025.pdf
• U.S. Territories, and
• Tribal Governments

2. Who is a sub-recipient?

For purposes of reporting in the GrantSolutions portal, a sub-recipient is any entity to which a prime recipient issues a contract, grant, loan, direct payment, or transfer to another government entity of $50,000 or more.

3. The definition of a sub-recipient provided by Treasury OIG is different than the definition of a sub-recipient in the Office of Management and Budget’s (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal, 2 CFR Part 200 (Uniform Guidance). Which definition is a prime recipient expected to comply with?

The prime recipient must comply with the Treasury OIG definition. For purposes of reporting in the GrantSolutions portal, a prime recipient is to report on sub-recipients, as defined in Question 2 above. In addition, Treasury has issued guidance as described in Treasury’s Coronavirus Relief Fund Frequently Asked Questions (FAQs), noting that prime recipients are to monitor and manage sub-recipients as defined in 2 CFR sec. 200.330 through 200.332.

4. Who is responsible for reporting in the GrantSolutions portal, the prime or sub-recipient?

Only the prime recipient is required to report COVID-19 related costs in the GrantSolutions portal.

5. If the prime recipient distributes funds to an agency or department within the prime recipient’s government, is the agency or department considered the prime recipient or a sub-recipient when funds obligated are $50,000 or more?

The agency or department is considered part of the prime recipient as they are all part of the same legal entity that received a direct CRF payment from Treasury. Obligations and expenditures that the agency or department incurs with the CRF proceeds must be collected by and reported in the GrantSolutions portal by the prime recipient as if they were obligated or expended by the prime recipient.

6. If the prime recipient obligates funds to an entity that provides a public service on behalf of the prime recipient but the prime recipient is not financially accountable of, is the entity considered the prime recipient or a sub-recipient when funds obligated are $50,000 or more (e.g., discreetly presented component unit, quasi agency, etc.)?

The entity is considered a sub-recipient of the prime recipient when funds obligated are $50,000 or more. The prime recipient must report its obligations and expenditures related to the sub-recipient, including associated projects and expenditure categories, in the GrantSolutions portal. If the prime recipient obligated less than $50,000, the prime recipient must report its obligations and expenditures related to the sub-recipient entity in aggregate in the GrantSolutions portal.

7. If a prime recipient enters into multiple obligations with an entity, each obligation being less than $50,000 with no agreement (i.e., contract, grant, or loan), however, the total obligations to the entity is above $50,000, is the entity considered a sub-recipient?

The entity is considered a sub-recipient, however since the obligations are below $50,000, the prime recipient must report the multiple obligations to the entity and related expenditures in the aggregate section of the GrantSolutions portal.

8. If a unit of local government received funds as both a prime recipient and as a sub-recipient do they have to track and report obligations and expenditures separately?

Yes. For purposes of reporting in the GrantSolutions portal, the unit of local government is the prime recipient and must report obligations and expenditures related to the funds received directly from Treasury. As a sub-recipient of funds, obligations and expenditures related to the funds received from another prime recipient must be reported by the prime recipient in the GrantSolutions portal. It is recommended that the unit of local government, as a sub-recipient, report obligations and expenditure information to the prime recipient for its reporting purposes.

9. If a third party is hired to review and approve sub-recipient reimbursement requests and supporting documentation, can the prime recipient place reliance on the reviews performed by the third party or is the prime recipient still required to review and approve 100 percent of all costs?

It is up to the prime recipient on how much it relies on third-party review of reimbursement requests. However, the prime recipient is responsible for maintaining documentation to support the use of CRF proceeds. Per Treasury’s Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments, the direct (or prime) recipient is ultimately responsible.
responsible for compliance with the limitation on the use of payments from the CRF.\(^5\)

**B. System for Award Management (SAM.gov) Registration**

10. *Treasury OIG’s memorandum, Coronavirus Relief Fund Reporting Requirements Update,* states that “each prime recipient should ensure that any current or potential sub-recipients are registered in SAM.gov.” Are all sub-recipients required to register in SAM.gov?

No, all sub-recipients are not required to register in SAM.gov. This statement is a recommendation to help reduce the reporting burden on the prime recipient when entering sub-recipient details in the GrantSolutions portal. SAM.gov registration allows sub-recipient identifying and demographic details to be automatically populated in the portal after the prime recipient inputs a valid Data Universal Numbering System (DUNS) number assigned to the sub-recipient.\(^6\)

11. **What are the identifying and demographic data elements that automatically populate in the GrantSolutions portal if a sub-recipient is registered in SAM.gov with a valid DUNS number?**

The following identifying and demographic data elements will automatically populate in the GrantSolutions portal if a sub-recipient is registered in SAM.gov with a valid DUNS number:

- Legal Name
- Address Line 1
- Address Line 2, if applicable
- Address Line 3, if applicable
- City Name
- State Code
- Zip +4
- Congressional District
- Country Name
- Country Code
- Organization Type

\(^6\)A DUNS number is a unique nine-character number used to identify an organization.
12. If a sub-recipient does not have a DUNS number, can another unique identification number be used in the GrantSolutions portal to automatically populate sub-recipient details (e.g. Federal Employment Identification Number, Federal Tax Identification Number, etc.)?

No. The DUNS number is the only unique identification number that the GrantSolutions portal can associate with a SAM.gov registration in order to automatically populate sub-recipient details.

13. Where does a prime recipient direct a sub-recipient to obtain a DUNS number?

If a sub-recipient does not already have a DUNS number, they can call 1-866-705-5711 or access http://fedgov.dnb.com/webform to get a DUNS number assigned for free.

14. Where does a prime recipient direct a sub-recipient to register in SAM.gov?

Refer the sub-recipient to https://sam.gov.

15. What if a sub-recipient is not registered in SAM.gov?

For each sub-recipient that is not registered in SAM.gov, the prime recipient will be responsible for manually entering the following data elements in the GrantSolutions portal:

- Legal Name
- Address Line 1
- Address Line 2, if applicable
- Address Line 3, if applicable
- City Name
- State Code
- Zip Code
- Country Name (selection menu)
- Organization Type (selection menu)

16. If a sub-recipient is registered in SAM.gov, are they required to report any information on a quarterly basis in SAM.gov?

No. There are no reporting requirements for a sub-recipient; the prime recipient is required to report in the GrantSolutions portal on behalf of the sub-recipient.
17. **Is an entity that a prime recipient obligates a contract, grant, loan, direct payment, or transfer to another government entity of less than $50,000 recommended to register in SAM.gov?**

No. Detailed information of an entity that the prime recipient obligates less than $50,000 to will not be reported in the GrantSolutions portal. The obligations and related expenditure(s) to entities that the prime recipient obligates less than $50,000 to will be reported in the aggregate.

18. **Is an individual that a prime recipient obligates a contract, grant, loan, or direct payment recommended to register in SAM.gov?**

No. Detailed information of an individual that the prime recipient obligates any amount to will not be reported in the GrantSolutions portal; the obligations and related expenditure(s) to individuals will be reported in the aggregate.

### C. Terminology

18. **What is an obligation?**

For purposes of reporting in the GrantSolutions portal, an obligation is a commitment to pay a third party with CRF proceeds based on a contract, grant, loan, or other arrangement.

19. **What is an expenditure?**

For purposes of reporting in the GrantSolutions portal, an expenditure is the amount that has been incurred as a liability of the entity (the service has been rendered or the good has been delivered to the entity). As outlined in Treasury’s Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments, performance or delivery must occur between March 1 and December 30, 2020 in order for the cost to be considered incurred; payment of funds need not be made during that time (though it is generally expected that payment will take place within 90 days of a cost being incurred).

20. **What is a project?**

A project is a grouping of related activities that together are intended to achieve a specific goal (e.g., building a temporary medical facility, offering an economic support program for small businesses, offering a housing support program, etc.)

21. **What is a contract?**

A contract is an obligation to an entity associated with an agreement to acquire goods.
22. **What is a grant?**

A grant is an obligation to an entity that is associated with a grant agreement. A grant agreement is a legal instrument of financial assistance between the prime recipient and entity that is used to enter into a relationship to carry out a public purpose and does not include an agreement to acquire goods or services or provide a loan.

23. **What is the primary place of performance for a contract or a grant?**

The primary place of performance is the address where the predominant performance of the contract or grant will be accomplished.

24. **What is the period of performance start date and end date for a contract or a grant?**

The period of performance start date is the date on which efforts begin or the contract or grant is otherwise effective. The period of performance end date is the date on which all effort is completed or the contract or grant is otherwise ended.

25. **What is a transfer to another government entity?**

A transfer to another government entity is a disbursement or payment to a government entity that is legally distinct from the prime recipient. See the list of government entities in Question 26 below.

26. **For transfers to another government entity, what type of entity is considered another government entity?**

The following organization types are considered another government entity:

- State government
- County government
- City/Township Government
- Special District Government
- US Territory or Possession
- Indian/Native American Tribal Government (Federally Recognized)
- Indian/Native American Tribal Designated Organization

27. **What is a direct payment?**

A direct payment is a disbursement (with or without an existing obligation) to an entity that is not associated with a contract, grant, loan, or transfer to another government entity. If the direct payment is associated with an obligation, then the obligation and
expenditure should be reported. If the direct payment does not involve a previous obligation, the direct payment will be recorded when the expenditure is incurred.

D. Reporting

28. If a prime recipient received CARES Act funding from different Federal agencies, are all costs incurred related to CARES funding to be reported in the GrantSolutions portal, regardless of the funding source?

No. The GrantSolutions portal is only for the reporting of costs incurred related to CRF proceeds received from Treasury. Financial assistance that a prime recipient may have received from other sources are not to be reported in this portal.

29. Will CRF proceeds be subject to Federal Funding Accountability and Transparency Act (FFATA) reporting requirements? If so, what general information are recipients expected to report?

No, FFATA reporting is not required since CRF payments are not grants.

30. Are prime recipients required to report on an accrual or cash basis?

The prime recipient should report on an accrual basis, unless the prime recipient’s practice is traditionally to report on a cash basis for all its financial reporting.

31. Are the reporting requirements different for lump sum payments versus payments made on a reimbursable basis?

No. Reporting of obligations and expenditures related to lump sum payments and reimbursed payments are the same.

32. How should a reimbursable payment to a sub-recipient be reported?

The prime recipient should first report the total obligation to the sub-recipient. As reimbursements are made to the sub-recipient, the prime recipient should report the reimbursements as expenditures to the obligation by expenditure category.

33. How should a lump sum payment to a sub-recipient be reported?

The prime recipient must report the total obligation for the lump sum payment to the sub-recipient. As the sub-recipient uses the funds it received, the prime recipient is responsible for collecting and reporting on the uses as expenditures to the obligation by expenditure category.
34. What level of sub-recipient data will prime recipients be required to report?

The prime recipient is required to report on the first sub-recipient level only. For example: The prime recipient enters into a grant with Entity A to provide assistance to small businesses. For reporting purposes, the prime recipient must report the details of the grant with Entity A as an obligation. As Entity A provides assistance to small businesses, the prime recipient must report the assistance provided as expenditures to the obligation. However, details of the small businesses that received funding is not required.

35. Is every obligation and expenditure required to be associated with a project?

No. We understand that not all uses of funds will be associated with a project. If an obligation or expenditure is not associated with a project, in the GrantSolutions portal, the recipient would select “No Associated Project”.

36. How did Treasury OIG determine the $50,000 reporting threshold?

Sec. 15011 of the CARES Act states that any entity that receives large covered funds (or funds more than $150,000) is considered a covered recipient. All prime recipients of CRF proceeds are covered recipients as no prime recipient received payment less than $150,000. Sec. 15011 further requires that each covered recipient (in this case, prime recipient) should submit a report that contains, among other items, detailed information on subcontracts or subgrants awarded by the covered recipient allowing for aggregate reporting on awards below $50,000.

37. Is the $50,000 threshold on a project basis?

No. The $50,000 threshold dictates the specific sub-recipients that must be identified by the prime recipient on a detailed basis rather than in an aggregate total for related obligations and expenditures, regardless of any projects.

38. What is the reporting structure?

The reporting structure is as follows:

A. Projects
B. Obligations of $50,000 or more and related expenditures
   a. Contracts of $50,000 or more
      i. Obligations (individually reported) and link to projects, if applicable
      ii. Related expenditures (individually reported) and link to projects, if applicable
   b. Grants of $50,000 or more
      i. Obligations (individually reported) and link to projects, if applicable
ii. Related expenditures (individually reported) and link to projects, if applicable

c. Loans of $50,000 or more
   i. Obligations (individually reported) and link to projects, if applicable
   ii. Related expenditures (individually reported) and link to projects, if applicable

d. Transfers to other government entities of $50,000 or more
   i. Obligations (individually reported) and link to projects, if applicable
   ii. Related expenditures (individually reported) and link to projects, if applicable

e. Direct Payments of $50,000 or more
   i. Obligations (individually reported) and link to projects, if applicable
   ii. Related expenditures (individually reported) and link to projects, if applicable

C. Aggregate obligations and expenditures of contracts, grants, loans, direct payments, and transfers to other government entities below $50,000 (reported in total by obligation type)

D. Aggregate obligations and expenditures to individuals, regardless of the amount (reported in total)

39. If a prime recipient obligates funds to another government entity in the form of a grant, are the obligated funds to be reported as a transfer to another government entity or as a grant?

If a grant agreement in place, the obligation should be reported as a grant.

40. Treasury OIG’s reporting timeline indicates six reporting cycles with three cycles for reporting periods of January 1, 2021 through September 30, 2021. If costs related to CRF proceeds must be incurred by December 30, 2020, why are there reporting cycles after December 30, 2020?

Treasury’s Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments addresses the concept of incurred costs. Specifically, “for a cost to be considered to have been incurred, performance of services or delivery of goods must occur during the covered period (March 1, 2020 through December 30, 2020) but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred).” As a result, we determined to allow reporting through September 30, 2021 to ensure that the prime recipient has sufficient time to capture and report all expenditures incurred that were covered with CRF, including loan repayments, the related obligations of which must have occurred, and been reported, during the covered period. In addition, any final close out reconciliations and adjustments should occur during the time period before September 30, 2021.

41. Are forgivable loans to be reported as a grant or loan?

The forgivable portion of a loan should be reported as a grant. If the forgiving of the loan is conditional, then the loan will originally be reported as a loan for the total amount.
time that the conditions are met, the portion of the loan that is forgivable, will be removed from the loan section of the GrantSolutions portal and reported as a grant at that time.

42. **For each reporting period, should a prime recipient report all costs that are eligible to be covered with CRF proceeds or only report costs for which the prime recipient has made a final determination to cover with CRF proceeds?**

The prime recipient should only report eligible costs for which obligations have been made with CRF payments or specific determinations have been made related to using CRF funds.

43. **Do the expenditure categories apply to aggregate reporting?**

No. The only information collected during aggregate reporting are obligations (in total) and expenditures (in total) by obligation type (contract, grant, loan, transfer to another government entity, and direct payments) and for individuals.

44. **For aggregate reporting of obligations to individuals, what information is required to be reported about the individuals?**

None. The only information collected during aggregate reporting are obligations (in total) and expenditures (in total).

45. **Where can recipients and sub-recipients access training tools or archived training sessions to assist with reporting?**

The only entity responsible for reporting in the portal is the prime recipient. Training on the GrantSolutions portal will be provided to prime recipients by September 1, 2020.

E. Reporting Corrections

46. **If a prime recipient submitted information in its interim report of costs incurred as of June 30, 2020 and some information has changed, can we correct this information in the portal?**

Yes. Keep in mind that for purposes of meeting the interim reporting requirement, reporting estimated costs incurred was allowed. For the first quarterly reporting period (March 1, 2020 through June 30, 2020) beginning September 1, 2020, the prime recipient must report actual obligations and expenditures in the GrantSolutions portal. The amounts reported in the GrantSolutions portal and certified will be considered the official reporting.

47. **If an error is identified or an addition/modification needs to be made, is there an ability to amend the previous submitted data?**
Yes, if a prime recipient determines corrections or additions are necessary, the current GrantSolutions submission may be recalled, corrected, and resubmitted within the first 10 days after the quarter end. Also, changes to a previous quarterly submission may be made in a current reporting submission. If a Treasury OIG reviewer determines corrections or additions to the quarterly submission may be required, feedback and the submission will be returned to the prime recipient for resolution. The prime recipient is ultimately responsible for certifying that the quarterly submissions are true, complete, and accurate in the GrantSolutions portal. If an error is identified or a modification needs to be made after a report is already approved by the Treasury OIG, the prime recipient will need to make the modification or correction in the next quarterly reporting cycle.

48. For forgivable loans originally reported as a grant, in a subsequent reporting period, if the recipient has not met the terms of forgiveness, should this obligation be changed to a loan in subsequent reporting period?

See question 41 above. The loan should be recorded as a loan in total until the condition is met. Only at that time will the forgivable portion of the loan be removed and recorded as a grant.

49. Is there a process to modify prior quarter numbers that change significantly due to the Department of Homeland Security’s Federal Emergency Management Agency (FEMA) Public Assistance reimbursement?

Yes, if a prime recipient determines corrections or additions to a quarterly submission are necessary and the quarterly submission has already been approved by Treasury OIG, changes to a previous quarterly submission may be made in the subsequent reporting submission. The prime recipient will not be able to re-open the previous quarter, but instead will make necessary adjustments in the open quarter. The prime recipient is ultimately responsible for certifying that the quarterly submissions are true, complete, and accurate in the GrantSolutions portal.

50. If a prime recipient reports a cost allocated to the CRF in one reporting cycle, but subsequently determines to allocate that cost to a different funding source, can the prime recipient remove the obligations and related expenditures from its CRF reporting submission?

Yes, if a prime recipient determines corrections or additions to a quarterly submission are necessary and the quarterly submission has already been approved by Treasury OIG, changes to a previous quarterly submission may be made in the subsequent reporting submission. The prime recipient will not be able to re-open the previous quarter, but instead will make necessary adjustments in the open quarter. The prime recipient is ultimately responsible for certifying that the quarterly submissions are true, complete, and accurate.
in the GrantSolutions portal.

Keep in mind, if a prime recipient has not used funds it has received to cover costs that incurred between March 1, 2020 and December 30, 2020, as required by the statute, those funds must be returned to the Treasury.

51. Do we need a budget set up for FEMA Cares Act monies received or just to track and report monies used?

The prime recipient is required to report obligations and expenditures of CRF proceeds. It is at the discretion of the prime recipient to determine a budget setup related to CRF payments.

F. Reporting Deadline

52. Can the CRF reporting submission deadline be modified to 30 days, opposed to 10 days, after the quarter end?

We do not have the authority to change the quarterly recipient reporting deadline. Section 15011 of the CARES Act requires CRF reporting within 10 days after the end of each calendar quarter. Prime recipients’ GrantSolutions data will be reported to the Pandemic Response and Accountability Committee (PRAC) for display on its website.

53. Can a prime recipient request extensions in filing their quarterly reports?

Yes, requests to extend the quarterly reporting deadline should be sent to Treasury OIG at CARES@oig.treas.gov for extension approval/disapproval. These decisions will be made on a case-by-case basis and consider extenuating circumstances.

54. If a prime recipient does not close its records by 10 days after the reporting period ends, how should these costs be reported?

Record closing times vary and may not align with the GrantSolutions reporting deadlines. If a prime recipient is not able to report within 10 days after the reporting period ends, the prime recipient is responsible for submitting the missing data in the GrantSolutions portal as part of the next quarter’s reporting cycle.

G. GrantSolutions Portal

55. Is the portal still on schedule for becoming available on September 1, 2020?

Yes for most users. An upload feature will be available for select very high volume prime recipients. The upload feature will be available after September and timing of that schedule will be communicated to those select recipients.
56. If a prime recipient’s designated users already have accounts with GrantSolutions, does the prime recipient still need to submit each user’s name, title, email address, and phone number to Treasury OIG?

Yes.

57. Can portal access be granted to users if they share the same email address?

No. In order to grant portal access, each user must have a unique email address; users cannot have the same email address.

58. Can a prime recipient designate more than two preparers?

No. The GrantSolutions portal can only sustain up to three users per prime recipient: two preparers and one authorizing official.

59. Can the authorizing official also be one of the preparers?

No. The authorizing official cannot be both a designee/preparer and an authorizing official.

60. What is the best way to import data from a large number of sub-recipients?

Only the prime recipient is required to report CRF related obligations and expenditures in the GrantSolutions portal. We are currently working with GrantSolutions regarding a data upload feature. The upload feature will be available for certain prime recipients with the most sub-recipient activity. See question 55.

61. Will the portal provide a cumulated view of obligations and expenditures a prime recipient has reported?

Yes.

H. Record Retention/Audit

62. According to Treasury’s FAQs, for administrative convenience, a State can presume that all payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency and, thus, can be covered by CRF. Will Treasury OIG or the PRAC ever question the applicability of this presumption in the audit context? If so, under what circumstances?

Yes, the CARES Act provides that Treasury OIG is responsible for monitoring and oversight of the receipt, disbursement, and use of CRF payments. Documents and financial records, as
defined in the Treasury OIG memorandum *Coronavirus Relief Fund Recipient Reporting and Record Retention Requirements* must be maintained to support the use of CRF payments for when the presumption is made that payroll costs is substantially dedicated to mitigating or responding to the COVID-19 emergency. Documents should include those sufficient to support decisions made with respect to its use of CRF payments. See questions 69, 70, and 71.

63. **How far down will the audit cascade?**

The CARES Act provides that Treasury OIG is responsible for monitoring and oversight of the receipt, disbursement, and use of CRF payments. As such, all CRF payments received by the prime recipient are subject to audit. In this regard, an audit will be at the prime recipient level and may involve reviewing the prime’s sub-recipients. In the event that it is determined the prime recipient failed to comply with requirements of subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)), those funds will be recouped by Treasury OIG.

64. **If providing Small Business Assistance, do we have to receive actual documentation of the expense or business interruption? If we provide thousands of grants to small businesses and are audited, what would be need to provide to satisfy an audit?**

The prime recipient of CRF payments must maintain and make available to Treasury OIG upon request, all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended (42 U.S.C. 801(d)). Records include, but are not limited to, general ledger and subsidiary ledgers used to account for (a) the receipt of CRF payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19. The prime recipient is responsible for determining the level and detail of documentation needed from the sub-recipient of Small Business Assistance to satisfy these requirements, however, there would need to be some proof that the small business was impacted by the public health emergency and was thus eligible for the CRF funds.

65. **Is there an audit plan at this point? For example, will there be interim audits, or only after Dec 30 or final reporting? Also, do you have criteria upon which you will decide which awards to audit?**

Treasury OIG will perform monitoring of the prime recipient’s receipt, disbursements, and uses of CRF payments and has developed procedures for this purpose. There are procedures for monitoring, reviewing, and approving prime recipient’s quarterly GrantSolutions submissions. Treasury OIG will also conduct desk reviews, for which other procedures have been developed, to further evaluate the prime recipient’s documentation supporting the reported uses of CRF proceeds, as well as, results of other audits (i.e. Single Audit), among other things. The desk review may result in a site visit to the prime recipient.
for a more in-depth review. Based on results of the quarterly monitoring, desk reviews, site reviews, and our risk assessments, Treasury OIG will determine the need for a more in-depth audit. In addition to ongoing monitoring, Treasury OIG will initiate audits as deemed necessary based on other referrals and ongoing risk assessments of the prime recipients.

66. Will Treasury OIG audit the sub-recipient as part of its prime recipient audit?

Treasury OIG may audit the sub-recipient as part of its audit of the prime recipient.

67. What cost principles will Treasury OIG be applying to determine allowability of costs during audit if Subpart E of 2 CFR 200 is not applicable to this funding?

The CARES Act and the Treasury guidance and FAQs will be used as criteria for allowability of costs. According to Treasury’s FAQs, provisions of the Uniform Guidance, 2 C.F.R. sec. 200.303 regarding internal controls, 2 C.F.R. sec. 200.330 through 200.332 regarding sub-recipient monitoring and management, and subpart F regarding audit requirements are applicable to CRF payments. Subpart E is not applicable.

68. How does the CRF audit relate to Single Audit?

CRF payments are considered to be Federal financial assistance subject to the Single Audit Act (31 U.S.C. sec. 7501-7507). The related provisions of the Uniform Guidance, 2 C.F.R. sec. 200.303 regarding internal controls, sec. 200.330 through 200.332 regarding sub-recipient monitoring and management, and subpart F regarding audit requirements provides detailed information. The results of a prime recipient’s Single Audit will be evaluated as part of the Treasury OIG’s desk reviews and any audits initiated.

69. To what level of documentation will a government be held to support the reimbursement of public safety payroll that was "presumed" to be substantially dedicated to mitigating the emergency?

The recipient of CRF payments must maintain and make available to Treasury OIG upon request, all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended (42 U.S.C. 801(d)). Documents/records include payroll records and documentation that support an employee’s time dedicated to mitigating the COVID-19 health emergency for the covered period March 1 through December 30, 2020. Records include, but are not limited to (1) general and subsidiary ledgers used to account for the receipt of CRF payments and subsequent disbursements; and (2) payroll, time, and human resource records to support costs incurred for payroll expenses related to addressing the COVID-19 health
emergency. Please refer to the Treasury OIG memorandum, Coronavirus Relief Fund Reporting and Record Retention Requirements (OIG-20-021; July 2, 2020).

a. **Will government have to demonstrate/substantiate that an employee's function/duties were in fact substantially dedicated to mitigating the emergency?**

Yes, through documentation and financial records as defined above and any other documents/records that support employee’s function/duties and/or time was substantially dedicated to mitigating the COVID-19 emergency. Please refer to the Treasury OIG record retention requirements memorandum OIG-20-021 noted in response to question 69.

b. **For payroll that was accounted for in the FY2020 budget but was then “presumed” to be substantially dedicated to mitigating the emergency, will the government have to demonstrate/substantiate that an employee’s function was a substantially different use?**

Yes, the government is required to maintain documents and financial records supporting payroll substantially dedicated to mitigating the emergency to support the use of CRF payments regardless of whether the payroll was originally budgeted. Please refer to response to question 69. The Treasury OIG also requires the government to maintain budgetary records to support the fiscal years 2019 and 2020 budgets.

70. **Is the government required to perform any analysis or maintain documentation of the “substantially dedicated” conclusion for payroll expenses of public safety, public health, health care, and human service employees?**

Yes, the government is required to maintain documents and financial records supporting all payroll expenses, including payroll of public safety, public health, health care, and human service employees, substantially dedicated to mitigating the emergency. Documents should include those to support conclusions made with respect to the “substantially dedicated” use of CRF payments. If an analysis is performed, it should be supported by documentation as outlined in the record retention requirements memorandum OIG-20-021. Please refer to response to question 69.

71. **Treasury’s FAQs indicate a “State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.”**

a. **What level of documentation needs to be maintained to indicate the chief executive did not determine “specific circumstances indicate otherwise?”**
Documents and financial records, as defined in the Treasury OIG memorandum OIG-CA-20-021 must be maintained to support the use of CRF payments for when the presumption is made that payroll costs is substantially dedicated to mitigating or responding to the COVID-19 emergency. Documents should include those sufficient to support decisions made with respect to its use of CRF payments. No specific documentation of the negative assurance of the chief executive (or equivalent) is required.

b. Is the absence of documentation indicating “specific circumstances indicate otherwise” sufficient, or does an affirmative decision need to be documented?

See previous responses.

72. Are CRF funds required to be accounted for in a separate fund of the government?

At least one state thinks it should be.

These are individual management decisions, however, the documentation required above should be easily understandable by the auditors.
Contract Summary Form

Master Agreement for Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant Assistance for Skilled Nursing Facilities for Eligible Medical Expenses

SUMMARY OF SIGNIFICANT CHANGES

1. Not applicable as this is a new grant assistance contract to address financial support of skilled nursing facilities.

SUBCONTRACTORS

This contract does not currently include subcontractors or pass through to other providers.

CONTRACT OPERATING EXPENSES

This contract is a financial/fiscal pass through and does not contain a budget or provision of any services and therefore does not include administrative costs, indirect costs, or flex funds.

ALLOCATION METHODOLOGY

Allocation methodology for contracting Skilled Nursing Facilities is based upon the following:

- Percentage of each facility’s total number of licensed facility beds across participating facilities

Below is the anticipated funding allocation table for skilled nursing facilities:

<table>
<thead>
<tr>
<th>Skilled Nursing Facility</th>
<th>City</th>
<th>Licensed Beds</th>
<th>% of Total</th>
<th>Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advanced Rehab Center Of Tustin</td>
<td>Santa Ana</td>
<td>99</td>
<td>1.44%</td>
<td>$36,031.45</td>
</tr>
<tr>
<td>Alamitos West Health And Rehabilitation</td>
<td>Los Alamitos</td>
<td>150</td>
<td>2.18%</td>
<td>$54,593.10</td>
</tr>
<tr>
<td>Alta Gardens Care Center</td>
<td>Garden Grove</td>
<td>129</td>
<td>1.88%</td>
<td>$46,950.07</td>
</tr>
<tr>
<td>Anaheim Crest Nursing Center</td>
<td>Anaheim</td>
<td>83</td>
<td>1.21%</td>
<td>$30,208.18</td>
</tr>
<tr>
<td>Anaheim Healthcare Center Llc</td>
<td>Anaheim</td>
<td>250</td>
<td>3.64%</td>
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</tr>
<tr>
<td>Anaheim Terrace Care Center</td>
<td>Anaheim</td>
<td>99</td>
<td>1.44%</td>
<td>$36,031.45</td>
</tr>
<tr>
<td>Beachside Nursing Center</td>
<td>Huntington Beach</td>
<td>59</td>
<td>0.86%</td>
<td>$21,473.29</td>
</tr>
<tr>
<td>Brookdale San Juan Capistrano</td>
<td>San Juan Capistrano</td>
<td>45</td>
<td>0.66%</td>
<td>$16,377.93</td>
</tr>
<tr>
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<td>Yorba Linda</td>
<td>45</td>
<td>0.66%</td>
<td>$16,377.93</td>
</tr>
<tr>
<td>Skilled Nursing Facility</td>
<td>City</td>
<td>Licensed Beds</td>
<td>% of Total</td>
<td>Allocation</td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
<td>--------------------------</td>
<td>---------------</td>
<td>------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Buena Park Nursing Center</td>
<td>Buena Park</td>
<td>143</td>
<td>2.08%</td>
<td>$52,045.42</td>
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<td>Buena Vista Care Center</td>
<td>Anaheim</td>
<td>99</td>
<td>1.44%</td>
<td>$36,031.45</td>
</tr>
<tr>
<td>Capistrano Beach Care Center</td>
<td>Capistrano Beach</td>
<td>93</td>
<td>1.35%</td>
<td>$33,847.72</td>
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<td>Garden Grove</td>
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<td>1.44%</td>
<td>$36,031.45</td>
</tr>
<tr>
<td>Chapman Global Medical Center Dp Snf</td>
<td>Orange</td>
<td>27</td>
<td>0.39%</td>
<td>$9,826.76</td>
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<tr>
<td>Country Villa Plaza Convalescent Center</td>
<td>Santa Ana</td>
<td>145</td>
<td>2.11%</td>
<td>$52,773.33</td>
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<tr>
<td>Coventry Court Health Center</td>
<td>Anaheim</td>
<td>97</td>
<td>1.41%</td>
<td>$35,303.54</td>
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<td>Crystal Cove Care Center</td>
<td>Newport Beach</td>
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<td>1.40%</td>
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<td>1.44%</td>
<td>$36,031.45</td>
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<tr>
<td>Flagship Healthcare Center</td>
<td>Newport Beach</td>
<td>167</td>
<td>2.43%</td>
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<td>Tustin</td>
<td>42</td>
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<td>Freedom Village Healthcare Center</td>
<td>Lake Forest</td>
<td>52</td>
<td>0.76%</td>
<td>$18,925.61</td>
</tr>
<tr>
<td>French Park Care Center</td>
<td>Santa Ana</td>
<td>202</td>
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</tr>
<tr>
<td>Garden Grove Post Acute</td>
<td>Garden Grove</td>
<td>99</td>
<td>1.44%</td>
<td>$36,031.45</td>
</tr>
<tr>
<td>Garden Park Care Center</td>
<td>Garden Grove</td>
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<td>1.81%</td>
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<tr>
<td>Gordon Lane Care Center</td>
<td>Fullerton</td>
<td>99</td>
<td>1.44%</td>
<td>$36,031.45</td>
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<td>Greenfield Care Center Of Fullerton Llc</td>
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<td>1.44%</td>
<td>$36,031.45</td>
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<td>Anaheim</td>
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<td>1.44%</td>
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<td>Healthbridge Childrens Hospital Orange Dp Snf</td>
<td>Orange</td>
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<td>0.26%</td>
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<td>Buena Park</td>
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<td>1.44%</td>
<td>$36,031.45</td>
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<td>Huntington Valley Healthcare Center</td>
<td>Huntington Beach</td>
<td>144</td>
<td>2.10%</td>
<td>$52,409.38</td>
</tr>
<tr>
<td>Kindred Hospital Brea Dp Snf</td>
<td>Brea</td>
<td>38</td>
<td>0.55%</td>
<td>$13,830.25</td>
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<td>1.25%</td>
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<td>Laguna Hills Health And Rehabilitation Center</td>
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<td>City</td>
<td>Licensed Beds</td>
<td>% of Total</td>
<td>Allocation</td>
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<tr>
<td>------------------------------------------------------</td>
<td>--------------------</td>
<td>---------------</td>
<td>------------</td>
<td>--------------</td>
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<td>Leisure Court Nursing Center</td>
<td>Anaheim</td>
<td>115</td>
<td>1.67%</td>
<td>$41,854.71</td>
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<td>Manorcare Health Services Fountain Valley</td>
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<td>151</td>
<td>2.20%</td>
<td>$54,957.05</td>
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<td>Mesa Verde Post Acute Care Center</td>
<td>Costa Mesa</td>
<td>80</td>
<td>1.16%</td>
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<td>Westminster</td>
<td>99</td>
<td>1.44%</td>
<td>$36,031.45</td>
</tr>
<tr>
<td>New Orange Hills</td>
<td>Orange</td>
<td>145</td>
<td>2.11%</td>
<td>$52,773.33</td>
</tr>
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<td>Newport Subacute Healthcare Center</td>
<td>Costa Mesa</td>
<td>137</td>
<td>1.99%</td>
<td>$49,861.70</td>
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<td>97</td>
<td>1.41%</td>
<td>$35,303.54</td>
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<td>99</td>
<td>1.44%</td>
<td>$36,031.45</td>
</tr>
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<td>Anaheim</td>
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<td>1.67%</td>
<td>$41,854.71</td>
</tr>
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<td>Park Regency Care Center</td>
<td>La Habra</td>
<td>99</td>
<td>1.44%</td>
<td>$36,031.45</td>
</tr>
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<td>Park Vista At Morningside</td>
<td>Fullerton</td>
<td>73</td>
<td>1.06%</td>
<td>$26,568.64</td>
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<td>Parkview Healthcare Center</td>
<td>Anaheim</td>
<td>41</td>
<td>0.60%</td>
<td>$14,922.11</td>
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<tr>
<td>Regents Point Windcrest</td>
<td>Irvine</td>
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<td>0.86%</td>
<td>$21,473.29</td>
</tr>
<tr>
<td>Rowntree Gardens</td>
<td>Stanton</td>
<td>58</td>
<td>0.84%</td>
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<tr>
<td>Seal Beach Health And Rehabilitation Center</td>
<td>Seal Beach</td>
<td>198</td>
<td>2.88%</td>
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<td>South Coast Global Medical Center Inc Dp Snf</td>
<td>Santa Ana</td>
<td>46</td>
<td>0.67%</td>
<td>$16,741.88</td>
</tr>
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<td>South Coast Post Acute</td>
<td>Santa Ana</td>
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</tr>
<tr>
<td>St Edna Subacute And Rehabilitation Center</td>
<td>Santa Ana</td>
<td>144</td>
<td>2.10%</td>
<td>$52,409.38</td>
</tr>
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<td>Sun Mar Nursing Center</td>
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<td>1.00%</td>
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</tr>
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<td>Terrace View Care Center</td>
<td>Fullerton</td>
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<td>0.86%</td>
<td>$21,473.29</td>
</tr>
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<td>Aliso Viejo</td>
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<td>The Pavilion At Sunny Hills</td>
<td>Fullerton</td>
<td>228</td>
<td>3.32%</td>
<td>$82,981.50</td>
</tr>
<tr>
<td>Town And Country Manor</td>
<td>Santa Ana</td>
<td>95</td>
<td>1.38%</td>
<td>$34,575.62</td>
</tr>
<tr>
<td>Villa Valencia</td>
<td>Laguna Hills</td>
<td>59</td>
<td>0.86%</td>
<td>$21,473.28</td>
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<tr>
<td>Walnut Village Rehabilitation And Care Center</td>
<td>Anaheim</td>
<td>99</td>
<td>1.44%</td>
<td>$36,031.44</td>
</tr>
<tr>
<td>Skilled Nursing Facility</td>
<td>City</td>
<td>Licensed Beds</td>
<td>% of Total</td>
<td>Allocation</td>
</tr>
<tr>
<td>--------------------------------------------------------------</td>
<td>---------------</td>
<td>---------------</td>
<td>------------</td>
<td>--------------</td>
</tr>
<tr>
<td>West Anaheim Extended Care</td>
<td>Anaheim</td>
<td>138</td>
<td>2.01%</td>
<td>$50,225.64</td>
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<tr>
<td>West Anaheim Medical Center Dp Snf</td>
<td>Anaheim</td>
<td>22</td>
<td>0.32%</td>
<td>$8,006.98</td>
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<tr>
<td>Windsor Gardens Care Center Of Fullerton</td>
<td>Fullerton</td>
<td>99</td>
<td>1.44%</td>
<td>$36,031.44</td>
</tr>
<tr>
<td>Windsor Gardens Convalescent Center Of Anaheim</td>
<td>Anaheim</td>
<td>154</td>
<td>2.24%</td>
<td>$56,048.91</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>6,869</strong></td>
<td><strong>100.00%</strong></td>
<td><strong>$ 2,500,000.00</strong></td>
</tr>
</tbody>
</table>
Contract Summary Form

Master Agreement for Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant Assistance for Community Clinics for Eligible Medical Expenses

SUMMARY OF SIGNIFICANT CHANGES

1. Not applicable as this is a new grant assistance contract to address financial support of community clinics.

SUBCONTRACTORS

This contract does not currently include subcontractors or pass through to other providers.

CONTRACT OPERATING EXPENSES

This contract is a financial/fiscal pass through and does not contain a budget or provision of any services and therefore does not include administrative costs, indirect costs, or flex funds.

ALLOCATION METHODOLOGY

Allocation methodology for contracting Community Clinics is based upon the following:

- Base amount per clinic
- Tier assignment based on:
  - Number of COVID-19 PCR tests performed
  - Number of COVID-19 patients being managed

Below is the anticipated funding allocation table for community clinics:

<table>
<thead>
<tr>
<th>Clinic Name</th>
<th>Location(s)</th>
<th>Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>AltaMed Health Services Corporation</td>
<td>Anaheim, Garden Grove, Huntington Beach, Orange, Santa Ana</td>
<td>$166,086.95</td>
</tr>
<tr>
<td>Buena Park Community Clinic</td>
<td>Buena Park</td>
<td>$26,086.96</td>
</tr>
<tr>
<td>Camino Health Centers</td>
<td>Lake Forest, San Clemente, San Juan Capistrano</td>
<td>$83,944.10</td>
</tr>
<tr>
<td>Central City Health Centers</td>
<td>Orange</td>
<td>$64,420.29</td>
</tr>
<tr>
<td>CHOC Foundation</td>
<td>Anaheim, Garden Grove, Stanton</td>
<td>$108,944.10</td>
</tr>
<tr>
<td>Center for Inherited Blood Disorders</td>
<td>Santa Ana, Orange, Garden Grove</td>
<td>$51,086.96</td>
</tr>
<tr>
<td>Families Together Orange County</td>
<td>Tustin, Garden Grove</td>
<td>$166,086.95</td>
</tr>
<tr>
<td>Clinic Name</td>
<td>Location(s)</td>
<td>Allocation</td>
</tr>
<tr>
<td>-------------------------------------------------------</td>
<td>--------------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>North Orange County Regional Health Foundation</td>
<td>Fullerton</td>
<td>$83,944.10</td>
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<tr>
<td>Friends of Family</td>
<td>La Habra, Tustin</td>
<td>$83,944.10</td>
</tr>
<tr>
<td>Hurtt Family Health Clinic</td>
<td>Tustin</td>
<td>$66,086.96</td>
</tr>
<tr>
<td>Korean Community Services</td>
<td>Buena Park</td>
<td>$83,944.10</td>
</tr>
<tr>
<td>Laguna Beach Community Clinic</td>
<td>Laguna Beach</td>
<td>$64,420.29</td>
</tr>
<tr>
<td>St. Jean de Lestonnac Free Clinic</td>
<td>Orange, Fullerton, Los Alamitos, Garden Grove, Irvine</td>
<td>$26,086.96</td>
</tr>
<tr>
<td>Livingstone Community Development Corporation</td>
<td>Stanton</td>
<td>$64,420.29</td>
</tr>
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<td>Nhan Hoa Comprehensive Healthcare Clinic</td>
<td>Garden Grove</td>
<td>$108,944.10</td>
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<tr>
<td>Obria Medical Clinics of Southern California</td>
<td>Santa Ana</td>
<td>$26,086.96</td>
</tr>
<tr>
<td>Serve The People</td>
<td>Santa Ana</td>
<td>$141,086.95</td>
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<tr>
<td>Share Our Selves</td>
<td>Costa Mesa, Mission Viejo, Newport Beach, Santa Ana</td>
<td>$83,944.10</td>
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<td>Reproductive Health Care Center</td>
<td>Fullerton</td>
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<td>Southland Integrated Services</td>
<td>Garden Grove, Anaheim, Santa Ana, Westminster</td>
<td>$64,420.29</td>
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<td>St. Jude Neighborhood Health</td>
<td>Fullerton</td>
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<td>UCI</td>
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<td>Vista Community Clinics</td>
<td>La Habra</td>
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<tr>
<td><strong>TOTAL</strong></td>
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Continuation or Deletion Request

Date: 10/19/2020
To: Clerk of the Board of Supervisors
From: Clayton Chau, Agency Director, Health Care Agency
Re: ASR Control #: S16F, Meeting Date 10/20/20 Agenda Item No. # S16F
Subject: Contract for Sobering Center Services

☐ Request to continue Agenda Item No. # S16F to the 11/3/2020 Board Meeting.

Comments: Health Care Agency would like to continue the Sobering Center Services ASR to BOS 11/3 to allow HCA more time to provide additional program details to the Board.

☐ Request deletion of Agenda Item No. #

Comments:
October 15, 2020

To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer
Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the October 20, 2020, Board Hearing.

Agency: Health Care Agency
Subject: Contract for Sobering Center Services
Districts: 3

Reason for supplemental: The County Executive Office is requesting this Supplemental Item be placed on the October 20, 2020, Board agenda to expedite implementation of the first sobering center services in Orange County and allow for Be Well partner agencies to collaborate with the selected service provider. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: [Signature]
Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel
SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 10/20/2020
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 3
SUBMITTING AGENCY/DEPARTMENT: Health Care Agency
DEPARTMENT HEAD REVIEW: 
DEPARTMENT CONTACT PERSON(S): Annette Mugrditchian (714) 834-5026
Jeff Nagel (714) 834-7024

SUBJECT: Contract for Sobering Center Services

CEO Concur
Michelle Aguirre

County Counsel Review

Clerk of the Board
Discussion

Budgeted: Yes  Current Year Cost: $650,949  Annual Cost: FY 2021-22 $1,142,502
FY 2022-23 $1,147,481

Staffing Impact: No  
# of Positions: 

Current Fiscal Year Revenue: 

Funding Source: FED: 100% (Substance Abuse Prevention and Treatment Block Grant)

Sole Source: No
County Audit in last 3 years: No

Prior Board Action: N/A

RECOMMENDED ACTION(S)

1. Approve the selection of and Contract with Telecare Corporation for provision of Sobering Center Services, for the term of November 1, 2020, through June 30, 2023, for an amount not to exceed $2,940,932 renewable for two additional one-year terms.

2. Pursuant to Contract Policy Manual Section 3.4-114, authorize the County Procurement Officer or authorized Deputy, to exercise a contingency contract cost increase not to exceed a total of 10 percent of the contract amount for the first year of the contract, for the entire term of the contract, including renewals, and within the scope of work set forth in the contract. The use of this contingency contract cost increase is subject to approval requirements established by the County Procurement Officer.
3. Authorize the County Procurement Officer or authorized Deputy to execute the contract as referenced in the Recommended Actions above.

SUMMARY:
Approval of the Contract with Telecare Corporation for provision of Sobering Center Services will allow monitoring services to be provided to intoxicated adults in a safe and supervised manner.

BACKGROUND INFORMATION:
The Health Care Agency (HCA) released a Request for Proposal (RFP) for Sobering Center Services on June 16, 2020, via BidSync. There were two responders to the RFP: Telecare Corporation (Telecare) and Mental Health Systems. An evaluation panel consisting of two HCA representatives and three non-HCA representatives evaluated the proposals and recommended award of the contract to Telecare for provision of Sobering Center Services. HCA staff have conducted due diligence on the vendor. Reference checks were satisfactory and were completed with Santa Clara County Behavioral Health Services Department, Alameda County Office of Collaborative Court Services and Kern County Behavioral Health and Recovery Services. This sobering center will be the first sobering center in Orange County.

Scope of Services
The Sobering Center will serve adults 18 years and older that present intoxicated. Services will be provided in a 15-bed facility located in the city of Orange and will be open 24 hours a day, seven days a week. All referrals to the Sobering Center will come from either the HCA Outreach and Engagement team, the Orange County Sheriff’s Department or the Orange Police Department. This facility will provide a safe place for individuals who would otherwise be incarcerated and/or admitted to an emergency room for public intoxication. Telecare’s medical director will establish and institute protocols to screen clients for meeting criteria for this service. Services will include the screening and monitoring for signs and symptoms of intoxication in order to keep clients safe. The average length of stay is six to eight hours. It may increase due to an individual’s specific need or in linking clients to treatment, depending on the case. Clients will be referred to services such as withdrawal management, outpatient or residential treatment services and/or medical services, at the time of discharge. Clients will be also be referred to support meetings and other community services.

Performance Outcomes
The following are the outcome measures established by both HCA and the provider.

1. Average transfer rate of clients to services.
2. Number of clients served.
3. Number of first time admissions.
4. Average vacancy rate.
5. Percentage of clients who accepted a referral appointment upon discharge.
6. Percentage of clients who complete a relapse prevention plan prior to discharge.
7. Percentage of clients who are reached through a seven-day follow-up phone call.
8. Percentage of clients who successfully complete referral appointment.
9. Percentage of clients who are reached through a 30-day follow-up phone call.

This item is coming to the Board of Supervisors (Board) with less than 30 days prior to execution of the Contract in order to expedite the implementation of this new program that will fill an unmet need in Orange County. The Contract was brought to the Board at the earliest Board date available.
HCA requests that the Board approve the Contract with Telecare for provision of Sobering Center Services as referenced in the Recommended Actions.

**FINANCIAL IMPACT:**
Appropriations for this Contract are included in the Budget Control 042 FY 2020-21 Budget and will be included in the budgeting process for future years.

**STAFFING IMPACT:**
N/A

**ATTACHMENT(S):**
Attachment A - Contract MA-042-21010448 for Sobering Center Services
Attachment B - Contract Summary Form
CONTRACT FOR PROVISION OF
SOBERING CENTER SERVICES
BETWEEN
COUNTY OF ORANGE
AND
TELECARE CORPORATION
NOVEMBER 1, 2020 THROUGH JUNE 30, 2023

THIS CONTRACT entered into this 1st day of November 2020, (effective date), is by and between the COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and TELECARE CORPORATION., a California for profit Corporation (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein individually as “Party” or collectively as “Parties.” This Contract shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).

W IT N E S S E T H:

WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Sobering Center Services described herein to the residents of Orange County; and

WHEREAS, CONTRACTOR is agreeable to the rendering of such services on the terms and conditions hereinafter set forth:

NOW, THEREFORE, in consideration of the mutual covenants, benefits, and promises contained herein, COUNTY and CONTRACTOR do hereby agree as follows:

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<td>I. Acronyms</td>
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<td>II. Alteration of Terms</td>
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<td>III. Assignment of Debts</td>
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<td>IV. Compliance</td>
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<td>V. Confidentiality</td>
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<td>VI. Conflict of Interest</td>
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<td>VII. Cost Report</td>
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<td>VIII. Debarment and Suspension Certification</td>
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<td>IX. Delegation, Assignment and Subcontracts</td>
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<td>X. Dispute Resolution</td>
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<td>XI. Employee Eligibility Verification</td>
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<td>XII. Equipment</td>
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<td>XIII. Facilities, Payments and Services</td>
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<td>XIV. Indemnification and Insurance</td>
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<td>XV. Inspections and Audits</td>
<td>24</td>
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<td>XVI. Licenses and Laws</td>
<td>25</td>
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<td>XVII. Literature, Advertisements and Social Media</td>
<td>27</td>
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<tr>
<td>XVIII. Maximum Obligation</td>
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<td>XIX. Minimum Wage Laws</td>
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<td>XX. Nondiscrimination</td>
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<td>XXI. Notices</td>
<td>30</td>
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<td>XXII. Notification of Death</td>
<td>31</td>
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<td>XXIII. Notification of Public Events and Meetings</td>
<td>32</td>
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<td>XXIV. Patient’s Rights</td>
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<td>XXV. Records Management and Maintenance</td>
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<td>XXVI. Research and Publication</td>
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<td>XXVII. Revenue</td>
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<td>XXVIII. Severability</td>
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<td>XXIX. Special Provisions</td>
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<td>XXX. Status of Contractor</td>
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<td>XXXI. Term</td>
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<td>XXXII. Termination</td>
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TABLE OF CONTENTS (Cont.)

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<th>PAGE</th>
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<td>XXXIII. Third Party Beneficiary</td>
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<td>XXXIV. Waiver of Default or Breach</td>
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<tr>
<td>Signature Page</td>
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</tbody>
</table>

EXHIBIT A

| I. Common Terms and Definitions                | 1    |
| II. Budget                                     | 2    |
| III. Payments                                  | 3    |
| IV. Reports                                    | 4    |
| V. General Requirements                        | 5    |
| VI. Services                                   | 8    |
| VII. Staffing                                  | 9    |

EXHIBIT B

| I. Business Associate Contract                  | 1    |

EXHIBIT C

| I. Personal Information Privacy and Security Contract | 1    |
REFERENCED CONTRACT PROVISIONS

Term: November 1, 2020 through June 30, 2023
Period One means the period from November 1, 2020 through June 30, 2021
Period Two means the period from July 1, 2021 through June 30, 2022
Period Three means the period from July 1, 2022 through June 30, 2023

Maximum Obligation:  
Period One Maximum Obligation: $  650,949  
Period Two Maximum Obligation: 1,142,502  
Period Three Maximum Obligation: 1,147,481  
TOTAL MAXIMUM OBLIGATION: $2,940,932

Basis for Reimbursement: Actual Cost
Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: 07-654-7363
CONTRACTOR TAX ID Number: 94-1735271

Federal Grant Funding:

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<th>FAIN#</th>
<th>Program/Service Title</th>
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<th>Federal Award Amount</th>
<th>Federal Award Indirect Rate</th>
<th>R&amp;D Award (Y/N)</th>
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<td>Substance Abuse Prevention and Treatment Block Grant</td>
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<td>FY 20/21</td>
<td>$19,276,499</td>
<td>25.45%</td>
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Notices to COUNTY and CONTRACTOR:

COUNTY: County of Orange
        Health Care Agency
        Contract Services
        405 West 5th Street, Suite 600
        Santa Ana, CA 92701-4637

CONTRACTOR: Telecare Corporation
            1080 Marina Village Parkway, Suite 100
            Alameda, CA 94501
            Leslie Davis
            Senior Vice President, Chief Financial Officer
            ldavis@telecarecorp.com
I. **ACRONYMS**

The following standard definitions are for reference purposes only and may or may not apply in their entirety throughout this Contract:

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<thead>
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<th>Acronym</th>
<th>Description</th>
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</thead>
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<tr>
<td>AES</td>
<td>Advanced Encryption Standard</td>
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<tr>
<td>ARRA</td>
<td>American Recovery and Reinvestment Act</td>
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<tr>
<td>ASAM</td>
<td>American Society of Addiction Medicine</td>
</tr>
<tr>
<td>ASRS</td>
<td>Alcohol and Drug Programs Reporting System</td>
</tr>
<tr>
<td>BCP</td>
<td>Business Continuity Plan</td>
</tr>
<tr>
<td>CalOMS</td>
<td>California Outcomes Measurement System</td>
</tr>
<tr>
<td>CAP</td>
<td>Corrective Action Plan</td>
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<td>California Civil Code</td>
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<tr>
<td>CCR</td>
<td>California Code of Regulations</td>
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<td>CD/DVD</td>
<td>Compact Disc/Digital Video or Versatile Disc</td>
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<tr>
<td>CEO</td>
<td>County Executive Office</td>
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<tr>
<td>CESI</td>
<td>Client Evaluation of Self at Intake</td>
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<td>CEST</td>
<td>Client Evaluation of Self and Treatment</td>
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<td>California Health and Human Services Agency</td>
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<td>Code of Federal Regulations</td>
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II. ALTERATION OF TERMS

A. This Contract, together with Exhibit(s) A, B, and C, attached hereto and incorporated herein, fully expresses the complete understanding of COUNTY and CONTRACTOR with respect to the subject matter of this Contract.

B. Unless otherwise expressly stated in this Contract, no addition to, or alteration of, the terms of this Contract or any Exhibits, whether written or verbal, made by the parties, or their officers, employees or agents shall be valid unless made in the form of a written amendment to this Contract, which has been formally approved and executed by both parties.

III. ASSIGNMENT OF DEBTS

Unless this Contract is followed without interruption by another Contract between the Parties hereto for the same services and substantially the same scope, at the termination of this Contract, CONTRACTOR shall assign to COUNTY any debts owing to CONTRACTOR by or on behalf of persons receiving services pursuant to this Contract. CONTRACTOR shall immediately notify by mail each of the respective Parties, specifying the date of assignment, the County of Orange as assignee, and the address to which payments are to be sent. Payments received by CONTRACTOR from or on behalf of said persons, shall be immediately given to COUNTY.

IV. COMPLIANCE

A. COMPLIANCE PROGRAM - ADMINISTRATOR has established a Compliance Program for the purpose of ensuring adherence to all rules and regulations related to federal and state health care programs.

1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the policies and procedures relating to ADMINISTRATOR’s Compliance Program, Code of Conduct and access to General Compliance and Annual Provider Trainings.

2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own compliance program, code of conduct and any compliance related policies and procedures. CONTRACTOR’s compliance program, code of conduct and any related policies and procedures shall be verified by ADMINISTRATOR’s Compliance Department to ensure they include all required elements by ADMINISTRATOR’s Compliance Officer as described in this Compliance Paragraph to this Contract. These elements include:

   a. Designation of a Compliance Officer and/or compliance staff.
   b. Written standards, policies and/or procedures.
   c. Compliance related training and/or education program and proof of completion.
   d. Communication methods for reporting concerns to the Compliance Officer.
   e. Methodology for conducting internal monitoring and auditing.
   f. Methodology for detecting and correcting offenses.
g. Methodology/Procedure for enforcing disciplinary standards.

3. If CONTRACTOR does not provide proof of its own compliance program to ADMINISTRATOR, CONTRACTOR shall internally comply with ADMINISTRATOR’s Compliance Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of execution of this Contract a signed acknowledgement that CONTRACTOR will internally comply with ADMINISTRATOR’s Compliance Program and Code of Conduct. CONTRACTOR shall have as many Covered Individuals it determines necessary complete ADMINISTRATOR’s annual compliance training to ensure proper compliance.

4. If CONTRACTOR elects to have its own compliance program, code of conduct and any Compliance related policies and procedures reviewed by ADMINISTRATOR, then CONTRACTOR shall submit a copy of its compliance program, code of conduct and all relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of execution of this Contract. ADMINISTRATOR’s Compliance Officer, or designee, shall review said documents within a reasonable time, which shall not exceed forty-five (45) calendar days, and determine if contractor’s proposed compliance program and code of conduct contain all required elements to the ADMINISTRATOR’s satisfaction as consistent with the HCA’s Compliance Program and Code of Conduct. ADMINISTRATOR shall inform CONTRACTOR of any missing required elements and CONTRACTOR shall revise its compliance program and code of conduct to meet ADMINISTRATOR’s required elements within thirty (30) calendar days after ADMINISTRATOR’s Compliance Officer’s determination and resubmit the same for review by the ADMINISTRATOR.

5. Upon written confirmation from ADMINISTRATOR’s compliance officer that the CONTRACTOR’s compliance program, code of conduct and any compliance related policies and procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals relative to this Contract are made aware of CONTRACTOR’s compliance program, code of conduct, related policies and procedures and contact information for the ADMINISTRATOR’s Compliance Program.

B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or retained to provide services related to this Contract monthly to ensure that they are not designated as Ineligible Persons, as pursuant to this Contract. Screening shall be conducted against the General Services Administration's Excluded Parties List System or System for Award Management, the Health and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the California Medi-Cal Suspended and Ineligible Provider List, the Social Security Administration’s Death Master File at date of employment, and/or any other list or system as identified by ADMINISTRATOR.

1. For purposes of this Compliance Paragraph, Covered Individuals includes all employees, interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items or services or who perform billing or coding functions on behalf of ADMINISTRATOR. CONTRACTOR shall ensure that all Covered Individuals relative to this Contract are made aware of
ADMINISTRATOR’s Compliance Program, Code of Conduct and related policies and procedures (or CONTRACTOR’s own compliance program, code of conduct and related policies and procedures if CONTRACTOR has elected to use its own).

2. An Ineligible Person shall be any individual or entity who:
   a. is currently excluded, suspended, debarred or otherwise ineligible to participate in federal and state health care programs; or
   b. has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the federal and state health care programs after a period of exclusion, suspension, debarment, or ineligibility.

3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement. CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this Contract.

4. CONTRACTOR shall screen all current Covered Individuals and subcontractors monthly to ensure that they have not become Ineligible Persons. CONTRACTOR shall also request that its subcontractors use their best efforts to verify that they are eligible to participate in all federal and State of California health programs and have not been excluded or debarred from participation in any federal or state health care programs, and to further represent to CONTRACTOR that they do not have any Ineligible Person in their employ or under contract.

5. Covered Individuals shall be required to disclose to CONTRACTOR immediately any debarment, exclusion, or other event that makes the Covered Individual an Ineligible Person. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual providing services directly relative to this Contract becomes debarred, excluded, or otherwise becomes an Ineligible Person.

6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal and state funded health care services by contract with COUNTY in the event that they are currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person, CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY business operations related to this Contract.

7. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or entity is currently excluded, suspended or debarred, or is identified as such after being sanction screened. Such individual or entity shall be immediately removed from participating in any activity associated with this Contract. ADMINISTRATOR will determine appropriate repayment from, or sanction(s) to CONTRACTOR for services provided by ineligible person or individual. CONTRACTOR shall promptly return any overpayments within forty-five (45) business days after the overpayment is verified by ADMINISTRATOR.

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C. GENERAL COMPLIANCE TRAINING - ADMINISTRATOR shall make General Compliance Training available to Covered Individuals.

1. CONTRACTORS that have acknowledged to comply with ADMINISTRATOR’s Compliance Program shall use its best efforts to encourage completion by all Covered Individuals; provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated representative to complete the General Compliance Training when offered.

2. Such training will be made available to Covered Individuals within thirty (30) calendar days of employment or engagement.

3. Such training will be made available to each Covered Individual annually.

4. ADMINISTRATOR will track training completion while CONTRACTOR shall provide copies of training certification upon request.

5. Each Covered Individual attending a group training shall certify, in writing, attendance at compliance training. ADMINISTRATOR shall provide instruction on group training completion while CONTRACTOR shall retain the training certifications. Upon written request by ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

D. SPECIALIZED PROVIDER TRAINING – ADMINISTRATOR shall make Specialized Provider Training, where appropriate, available to Covered Individuals.

1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered Individuals relative to this Contract. This includes compliance with federal and state healthcare program regulations and procedures or instructions otherwise communicated by regulatory agencies; including the Centers for Medicare and Medicaid Services or their agents.

2. Such training will be made available to Covered Individuals within thirty (30) calendar days of employment or engagement.

3. Such training will be made available to each Covered Individual annually.

4. ADMINISTRATOR will track online completion of training while CONTRACTOR shall provide copies of the certifications upon request.

5. Each Covered Individual attending a group training shall certify, in writing, attendance at compliance training. ADMINISTRATOR shall provide instructions on completing the training in a group setting while CONTRACTOR shall retain the certifications. Upon written request by ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

E. MEDI-CAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care claims, billings and/or invoices for same are prepared and submitted in an accurate and timely manner and are consistent with federal, state and county laws and regulations. This includes compliance with federal and state health care program regulations and procedures or instructions otherwise communicated by regulatory agencies including the Centers for Medicare and Medicaid Services or their agents.
2. CONTRACTOR shall not submit any false, fraudulent, inaccurate and/or fictitious claims for payment or reimbursement of any kind.

3. CONTRACTOR shall bill only for those eligible services actually rendered which are also fully documented. When such services are coded, CONTRACTOR shall use proper billing codes which accurately describes the services provided and must ensure compliance with all billing and documentation requirements.

4. CONTRACTOR shall act promptly to investigate and correct any problems or errors in coding of claims and billing, if and when, any such problems or errors are identified.

5. CONTRACTOR shall promptly return any overpayments within forty-five (45) business days after the overpayment is verified by the ADMINISTRATOR.

6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and participate in the quality improvement activities developed in the implementation of the Quality Management Program.

7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR’s Cultural Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9, §1810.410.subds. (c)- (d).

F. Failure to comply with the obligations stated in this Compliance Paragraph shall constitute a breach of the Contract on the part of CONTRACTOR and grounds for COUNTY to terminate the Contract. Unless the circumstances require a sooner period of cure, CONTRACTOR shall have thirty (30) calendar days from the date of the written notice of default to cure any defaults grounded on this Compliance Paragraph prior to ADMINISTRATOR’s right to terminate this Contract on the basis of such default.

V. CONFIDENTIALITY

A. CONTRACTOR shall maintain the confidentiality of all records, including billings and any audio and/or video recordings, in accordance with all applicable federal, state and county codes and regulations, including 42 USC §290dd–2 (Confidentiality of Records), as they now exist or may hereafter be amended or changed.

B. Prior to providing any services pursuant to this Contract, all members of the Board of Directors or its designee or authorized agent, employees, consultants, subcontractors, volunteers and interns of the CONTRACTOR shall agree, in writing, with CONTRACTOR to maintain the confidentiality of any and all information and records which may be obtained in the course of providing such services. This Contract shall specify that it is effective irrespective of all subsequent resignations or terminations of CONTRACTOR members of the Board of Directors or its designee or authorized agent, employees, consultants, subcontractors, volunteers and interns.
C. CONTRACTOR shall have in effect a system to protect patient records from inappropriate disclosure in connection with activity funded under this Contract. This system shall include provisions for employee education on the confidentiality requirements, and the fact that disciplinary action may occur upon inappropriate disclosure. CONTRACTOR agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of all confidential information that it creates, receives, maintains or transmits. CONTRACTOR shall provide ADMINISTRATOR with information concerning such safeguards.

D. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR, or its subcontractors or agents in violation of the applicable state and federal regulations regarding confidentiality.

E. CONTRACTOR shall monitor compliance with the above provisions on confidentiality and security, and shall include them in all subcontracts.

F. CONTRACTOR shall notify ADMINISTRATOR within twenty–four (24) hours during a work week, of any suspected or actual breach of its computer system.

VI. CONFLICT OF INTEREST

CONTRACTOR shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with COUNTY interests. In addition to CONTRACTOR, this obligation shall apply to CONTRACTOR’s employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. CONTRACTOR’s efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence COUNTY staff or elected officers in the performance of their duties.

VII. COST REPORT

A. CONTRACTOR shall submit separate individual and/or consolidated Cost Reports for Period One, Period Two, and Period Three, or for a portion thereof, to COUNTY no later than forty-five (45) calendar days following the period for which they are prepared or termination of this Contract. CONTRACTOR shall prepare the individual and/or consolidated Cost Report in accordance with all applicable federal, state and COUNTY requirements, GAAP and the Special Provisions Paragraph of this Contract. CONTRACTOR shall allocate direct and indirect costs to and between programs, cost centers, services, and funding sources in accordance with such requirements and consistent with prudent business practice, which costs and allocations shall be supported by source documentation maintained by CONTRACTOR, and available at any time to ADMINISTRATOR upon reasonable notice. In the event CONTRACTOR has multiple Contracts for mental health services that are administered by HCA, consolidation of the individual Cost Reports into a single consolidated Cost Report may be required, as
stipulated by ADMINISTRATOR. CONTRACTOR shall submit the consolidated Cost Report to COUNTY no later than five (5) business days following approval by ADMINISTRATOR of all individual Cost Reports to be incorporated into a consolidated Cost Report.

1. If CONTRACTOR fails to submit an accurate and complete individual and/or consolidated Cost Report within the time period specified above, ADMINISTRATOR shall have sole discretion to impose one or both of the following:

   a. CONTRACTOR may be assessed a late penalty of five hundred dollars ($500) for each business day after the above specified due date that the accurate and complete individual and/or consolidated Cost Report is not submitted. Imposition of the late penalty shall be at the sole discretion of the ADMINISTRATOR. The late penalty shall be assessed separately on each outstanding individual and/or consolidated Cost Report due COUNTY by CONTRACTOR.

   b. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR pursuant to any or all Contracts between COUNTY and CONTRACTOR until such time that the accurate and complete individual and/or consolidated Cost Report is delivered to ADMINISTRATOR.

2. CONTRACTOR may request, in advance and in writing, an extension of the due date of the individual and/or consolidated Cost Report setting forth good cause for justification of the request. Approval of such requests shall be at the sole discretion of ADMINISTRATOR and shall not be unreasonably denied. In no case shall extensions be granted for more than seven (7) calendar days.

3. In the event that CONTRACTOR does not submit an accurate and complete individual and/or consolidated Cost Report within one hundred and eighty (180) calendar days following the termination of this Contract, and CONTRACTOR has not entered into a subsequent or new Contract for any other services with COUNTY, then all amounts paid to CONTRACTOR by COUNTY during the term of the Contract shall be immediately reimbursed to COUNTY.

B. The individual and/or consolidated Cost Report prepared for each period shall be the final financial and statistical report submitted by CONTRACTOR to COUNTY, and shall serve as the basis for final settlement to CONTRACTOR for that period. CONTRACTOR shall document that costs are reasonable and allowable and directly or indirectly related to the services to be provided hereunder. The individual and/or consolidated Cost Report shall be the final financial record for subsequent audits, if any.

C. Final settlement shall be based upon the actual and reimbursable costs for services hereunder, less applicable revenues and any late penalty, not to exceed COUNTY’s Maximum Obligation as set forth in the Referenced Contract Provisions of this Contract. CONTRACTOR shall not claim expenditures to COUNTY which are not reimbursable pursuant to applicable federal, state and COUNTY laws, regulations and requirements. Any payment made by COUNTY to CONTRACTOR, which is subsequently determined to have been for an unreimbursable expenditure or service, shall be repaid by CONTRACTOR to COUNTY in cash, or other authorized form of payment, within thirty (30) calendar days of submission of the individual and/or consolidated Cost Report or COUNTY may elect
to reduce any amount owed CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

D. If the individual and/or consolidated Cost Report indicates the actual and reimbursable costs of services provided pursuant to this Contract, less applicable revenues and late penalty, are lower than the aggregate of interim monthly payments to CONTRACTOR, CONTRACTOR shall remit the difference to COUNTY. Such reimbursement shall be made, in cash, or other authorized form of payment, with the submission of the individual and/or consolidated Cost Report. If such reimbursement is not made by CONTRACTOR within thirty (30) calendar days after submission of the individual and/or consolidated Cost Report, COUNTY may, in addition to any other remedies, reduce any amount owed CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

E. If the individual and/or consolidated Cost Report indicates the actual and reimbursable costs of services provided pursuant to this Contract, less applicable revenues and late penalty, are higher than the aggregate of interim monthly payments to CONTRACTOR, COUNTY shall pay CONTRACTOR the difference, provided such payment does not exceed the Maximum Obligation of COUNTY.

F. Unless approved by ADMINISTRATOR, costs that exceed the Statewide Maximum Allowance (SMA) rates per Medi-Cal Unit of Services, as determined by the DHCS, shall be unreimbursable to CONTRACTOR.

G. In the event that CONTRACTOR is authorized to retain unanticipated revenues as described in the Budget Paragraph of Exhibit A to this Contract, CONTRACTOR shall specify in the individual and/or consolidated Cost Report the services rendered with such revenues.

H. All Cost Reports shall contain the following attestation, which may be typed directly on or attached to the Cost Report:

"I HEREBY CERTIFY that I have executed the accompanying Cost Report and supporting documentation prepared by ________ for the cost report period beginning ________ and ending ________ and that, to the best of my knowledge and belief, costs reimbursed through this Contract are reasonable and allowable and directly or indirectly related to the services provided and that this Cost Report is a true, correct, and complete statement from the books and records of (provider name) in accordance with applicable instructions, except as noted. I also hereby certify that I have the authority to execute the accompanying Cost Report.

Signed ________________________________
Name ________________________________
Title ________________________________
Date ________________________________"
VIII. DEBARMENT AND SUSPENSION CERTIFICATION

A. CONTRACTOR certifies that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency.

2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

3. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state, or local governmental entity with commission of any of the offenses enumerated in Subparagraph A.2. above.

4. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

5. Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR Part 9, Subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction unless authorized by the State of California.

6. Shall include without modification, the clause titled “Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transaction,” (i.e., transactions with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 2 CFR Part 376.

B. The terms and definitions of this paragraph have the meanings set out in the Definitions and Coverage sections of the rules implementing 51 F.R. 6370.

IX. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS

A. CONTRACTOR may not delegate the obligations hereunder, either in whole or in part, without prior written consent of COUNTY. CONTRACTOR shall provide written notification of CONTRACTOR’s intent to delegate the obligations hereunder, either in whole or part, to ADMINISTRATOR not less than sixty (60) calendar days prior to the effective date of the delegation. Any attempted assignment or delegation in derogation of this paragraph shall be void.

B. CONTRACTOR agrees that if there is a change or transfer in ownership of CONTRACTOR’s business prior to completion of this Contract, and COUNTY agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume CONTRACTOR’s duties and obligations contained in this Contract and complete them to the
satisfaction of COUNTY. CONTRACTOR may not assign the rights hereunder, either in whole or in part, without the prior written consent of COUNTY.

1. If CONTRACTOR is a nonprofit organization, any change from a nonprofit corporation to any other corporate structure of CONTRACTOR, including a change in more than fifty percent (50%) of the composition of the Board of Directors within a two (2) month period of time, shall be deemed an assignment for purposes of this paragraph, unless CONTRACTOR is transitioning from a community clinic/health center to a Federally Qualified Health Center and has been so designated by the Federal Government. Any attempted assignment or delegation in derogation of this subparagraph shall be void.

2. If CONTRACTOR is a for-profit organization, any change in the business structure, including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a change in fifty percent (50%) or more of Board of Directors or any governing body of CONTRACTOR at one time shall be deemed an assignment pursuant to this paragraph. Any attempted assignment or delegation in derogation of this subparagraph shall be void.

3. If CONTRACTOR is a governmental organization, any change to another structure, including a change in more than fifty percent (50%) of the composition of its governing body (i.e. Board of Supervisors, City Council, School Board) within a two (2) month period of time, shall be deemed an assignment for purposes of this paragraph. Any attempted assignment or delegation in derogation of this subparagraph shall be void.

4. Whether CONTRACTOR is a nonprofit, for-profit, or a governmental organization, CONTRACTOR shall provide written notification of CONTRACTOR’s intent to assign the obligations hereunder, either in whole or part, to ADMINISTRATOR not less than sixty (60) calendar days prior to the effective date of the assignment.

5. Whether CONTRACTOR is a nonprofit, for-profit, or a governmental organization, CONTRACTOR shall provide written notification within thirty (30) calendar days to ADMINISTRATOR when there is change of less than fifty percent (50%) of Board of Directors or any governing body of CONTRACTOR at one time.

6. COUNTY reserves the right to immediately terminate the Contract in the event COUNTY determines, in its sole discretion, that the assignee is not qualified or is otherwise unacceptable to COUNTY for the provision of services under the Contract.

C. CONTRACTOR’s obligations undertaken pursuant to this Contract may be carried out by means of subcontracts, provided such subcontractors are approved in advance by ADMINISTRATOR, meet the requirements of this Contract as they relate to the service or activity under subcontract, include any provisions that ADMINISTRATOR may require, and are authorized in writing by ADMINISTRATOR prior to the beginning of service delivery.

1. After approval of the subcontractor, ADMINISTRATOR may revoke the approval of the subcontractor upon five (5) calendar days’ written notice to CONTRACTOR if the subcontractor...
subsequently fails to meet the requirements of this Contract or any provisions that ADMINISTRATOR has required. ADMINISTRATOR may disallow subcontractor expenses reported by CONTRACTOR.

2. No subcontract shall terminate or alter the responsibilities of CONTRACTOR to COUNTY pursuant to this Contract.

3. ADMINISTRATOR may disallow, from payments otherwise due CONTRACTOR, amounts claimed for subcontracts not approved in accordance with this paragraph.

4. This provision shall not be applicable to service agreements usually and customarily entered into by CONTRACTOR to obtain or arrange for supplies, technical support, and professional services provided by consultants.

D. CONTRACTOR shall notify COUNTY in writing of any change in the CONTRACTOR’s status with respect to name changes that do not require an assignment of the Contract. CONTRACTOR is also obligated to notify COUNTY in writing if the CONTRACTOR becomes a party to any litigation against COUNTY, or a party to litigation that may reasonably affect the CONTRACTOR’s performance under the Contract, as well as any potential conflicts of interest between CONTRACTOR and County that may arise prior to or during the period of Contract performance. While CONTRACTOR will be required to provide this information without prompting from COUNTY any time there is a change in CONTRACTOR’s name, conflict of interest or litigation status, CONTRACTOR must also provide an update to COUNTY of its status in these areas whenever requested by COUNTY.

X. DISPUTE RESOLUTION

A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the CONTRACTOR and the ADMINISTRATOR, such matter shall be brought to the attention of the COUNTY Purchasing Agency by way of the following process:

1. CONTRACTOR shall submit to the COUNTY Purchasing Agency a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless COUNTY, on its own initiative, has already rendered such a final decision.

2. CONTRACTOR’s written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, CONTRACTOR shall include with the demand a written statement signed by an authorized representative indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which CONTRACTOR believes COUNTY is liable.

B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, CONTRACTOR agrees to proceed diligently with the performance of services secured via this Contract, including the delivery of goods and/or provision of services. CONTRACTOR’s failure to proceed diligently shall be considered a material breach of this Contract.
C. Any final decision of COUNTY shall be expressly identified as such, shall be in writing, and shall be signed by a COUNTY Deputy Purchasing Agent or designee. If COUNTY fails to render a decision within ninety (90) calendar days after receipt of CONTRACTOR's demand, it shall be deemed a final decision adverse to CONTRACTOR's contentions.

D. This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.

XI. EMPLOYEE ELIGIBILITY VERIFICATION

CONTRACTOR warrants that it shall fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees, subcontractors, and consultants performing work under this Contract meet the citizenship or alien status requirements set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees, subcontractors, and consultants performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, subcontractors, and consultants for the period prescribed by the law.

XII. EQUIPMENT

A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all property of a Relatively Permanent nature with significant value, purchased in whole or in part by ADMINISTRATOR to assist in performing the services described in this Contract. “Relatively Permanent” is defined as having a useful life of one (1) year or longer. Equipment which costs $5,000 or over, including freight charges, sales taxes, and other taxes, and installation costs are defined as Capital Assets. Equipment which costs between $600 and $5,000, including freight charges, sales taxes and other taxes, and installation costs, or electronic equipment that costs less than $600 but may contained PHI or PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not limited to phones, tablets, audio/visual equipment, computer equipment, and lab equipment. The cost of Equipment purchased, in whole or in part, with funds paid pursuant to this Contract shall be depreciated according to GAAP.

B. CONTRACTOR shall obtain ADMINISTRATOR’s written approval prior to purchase of any Equipment with funds paid pursuant to this Contract. Upon delivery of Equipment, CONTRACTOR
shall forward to ADMINISTRATOR, copies of the purchase order, receipt, and other supporting
documentation, which includes delivery date, unit price, tax, shipping and serial numbers.
CONTRACTOR shall request an applicable asset tag for said Equipment and shall include each
purchased asset in an Equipment inventory.

C. Upon ADMINISTRATOR’s prior written approval, CONTRACTOR may expense to COUNTY the cost of the approved Equipment purchased by CONTRACTOR. To “expense,” in relation to Equipment, means to charge the proportionate cost of Equipment in the fiscal year in which it is purchased. Title of expensed Equipment shall be vested with COUNTY.

D. CONTRACTOR shall maintain an inventory of all Equipment purchased in whole or in part with funds paid through this Contract, including date of purchase, purchase price, serial number, model and type of Equipment. Such inventory shall be available for review by ADMINISTRATOR, and shall include the original purchase date and price, useful life, and balance of depreciated Equipment cost, if any.

E. CONTRACTOR shall cooperate with ADMINISTRATOR in conducting periodic physical inventories of all Equipment. Upon demand by ADMINISTRATOR, CONTRACTOR shall return any or all Equipment to COUNTY.

F. CONTRACTOR must report any loss or theft of Equipment in accordance with the procedure approved by ADMINISTRATOR and the Notices Paragraph of this Contract. In addition, CONTRACTOR must complete and submit to ADMINISTRATOR a notification form when items of Equipment are moved from one location to another or returned to COUNTY as surplus.

G. Unless this Contract is followed without interruption by another Contract between the Parties for substantially the same type and scope of services, at the termination of this Contract for any cause, CONTRACTOR shall return to COUNTY all Equipment purchased with funds paid through this Contract.

H. CONTRACTOR shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance, and preservation of COUNTY Equipment.

I. The total cost of all Equipment purchases shall not exceed $50,000 annually.

**XIII. FACILITIES, PAYMENTS AND SERVICES**

A. CONTRACTOR agrees to provide the services, staffing, facilities, and supplies in accordance with this Contract. COUNTY shall compensate, and authorize, when applicable, said services. CONTRACTOR shall operate continuously throughout the term of this Contract with at least the minimum number and type of staff which meet applicable federal and state requirements, and which are necessary for the provision of the services hereunder.

B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or supplies as required, ADMINISTRATOR may, at its sole discretion, reduce the Maximum Obligation for the appropriate Period as well as the Total Maximum Obligation. The reduction to the Maximum
Obligation for the appropriate Period as well as the Total Maximum Obligation shall be in an amount proportionate to the number of days in which CONTRACTOR was determined to be unable to provide services, staffing, facilities or supplies.

XIV. INDEMNIFICATION AND INSURANCE

A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY, and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which COUNTY’s Board of Supervisors acts as the governing Board (“COUNTY INDEMNITEES”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by CONTRACTOR pursuant to this Contract. If judgment is entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

B. Prior to the provision of services under this Contract, CONTRACTOR agrees to purchase all required insurance at CONTRACTOR’s expense, including all endorsements required herein, necessary to satisfy COUNTY that the insurance provisions of this Contract have been complied with. CONTRACTOR agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with COUNTY during the entire term of this Contract. In addition, all subcontractors performing work on behalf of CONTRACTOR pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for CONTRACTOR.

C. CONTRACTOR shall ensure that all subcontractors performing work on behalf of CONTRACTOR pursuant to this Contract shall be covered under CONTRACTOR’s insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for CONTRACTOR. CONTRACTOR shall not allow subcontractors to work if subcontractors have less than the level of coverage required by COUNTY from CONTRACTOR under this Contract. It is the obligation of CONTRACTOR to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by CONTRACTOR through the entirety of this Contract for inspection by COUNTY representative(s) at any reasonable time.

D. All SIRs shall be clearly stated on the COI. Any SIR in an amount in excess of fifty thousand dollars ($50,000) shall specifically be approved by the CEO/Office of Risk Management upon review of CONTRACTOR’s current audited financial report. If CONTRACTOR’s SIR is approved, CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:
1. In addition to the duty to indemnify and hold the COUNTY harmless against any and all liability, claim, demand or suit resulting from CONTRACTOR’s, its agents, employee’s or subcontractor’s performance of this Contract, CONTRACTOR shall defend the COUNTY at its sole cost and expense with counsel approved by Board of Supervisors against same; and

2. CONTRACTOR’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

3. The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the CONTRACTOR’s SIR provision shall be interpreted as though the CONTRACTOR was an insurer and the COUNTY was the insured.

E. If CONTRACTOR fails to maintain insurance acceptable to the COUNTY for the full term of this Contract, the COUNTY may terminate this Contract.

F. QUALIFIED INSURER

1. The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

2. If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

G. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum limits and coverage as set forth below:

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Minimum Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial General Liability</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td></td>
<td>$2,000,000 aggregate</td>
</tr>
<tr>
<td>Automobile Liability including coverage</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>for owned, non-owned and hired vehicles (4 passengers or less)</td>
<td></td>
</tr>
<tr>
<td>Passenger vehicles (7 passengers or less)</td>
<td>$2,000,000 per occurrence</td>
</tr>
<tr>
<td>Passenger vehicles (8 passengers or more)</td>
<td>$5,000,000 per occurrence</td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>Statutory</td>
</tr>
<tr>
<td>Employers' Liability Insurance</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>Professional Liability Insurance</td>
<td>$1,000,000 per claims made</td>
</tr>
<tr>
<td></td>
<td>$1,000,000 aggregate</td>
</tr>
</tbody>
</table>
Network Security and Privacy Liability $1,000,000 per claims made

Sexual Misconduct Liability $1,000,000 per occurrence

H. REQUIRED COVERAGE FORMS

1. The Commercial General Liability coverage shall be written on ISO form CG 00 01, or a substitute form providing liability coverage at least as broad.

2. The Business Automobile Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing coverage at least as broad.

I. REQUIRED ENDORSEMENTS

1. The Commercial General Liability policy shall contain the following endorsements, which shall accompany the COI:
   a. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, agents and employees as Additional Insureds, or provide blanket coverage, which will state AS REQUIRED BY WRITTEN AGREEMENT.
   b. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the CONTRACTOR’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

2. The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the COI:
   a. An Additional Insured endorsement naming the County of Orange, its elected and appointed officials, officers, agents and employees as Additional Insureds for its vicarious liability.
   b. A primary and non-contributing endorsement evidencing that the Contractor’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

J. All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

K. The Workers’ Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees, or provide blanket coverage, which will state AS REQUIRED BY WRITTEN AGREEMENT.

L. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy cancellation and within ten (10) days for non-payment of premium and provide a copy of the cancellation notice to COUNTY. Failure to provide written notice of cancellation shall constitute a breach of CONTRACTOR’s obligation hereunder and ground for COUNTY to suspend or terminate this Contract.

//
M. If CONTRACTOR’s Professional Liability and/or Network Security & Privacy Liability are “Claims-Made” policies, CONTRACTOR shall agree to maintain coverage for two (2) years following the completion of the Contract.

N. The Commercial General Liability policy shall contain a “severability of interests” clause also known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).

O. Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

P. If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

Q. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.

R. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If CONTRACTOR does not deposit copies of acceptable Certificate of Insurance and endorsements with COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice, this Contract may be in breach without further notice to CONTRACTOR, and COUNTY shall be entitled to all legal remedies.

S. The procuring of such required policy or policies of insurance shall not be construed to limit CONTRACTOR’s liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

T. SUBMISSION OF INSURANCE DOCUMENTS

1. The COI and endorsements shall be provided to COUNTY as follows:
   a. Prior to the start date of this Contract.
   b. No later than the expiration date for each policy.
   c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding changes to any of the insurance requirements as set forth in the Coverage Subparagraph above.

2. The COI and endorsements shall be provided to the COUNTY at the address as specified in the Referenced Contract Provisions of this Contract.

3. If CONTRACTOR fails to submit the COI and endorsements that meet the insurance provisions stipulated in this Contract by the above specified due dates, ADMINISTRATOR shall have sole discretion to impose one or both of the following:
   a. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR pursuant to any and all Contracts between COUNTY and CONTRACTOR until such time that the required COI and endorsements that meet the insurance provisions stipulated in this Contract are submitted to ADMINISTRATOR.
b. CONTRACTOR may be assessed a penalty of one hundred dollars ($100) for each late COI or endorsement for each business day, pursuant to any and all Contracts between COUNTY and CONTRACTOR, until such time that the required COI and endorsements that meet the insurance provisions stipulated in this Contract are submitted to ADMINISTRATOR.

c. If CONTRACTOR is assessed a late penalty, the amount shall be deducted from CONTRACTOR’s monthly invoice.

4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.

XV. INSPECTIONS AND AUDITS

A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative of the State of California, the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States, or any other of their authorized representatives, shall to the extent permissible under applicable law have access to any books, documents, and records, including but not limited to, financial statements, general ledgers, relevant accounting systems, medical and Client records, of CONTRACTOR that are directly pertinent to this Contract, for the purpose of responding to a beneficiary complaint or conducting an audit, review, evaluation, or examination, or making transcripts during the periods of retention set forth in the Records Management and Maintenance Paragraph of this Contract. Such persons may at all reasonable times inspect or otherwise evaluate the services provided pursuant to this Contract, and the premises in which they are provided.

B. CONTRACTOR shall actively participate and cooperate with any person specified in Subparagraph A. above in any evaluation or monitoring of the services provided pursuant to this Contract, and shall provide the above mentioned persons adequate office space to conduct such evaluation or monitoring.

C. AUDIT RESPONSE

1. Following an audit report, in the event of non–compliance with applicable laws and regulations governing funds provided through this Contract, COUNTY may terminate this Contract as provided for in the Termination Paragraph or direct CONTRACTOR to immediately implement appropriate corrective action. A CAP shall be submitted to ADMINISTRATOR in writing within thirty (30) calendar days after receiving notice from ADMINISTRATOR.

2. If the audit reveals that money is payable from one Party to the other, that is, reimbursement by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to CONTRACTOR, said funds shall be due and payable from one Party to the other within sixty (60) calendar days of receipt of the audit results. If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement is not received within said sixty (60) calendar days, COUNTY may,
in addition to any other remedies provided by law, reduce any amount owed CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare an annual Single Audit as required by 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. CONTRACTOR shall forward the Single Audit to ADMINISTRATOR within fourteen (14) calendar days of receipt.

E. CONTRACTOR shall forward to ADMINISTRATOR a copy of any audit report within fourteen (14) calendar days of receipt. Such audit shall include, but not be limited to, management, financial, programmatic or any other type of audit of CONTRACTOR’s operations, whether or not the cost of such operation or audit is reimbursed in whole or in part through this Contract.

XVI. LICENSES AND LAWS

A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout the term of this Contract, maintain all necessary licenses, permits, approvals, certificates, accreditations, waivers, and exemptions necessary for the provision of the services hereunder and required by the laws, regulations and requirements of the United States, the State of California, COUNTY, and all other applicable governmental agencies. CONTRACTOR shall notify ADMINISTRATOR immediately and in writing of its inability to obtain or maintain, irrespective of the pendency of any hearings or appeals, permits, licenses, approvals, certificates, accreditations, waivers and exemptions. Said inability shall be cause for termination of this Contract.

B. CONTRACTOR shall comply with all applicable governmental laws, regulations, and requirements as they exist now or may be hereafter amended or changed. These laws, regulations, and requirements shall include, but not be limited to, the following:

1. ARRA of 2009.
3. CCC §§56 through 56.37, Confidentiality of Medical Information.
4. CCC §§1798.80 through 1798.84, Customer Records.
5. CCC §1798.85, Confidentiality of Social Security Numbers.
6. CCR, Title 9, Rehabilitative and Developmental Services, Division 4; and Title 22 Social Security.
7. HSC, Divisions 10.5 Alcohol and Drug Programs and 10.6. Drug and Alcohol Abuse Master Plans.
8. HSC, §§11839 through 11839.22, Narcotic Treatment Programs.
9. HSC, §11876, Narcotic Treatment Programs.
13. 2 CFR 376, Nonprocurement, Debarment and Suspension.
15. 42 CFR 2, Confidentiality of Alcohol and Drug Abuse Patient Records.
16. 42 CFR 54, Charitable choice regulations applicable to states receiving substance abuse prevention and treatment block grants and/or projects for assistance in transition from homelessness grants.
17. 45 CFR 93, New Restrictions on Lobbying.
18. 45 CFR 96.127, Requirements regarding Tuberculosis.
19. 45 CFR 96.132, Additional Agreements.
20. 45 CFR 96.135, Restrictions on Expenditure of Grant.
22. 45 CFR 162, Administrative Requirements.
23. 45 CFR 164, Security and Privacy.
24. 48 CFR 9.4, Debarment, Suspension, and Ineligibility.
26. 31 USC §1352, Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions.
27. 42 USC §§285n through 285o, National Institute on Alcohol Abuse and Alcoholism; National Institute on Drug Abuse.
28. 42 USC §§290aa through 290kk-3, Substance Abuse and Mental Health Services Administration.
29. 42 USC §290dd-2, Confidentiality of Records.
30. 42 USC §1320(a), Uniform reporting systems for health services facilities and organizations.
31. 42 USC §§1320d through 1320d-9, Administrative Simplification.
35. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
37. Fact Sheet Early and Periodic Screening, Diagnosis and Treatment (EPSDT) for Co-Occurring Disorders, Mental Health Services Oversight and Accountability Commission, 1/17/08.
39. State of California, Department of Alcohol and Drug Programs, Alcohol and/or Other Drug Program Certification Standards, March 2004.
40. CCR Title 22, §§70751(c), 71551(c), 73543(a), 74731(d), 75055(a), 75343(a), and 77143(a).
42. State of California, Department of Health Care Services DPFS Manual.
43. HSC §123145.
44. Title 45 CFR, §164.501; §164.524; §164.526; §164.530(c) and (j).

XVII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA

A. Any written information or literature, including educational or promotional materials, distributed by CONTRACTOR to any person or organization for purposes directly or indirectly related to this Contract must be approved at least thirty (30) days in advance and in writing by ADMINISTRATOR before distribution. For the purposes of this Contract, distribution of written materials shall include, but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads, and electronic media such as the Internet.

B. Any advertisement through radio, television broadcast, or the Internet, for educational or promotional purposes, made by CONTRACTOR for purposes directly or indirectly related to this Contract must be approved in advance at least thirty (30) days and in writing by ADMINISTRATOR.

C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly available social media sites) in support of the services described within this Contract, CONTRACTOR shall develop social media policies and procedures and have them available to ADMINISTRATOR upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all forms of social media used to either directly or indirectly support the services described within this Contract. CONTRACTOR shall comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social media developed in support of the services described within this Contract. CONTRACTOR shall also include any required funding statement information on social media when required by ADMINISTRATOR.

D. Any information as described in Subparagraphs A. and B. above shall not imply endorsement by COUNTY, unless ADMINISTRATOR consents thereto in writing.

E. CONTRACTOR shall also clearly explain through these materials that there shall be no unlawful use of drugs or alcohol associated with the services provided pursuant to this Contract, as specified in HSC, §11999-11999.3.

XVIII. MAXIMUM OBLIGATION

A. The Total Maximum Obligation of COUNTY for services provided in accordance with this Contract, and the separate Maximum Obligations for each period under this Contract, are as specified in
the Referenced Contract Provisions of this Contract, except as allowed for in Subparagraph B. below.

B. ADMINISTRATOR may amend the Maximum Obligation by an amount not to exceed ten percent (10%) of the first year of funding for this Contract.

XIX. MINIMUM WAGE LAWS

A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the federal or California Minimum Wage to all its employees that directly or indirectly provide services pursuant to this Contract, in any manner whatsoever. CONTRACTOR shall require and verify that all its contractors or other persons providing services pursuant to this Contract on behalf of CONTRACTOR also pay their employees no less than the greater of the federal or California Minimum Wage.

B. CONTRACTOR shall comply and verify that its contractors comply with all other federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant to providing services pursuant to this Contract.

C. Notwithstanding the minimum wage requirements provided for in this clause, CONTRACTOR, where applicable, shall comply with the prevailing wage and related requirements, as provided for in accordance with the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California (§§1770, et seq.), as it now exists or may hereafter be amended.

XX. NONDISCRIMINATION

A. EMPLOYMENT

1. During the term of this Contract, CONTRACTOR and its Covered Individuals (as defined in the “Compliance” paragraph of this Contract) shall not unlawfully discriminate against any employee or applicant for employment because of his/her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Additionally, during the term of this Contract, CONTRACTOR and its Covered Individuals shall require in its subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of his/her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

2. CONTRACTOR and its Covered Individuals shall not discriminate against employees or applicants for employment in the areas of employment, promotion, demotion or transfer; recruitment or recruitment advertising, layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship.
3. CONTRACTOR shall not discriminate between employees with spouses and employees with domestic partners, or discriminate between domestic partners and spouses of those employees, in the provision of benefits.

4. CONTRACTOR shall post in conspicuous places, available to employees and applicants for employment, notices from ADMINISTRATOR and/or the United States Equal Employment Opportunity Commission setting forth the provisions of the EOC.

5. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR and/or subcontractor shall state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Such requirements shall be deemed fulfilled by use of the term EOE.

6. Each labor union or representative of workers with which CONTRACTOR and/or subcontractor has a collective bargaining agreement or other contract or understanding must post a notice advising the labor union or workers' representative of the commitments under this Nondiscrimination Paragraph and shall post copies of the notice in conspicuous places, available to employees and applicants for employment.

B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division 4, Chapter 6, Article 1 (§10800, et seq.) of the CCR; and Title II of the Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all may now exist or be hereafter amended or changed. For the purpose of this Nondiscrimination paragraph, discrimination includes, but is not limited to the following based on one or more of the factors identified above:

1. Denying a Client or potential Client any service, benefit, or accommodation.

2. Providing any service or benefit to a Client which is different or is provided in a different manner or at a different time from that provided to other Clients.

3. Restricting a Client in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service and/or benefit.

4. Treating a Client differently from others in satisfying any admission requirement or
condition, or eligibility requirement or condition, which individuals must meet in order to be provided any service and/or benefit.

5. Assignment of times or places for the provision of services.

C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all Clients through a written statement that CONTRACTOR’s and/or subcontractor’s Clients may file all complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and ADMINISTRATOR or the U.S. Department of Health and Human Services’ OCR.

1. Whenever possible, problems shall be resolved at the point of service. CONTRACTOR shall establish an internal problem resolution process for Clients not able to resolve such problems at the point of service. Clients may initiate a grievance or complaint directly with CONTRACTOR either orally or in writing.

   a. COUNTY shall establish a formal resolution and grievance process in the event grievance is not able to be resolved at point of service.

2. Within the time limits procedurally imposed, the complainant shall be notified in writing as to the findings regarding the alleged complaint and, if not satisfied with the decision, has the right to request a State Fair Hearing.

D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agree to comply with the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended (42 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of discrimination against qualified persons with disabilities in all programs or activities, and if applicable, as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together with succeeding legislation.

E. RETALIATION – Neither CONTRACTOR nor subcontractor, nor its employees or agents shall intimidate, coerce or take adverse action against any person for the purpose of interfering with rights secured by federal or state laws, or because such person has filed a complaint, certified, assisted or otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to enforce rights secured by federal or state law.

F. In the event of non-compliance with this paragraph or as otherwise provided by federal and state law, this Contract may be canceled, terminated or suspended in whole or in part and CONTRACTOR or subcontractor may be declared ineligible for further contracts involving federal, state or COUNTY funds.

XXI. NOTICES

A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements authorized or required by this Contract shall be effective:

1. When written and deposited in the United States mail, first class postage prepaid and
addressed as specified in the Referenced Contract Provisions of this Contract or as otherwise directed by
ADMINISTRATOR;

2. When faxed, transmission confirmed;

3. When sent by Email; or

4. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or any other expedited delivery service.

B. Termination Notices shall be addressed as specified in the Referenced Contract Provisions of this Contract or as otherwise directed by ADMINISTRATOR and shall be effective when faxed, transmission confirmed, or when accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or any other expedited delivery service.

C. CONTRACTOR shall notify ADMINISTRATOR, in writing, within twenty-four (24) hours of becoming aware of any occurrence of a serious nature, which may expose COUNTY to liability. Such occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or damage to any COUNTY property in possession of CONTRACTOR.

D. For purposes of this Contract, any notice to be provided by COUNTY may be given by ADMINISTRATOR.

XXII. NOTIFICATION OF DEATH

A. Upon becoming aware of the death of any person served pursuant to this Contract, CONTRACTOR shall immediately notify ADMINISTRATOR.

B. All Notifications of Death provided to ADMINISTRATOR by CONTRACTOR shall contain the name of the deceased, the date and time of death, the nature and circumstances of the death, and the name(s) of CONTRACTOR’s officers or employees with knowledge of the incident.

1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by telephone immediately upon becoming aware of the death due to non-terminal illness of any person served pursuant to this Contract; notice need only be given during normal business hours.

2. WRITTEN NOTIFICATION
   a. NON-TERMINAL ILLNESS – CONTRACTOR shall hand deliver, fax, and/or send via encrypted email to ADMINISTRATOR a written report within sixteen (16) hours after becoming aware of the death due to non-terminal illness of any person served pursuant to this Contract.

   b. TERMINAL ILLNESS – CONTRACTOR shall notify ADMINISTRATOR by written report hand delivered, faxed, sent via encrypted email, within forty-eight (48) hours of becoming aware of the death due to terminal illness of any person served pursuant to this Contract.

   c. When notification via encrypted email is not possible or practical CONTRACTOR may hand deliver or fax to a known number said notification.

C. If there are any questions regarding the cause of death of any person served pursuant to this Contract who was diagnosed with a terminal illness, or if there are any unusual circumstances related to
the death, CONTRACTOR shall immediately notify ADMINISTRATOR in accordance with this Notification of Death Paragraph.

XXIII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS

A. CONTRACTOR shall notify ADMINISTRATOR of any public event or meeting funded in whole or in part by the COUNTY, except for those events or meetings that are intended solely to serve clients or occur in the normal course of business.

B. CONTRACTOR shall notify ADMINISTRATOR at least thirty (30) business days in advance of any applicable public event or meeting. The notification must include the date, time, duration, location and purpose of the public event or meeting. Any promotional materials or event related flyers must be approved by ADMINISTRATOR prior to distribution.

XXIV. PATIENT'S RIGHTS

A. CONTRACTOR shall post the current California Department of Mental Health Patients' Rights poster as well as the Orange County HCA Mental Health Plan Grievance and Appeals poster in locations readily available to Clients and staff and have Grievance and Appeal forms in the threshold languages and envelopes readily accessible to Clients to take without having to request it on the unit.

B. In addition to those processes provided by ADMINISTRATOR, CONTRACTOR shall have an internal grievance processes approved by ADMINISTRATOR, to which the beneficiary shall have access.

1. CONTRACTOR's grievance processes shall incorporate COUNTY's grievance, patients' rights, and/or utilization management guidelines and procedures. The patient has the right to utilize either or both grievance process simultaneously in order to resolve their dissatisfaction.

2. Title IX Rights Advocacy. This process may be initiated by a Client who registers a statutory rights violation or a denial or abuse complaint with the County Patients’ Rights Office. The Patients’ Rights office shall investigate the complaint, and Title IX grievance procedures shall apply, which involve ADMINISTRATOR’S Director of Behavioral Health Care and the State Patients’ Rights Office.

C. The parties agree that Clients have recourse to initiate an expression of dissatisfaction to CONTRACTOR, appeal to the County Patients’ Rights Office, file a grievance, and file a Title IX complaint. The Patients’ Advocate shall advise and assist the Client, investigate the cause of the grievance, and attempt to resolve the matter.

D. No provision of this Contract shall be construed as to replacing or conflicting with the duties of County Patients' Rights Office pursuant to Welfare and Institutions Code Section 5500.
XXV. RECORDS MANAGEMENT AND MAINTENANCE

A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term of this Contract, prepare, maintain and manage records appropriate to the services provided and in accordance with this Contract and all applicable requirements.

1. CONTRACTOR shall maintain records that are adequate to substantiate the services for which claims are submitted for reimbursement under this Contract and the charges thereto. Such records shall include, but not be limited to, individual patient charts and utilization review records.

2. CONTRACTOR shall keep and maintain records of each service rendered to each MSN Patient, the identity of the MSN Patient to whom the service was rendered, the date the service was rendered, and such additional information as ADMINISTRATOR or DHCS may require.

3. CONTRACTOR shall maintain books, records, documents, accounting procedures and practices, and other evidence sufficient to reflect properly all direct and indirect cost of whatever nature claimed to have been incurred in the performance of this Contract and in accordance with Medicare principles of reimbursement and GAAP.

4. CONTRACTOR shall ensure the maintenance of medical records required by §70747 through and including §70751 of the CCR, as they exist now or may hereafter be amended, the medical necessity of the service, and the quality of care provided. Records shall be maintained in accordance with §51476 of Title 22 of the CCR, as it exists now or may hereafter be amended.

B. CONTRACTOR shall implement and maintain administrative, technical and physical safeguards to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of PHI in violation of the HIPAA, federal and state regulations. CONTRACTOR shall mitigate to the extent practicable, the known harmful effect of any use or disclosure of PHI made in violation of federal or state regulations and/or COUNTY policies.

C. CONTRACTOR’s participant, client, and/or patient records shall be maintained in a secure manner. CONTRACTOR shall maintain participant, client, and/or patient records and must establish and implement written record management procedures.

D. CONTRACTOR shall retain all financial records for a minimum of ten (10) years from the termination of the contract, unless a longer period is required due to legal proceedings such as litigations and/or settlement of claims.

E. CONTRACTOR shall retain all client and/or patient medical records for ten (10) years following discharge of the participant, client and/or patient.

F. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges, billings, and revenues available at one (1) location within the limits of the County of Orange. If CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR may provide written approval to CONTRACTOR to maintain records in a single location, identified by CONTRACTOR.
G. CONTRACTOR shall notify ADMINISTRATOR of any PRA requests related to, or arising out of, this Contract, within forty-eight (48) hours. CONTRACTOR shall provide ADMINISTRATOR all information that is requested by the PRA request.

H. CONTRACTOR shall ensure all HIPAA DRS requirements are met. HIPAA requires that clients, participants and/or patients be provided the right to access or receive a copy of their DRS and/or request addendum to their records. Title 45 CFR §164.501, defines DRS as a group of records maintained by or for a covered entity that is:
   1. The medical records and billing records about individuals maintained by or for a covered health care provider;
   2. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
   3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.

I. CONTRACTOR may retain client, and/or patient documentation electronically in accordance with the terms of this Contract and common business practices. If documentation is retained electronically, CONTRACTOR shall, in the event of an audit or site visit:
   1. Have documents readily available within twenty-four (24) hour notice of a scheduled audit or site visit.
   2. Provide auditor or other authorized individuals access to documents via a computer terminal.
   3. Provide auditor or other authorized individuals a hardcopy printout of documents, if requested.

J. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and security of PII and/or PHI. CONTRACTOR shall, upon discovery of a Breach of privacy and/or security of PII and/or PHI by CONTRACTOR, notify federal and/or state authorities as required by law or regulation, and copy ADMINISTRATOR on such notifications.

K. CONTRACTOR may be required to pay any costs associated with a Breach of privacy and/or security of PII and/or PHI, including but not limited to the costs of notification. CONTRACTOR shall pay any and all such costs arising out of a Breach of privacy and/or security of PII and/or PHI.

XXVI. RESEARCH AND PUBLICATION

A. CONTRACTOR shall not utilize information and/or data received from COUNTY, or arising out of, or developed, as a result of this Contract for the purpose of personal or professional research, or for publication.

XXVII. REVENUE

A. CLIENT FEES – CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a fee to Clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal or other
third party health plans, are provided pursuant to this Contract, their estates and responsible relatives, according to their ability to pay as determined by the State Department of Health Care Services’ “Uniform Method of Determining Ability to Pay” procedure or by any other payment procedure as approved in advance, and in writing by ADMINISTRATOR; and in accordance with Title 9 of the CCR. Such fee shall not exceed the actual cost of services provided. No Client shall be denied services because of an inability to pay.

B. THIRD-PARTY REVENUE – CONTRACTOR shall make every reasonable effort to obtain all available third-party reimbursement for which persons served pursuant to this Contract may be eligible. Charges to insurance carriers shall be on the basis of CONTRACTOR’s usual and customary charges. CONTRACTOR must use the third-party billing and reimbursement administrator designated by ADMINISTRATOR during the term of this Contract, if any, as directed by ADMINISTRATOR.

C. PROCEDURES – CONTRACTOR shall maintain internal financial controls which adequately ensure proper billing and collection procedures. CONTRACTOR’s procedures shall specifically provide for the identification of delinquent accounts and methods for pursuing such accounts. CONTRACTOR shall provide ADMINISTRATOR, monthly, a written report specifying the current status of fees which are billed, collected, transferred to a collection agency, or deemed by CONTRACTOR to be uncollectible.

XXVIII. SEVERABILITY

If a court of competent jurisdiction declares any provision of this Contract or application thereof to any person or circumstances to be invalid or if any provision of this Contract contravenes any federal, state or county statute, ordinance, or regulation, the remaining provisions of this Contract or the application thereof shall remain valid, and the remaining provisions of this Contract shall remain in full force and effect, and to that extent the provisions of this Contract are severable.

XXIX. SPECIAL PROVISIONS

A. CONTRACTOR shall not use the funds provided by means of this Contract for the following purposes:

1. Making cash payments to intended recipients of services through this Contract.
2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial transactions).
3. Fundraising.
4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR’s staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or governing body.
5. Reimbursement of CONTRACTOR’s members of the Board of Directors or governing body for expenses or services.

6. Making personal loans to CONTRACTOR’s staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or governing body, or its designee or authorized agent, or making salary advances or giving bonuses to CONTRACTOR’s staff.

7. Paying an individual salary or compensation for services at a rate in excess of the current Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule may be found at www.opm.gov.

8. Severance pay for separating employees.

9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building codes and obtaining all necessary building permits for any associated construction.

10. Purchasing or improving land, including constructing or permanently improving any building or facility, except for tenant improvements.

11. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal funds (matching).

12. Contracting or subcontracting with any entity other than an individual or nonprofit entity.

13. Producing any information that promotes responsible use, if the use is unlawful, of drugs or alcohol.

14. Promoting the legalization of any drug or other substance included in Schedule 1 of the Controlled Substance Act (21 USC 812).

15. Distributing or aiding in the distribution of sterile needles or syringes for the hypodermic injection of any illegal drug.

16. Assisting, promoting, or deterring union organizing.

17. Providing inpatient hospital services or purchasing major medical equipment.

B. Unless otherwise specified in advance and in writing by ADMINISTRATOR, CONTRACTOR shall not use the funds provided by means of this Contract for the following purposes:

1. Funding travel or training (excluding mileage or parking).

2. Making phone calls outside of the local area unless documented to be directly for the purpose of Client care.

3. Payment for grant writing, consultants, certified public accounting, or legal services.

4. Purchase of artwork or other items that are for decorative purposes and do not directly contribute to the quality of services to be provided pursuant to this Contract.

5. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR’s Clients.

C. Neither Party shall be responsible for delays or failures in performance resulting from acts beyond the control of the affected Party. Such acts shall include, but not be limited to, acts of God, fire,
flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight, embargo, public related utility, or governmental statutes or regulations imposed after the fact.

XXX. STATUS OF CONTRACTOR

CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this Contract. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and consultants employed by CONTRACTOR. This Contract shall not be construed as creating the relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR or any of CONTRACTOR’s employees, agents, consultants, volunteers, interns, or subcontractors. CONTRACTOR assumes exclusively the responsibility for the acts of its employees, agents, consultants, volunteers, interns, or subcontractors as they relate to the services to be provided during the course and scope of their employment. CONTRACTOR, its agents, employees, consultants, volunteers, interns, or subcontractors, shall not be entitled to any rights or privileges of COUNTY’s employees and shall not be considered in any manner to be COUNTY’s employees.

XXXI. TERM

A. The term of this Contract shall commence as specified in the Referenced Contract Provisions of this Contract or the execution date, whichever is later. This Contract shall terminate as specified in the Referenced Contract Provisions of this Contract unless otherwise sooner terminated as provided in this Contract. CONTRACTOR shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to, obligations with respect to confidentiality, indemnification, audits, reporting, and accounting.

B. Any administrative duty or obligation to be performed pursuant to this Contract on a weekend or holiday may be performed on the next regular business day.

XXXII. TERMINATION

A. CONTRACTOR shall be responsible for meeting all programmatic and administrative contracted objectives and requirements as indicated in this Contract. CONTRACTOR shall be subject to the issuance of a CAP for the failure to perform to the level of contracted objectives, continuing to not meet goals and expectations, and/or for non-compliance. If CAPs are not completed within timeframe as determined by ADMINISTRATOR notice, payments may be reduced or withheld until CAP is resolved and/or the Contract could be terminated.

B. COUNTY may terminate this Contract immediately, upon written notice, on the occurrence of any of the following events:
   1. The loss by CONTRACTOR of legal capacity.
   2. Cessation of services.
3. The delegation or assignment of CONTRACTOR’s services, operation or administration to another entity without the prior written consent of COUNTY.

4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty required pursuant to this Contract.

5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this Contract.

6. The continued incapacity of any physician or licensed person to perform duties required pursuant to this Contract.

7. Unethical conduct or malpractice by any physician or licensed person providing services pursuant to this Contract; provided, however, COUNTY may waive this option if CONTRACTOR removes such physician or licensed person from serving persons treated or assisted pursuant to this Contract.

C. CONTINGENT FUNDING

1. Any obligation of COUNTY under this Contract is contingent upon the following:
   a. The continued availability of federal, state and county funds for reimbursement of COUNTY’s expenditures, and
   b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s) approved by the Board of Supervisors.

2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend, terminate or renegotiate this Contract upon thirty (30) calendar days’ written notice given CONTRACTOR. If COUNTY elects to renegotiate this Contract due to reduced or terminated funding, CONTRACTOR shall not be obligated to accept the renegotiated terms.

D. In the event this Contract is suspended or terminated prior to the completion of the term as specified in the Referenced Contract Provisions of this Contract, ADMINISTRATOR may, at its sole discretion, reduce the Not To Exceed Amount of this Contract to be consistent with the reduced term of the Contract.

E. In the event this Contract is terminated CONTRACTOR shall do the following:

   1. Comply with termination instructions provided by ADMINISTRATOR in a manner which is consistent with recognized standards of quality care and prudent business practice.

   2. Obtain immediate clarification from ADMINISTRATOR of any unsettled issues of contract performance during the remaining contract term.

   3. Until the date of termination, continue to provide the same level of service required by this Contract.

   4. If Clients are to be transferred to another facility for services, furnish ADMINISTRATOR, upon request, all Client information and records deemed necessary by ADMINISTRATOR to effect an orderly transfer.

//
5. Assist ADMINISTRATOR in effecting the transfer of Clients in a manner consistent with Client’s best interests.

6. If records are to be transferred to COUNTY, pack and label such records in accordance with directions provided by ADMINISTRATOR.

7. Return to COUNTY, in the manner indicated by ADMINISTRATOR, any equipment and supplies purchased with funds provided by COUNTY.

8. To the extent services are terminated, cancel outstanding commitments covering the procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding commitments which relate to personal services. With respect to these canceled commitments, CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims arising out of such cancellation of commitment which shall be subject to written approval of ADMINISTRATOR.

9. Provide written notice of termination of services to each Client being served under this Contract, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendar days.

F. COUNTY may terminate this Contract, without cause, upon thirty (30) calendar days’ written notice. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Contract.

XXXIII. THIRD PARTY BENEFICIARY

Neither Party hereto intends that this Contract shall create rights hereunder in third parties including, but not limited to, any subcontractors or any Clients provided services pursuant to this Contract.

XXXIV. WAIVER OF DEFAULT OR BREACH

Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this Contract shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any default or any breach by CONTRACTOR shall not be considered a modification of the terms of this Contract.
IN WITNESS WHEREOF, the parties have executed this Contract, in the County of Orange, State of California.

TELECARE CORPORATION

BY: ________________________________ DATED: 10/13/2020

TITLE: Senior VP for Development

BY: ________________________________ DATED: __________________

TITLE: ________________________________

COUNTY OF ORANGE

BY: ________________________________ DATED: __________________

HEALTH CARE AGENCY

APPROVED AS TO FORM

OFFICE OF THE COUNTY COUNSEL

ORANGE COUNTY, CALIFORNIA

BY: ________________________________ DATED: 10/13/2020

DEPUTY

If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution or by-laws whereby the Board of Directors has empowered said authorized individual to act on its behalf by his or her signature alone is required by ADMINISTRATOR.
I. COMMON TERMS AND DEFINITIONS

A. The parties agree to the following terms and definitions, and to those terms and definitions which, for convenience, are set forth elsewhere in this Contract.

1. **ASAM Criteria** is a comprehensive set of guidelines for placement, continued stay and transfer/discharge of patients with addiction and co-occurring conditions.

2. **Client** means a person who has a substance use disorder, for whom a COUNTY approved intake and admission for services have been completed pursuant to this Contract.

3. **Co-Occurring** means when a person has at least one substance use disorder and one mental health disorder that can be diagnosed independently of the other.

4. **CSU** is a psychiatric crisis stabilization program that operates 24 hours a day that serves Orange County residents, aged 18 and older, who are experiencing a psychiatric crisis and need immediate evaluation. Clients receive a thorough psychiatric evaluation, crisis stabilization treatment, and referral to the appropriate level of continuing care. As a designated outpatient facility, the CSU may evaluate and treat Clients for no longer than 23 hours.

5. **Intake** means the initial face-to-face meeting between a Client and CONTRACTOR staff in which specific information about the Client is gathered standard admission forms pursuant to this Contract.

6. **IRIS** means a collection of applications and databases that serve the needs of programs within HCA and includes functionality such as registration and scheduling, laboratory information system, invoices and reporting capabilities, compliance with regulatory requirements, electronic medical records and other relevant applications.

7. **Linkage** means connecting Client to ancillary services such as outpatient and/or Residential Treatment and supportive services which may include self-help groups, social services, rehabilitation services, vocational services, job training services, or other appropriate services.

8. **Medication** means those medications that are needed to maintain Client’s health, and without which there could be medical or mental health consequences to the Client.
9. **Self-Help Meetings** means a non-professional, peer participatory meeting formed by people with a common problem or situation offering mutual support to each other towards a goal or healing or recovery.

10. **SUD** means a condition in which the use of one or more substances leads to a clinically significant impairment or distress per the DSM-5.

11. **Token** means the security device which allows an individual user to access IRIS.

**B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Common Terms and Definitions Paragraph of this Exhibit A to the Contract.**

## II. BUDGET

A. COUNTY shall pay CONTRACTOR in accordance with the Payments Paragraph of this Exhibit A to the Contract and the following budget, which is set forth for informational purposes only and may be adjusted by mutual agreement, in writing, by ADMINISTRATOR and CONTRACTOR.

<table>
<thead>
<tr>
<th></th>
<th>Period One</th>
<th>Period Two</th>
<th>Period Three</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Administrative Costs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indirect Costs</td>
<td>$63,687</td>
<td>$127,374</td>
<td>$127,374</td>
<td>$318,435</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>$63,687</td>
<td>$127,374</td>
<td></td>
<td>$318,435</td>
</tr>
<tr>
<td><strong>Administrative</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Program Costs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries</td>
<td>$256,352</td>
<td>$512,704</td>
<td>$512,704</td>
<td>$1,281,760</td>
</tr>
<tr>
<td>Benefits</td>
<td>76,906</td>
<td>153,811</td>
<td>153,811</td>
<td>384,528</td>
</tr>
<tr>
<td>Services &amp; Supplies</td>
<td>171,890</td>
<td>348,613</td>
<td>353,592</td>
<td>874,095</td>
</tr>
<tr>
<td>Start-Up Costs</td>
<td>82,114</td>
<td>0</td>
<td>0</td>
<td>82,114</td>
</tr>
<tr>
<td><strong>Subtotal Program</strong></td>
<td>$587,262</td>
<td>$1,015,128</td>
<td>$1,020,107</td>
<td>$2,622,497</td>
</tr>
<tr>
<td><strong>Total Costs</strong></td>
<td>$650,949</td>
<td>$1,142,502</td>
<td>$1,147,481</td>
<td>$2,940,932</td>
</tr>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SABG</td>
<td>$650,949</td>
<td>$1,142,502</td>
<td>$1,147,481</td>
<td>$2,940,932</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>$650,949</td>
<td>$1,142,502</td>
<td>$1,147,481</td>
<td>$2,940,932</td>
</tr>
</tbody>
</table>

B. CONTRACTOR and ADMINISTRATOR mutually agree that the Maximum Obligation identified in Subparagraph II.A. of this Exhibit A to the Contract includes Indirect Costs not to exceed fifteen percent (15%) of Direct Costs, and which may include operating income estimated at two percent (2%). Final settlement paid to CONTRACTOR shall include Indirect Costs and such Indirect Costs may include operating income.

C. **Budget/Staffing Modifications** – CONTRACTOR may request to shift funds between programs, or between budgeted line items within a program, for the purpose of meeting specific program needs or for providing continuity of care to its members, by utilizing a Budget/Staffing...
Modification Request form provided by ADMINISTRATOR. CONTRACTOR shall submit a properly completed Budget/Staffing Modification Request to ADMINISTRATOR for consideration, in advance, which will include a justification narrative specifying the purpose of the request, the amount of said funds to be shifted, and the sustaining annual impact of the shift as may be applicable to the current contract period and/or future contract periods. CONTRACTOR shall obtain written approval of any Budget/Staffing Modification Request(s) from ADMINISTRATOR prior to implementation by CONTRACTOR. Failure of CONTRACTOR to obtain written approval from ADMINISTRATOR for any proposed Budget/Staffing Modification Request(s) may result in disallowance of those costs.

D. FINANCIAL RECORDS – CONTRACTOR shall prepare and maintain accurate and complete financial records of its cost and operating expenses. Such records will reflect the actual cost of the type of service for which payment is claimed. Any apportionment of or distribution of costs, including indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will be made in accordance with GAAP, and Medicare regulations. The Client eligibility determination and fee charged to and collected from Clients, together with a record of all billings rendered and revenues received from any source, on behalf of Clients treated pursuant to the Contract, must be reflected in CONTRACTOR’s financial records.

E. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Budget Paragraph of this Exhibit A to the Contract.

III. PAYMENTS

A. COUNTY shall pay CONTRACTOR monthly, in arrears, the provisional amount of $81,369 per month for Period One, $95,209 per month for Period Two and $95,623 per month for Period Three. All payments are interim payments only and are subject to Final Settlement in accordance with the Cost Report Paragraph of the Contract for which CONTRACTOR shall be reimbursed for the actual cost of providing the services, which may include Indirect Administrative Costs, as identified in Subparagraph II.A. of this Exhibit A to the Contract; provided, however, the total of such payments does not exceed COUNTY’s Maximum Obligation as specified in the Referenced Contract provisions of the Contract and, provided further, CONTRACTOR’s costs are reimbursable pursuant to COUNTY, State and/or Federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental invoices or make advance payments for any month during the term.

1. In support of the monthly invoices, CONTRACTOR shall submit an Expenditure and Revenue Report as specified in the Reports Paragraph of this Exhibit A to the Contract. ADMINISTRATOR shall use the Expenditure and Revenue Report to determine payment to CONTRACTOR as specified in Subparagraphs A.2. and A.3., below.

2. If, at any time, CONTRACTOR’s Expenditure and Revenue Reports indicate that the provisional amount payments exceed the actual cost of providing services, ADMINISTRATOR may reduce COUNTY payments to CONTRACTOR by an amount not to exceed the difference between the
year-to-date provisional amount payments to CONTRACTOR’s and the year-to-date actual cost incurred by CONTRACTOR.

3. If, at any time, CONTRACTOR’s Expenditure and Revenue Reports indicate that the provisional amount payments are less than the actual cost of providing services, ADMINISTRATOR may authorize an increase in the provisional amount payment to CONTRACTOR by an amount not to exceed the difference between the year-to-date provisional amount payments to CONTRACTOR and the year-to-date actual cost incurred by CONTRACTOR.

B. CONTRACTOR’s invoices shall be on a form approved or supplied by COUNTY and provide such information as is required by ADMINISTRATOR. Invoices are due the tenth (10th) calendar day of each month. Invoices received after the due date may not be paid within the same month. Payments to CONTRACTOR should be released by COUNTY no later than thirty (30) calendar days after receipt of the correctly completed invoice form.

C. All invoices to COUNTY shall be supported, at CONTRACTOR’s facility, by source documentation including, but not limited to, ledgers, journals, time sheets, invoices, bank statements, canceled checks, receipts, receiving records and records of services provided.

D. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply with any provision of the Contract.

E. COUNTY shall not reimburse CONTRACTOR for services provided beyond the expiration and/or termination of the Contract, except as may otherwise be provided under the Contract, or specifically agreed upon in a subsequent Contract.

F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Payments Paragraph of this Exhibit A to the Contract.

IV. REPORTS

A. MONTHLY PROGRAMMATIC

1. CONTRACTOR shall submit a monthly programmatic report to ADMINISTRATOR, including information required and on a form approved or provided by ADMINISTRATOR. These monthly programmatic reports should be submitted to ADMINISTRATOR no later than the tenth (10th) calendar day of the month following the report month.

2. CONTRACTOR shall be responsible for including in the monthly programmatic report any problems in implementing the provisions of this Contract, pertinent facts or interim findings, staff changes, changes in population served, and reasons for any changes. Additionally, a statement that the CONTRACTOR is or is not progressing satisfactorily in achieving all the terms of the Contract shall be included.

B. FISCAL

1. In support of the monthly invoice, CONTRACTOR shall submit monthly Expenditure and Revenue Reports to ADMINISTRATOR. These reports shall be on a form acceptable to, or provided by
ADMINISTRATOR and shall report actual costs and revenues for each of the CONTRACTOR’s program(s) or cost center(s) described in the Services Paragraph of Exhibit A to the Contract. CONTRACTOR shall submit these reports by no later than twenty (20) calendar days following the end of the month reported.

2. CONTRACTOR shall submit Year-End Projection Reports to ADMINISTRATOR. These reports shall be on a form acceptable to, or provided by, ADMINISTRATOR and shall report anticipated year-end actual costs and revenues for CONTRACTOR’s program(s) or cost center(s) described in the Services Paragraph of Exhibit A to the Contract. Such reports shall include actual monthly costs and revenue to date and anticipated monthly costs and revenue to the end of the fiscal year. Year-End Projection Reports shall be submitted at the same time as the monthly Expenditure and Revenue Reports.

C. MONTHLY IRIS – CONTRACTOR shall input all Units of Service provided in COUNTY’s IRIS database for the preceding month no later than the fifth (5th) calendar day of the month following the report month.

D. ADDITIONAL REPORTS – CONTRACTOR shall make additional reports as required by ADMINISTRATOR concerning CONTRACTOR’s activities as they affect the services hereunder. ADMINISTRATOR will be specific as to the nature of the information requested and the timeframe the information is needed.

E. CONTRACTOR agrees to enter psychometrics into COUNTY’s EHR system as requested by ADMINISTRATOR. Said psychometrics are for the COUNTY’s analytical uses only, and shall not be relied upon by CONTRACTOR to make clinical decisions. CONTRACTOR agrees to hold COUNTY harmless, and indemnify pursuant to Section XI, from any claims that arise from non-COUNTY use of said psychometrics.

F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Reports Paragraph of this Exhibit A to the Contract.

V. GENERAL REQUIREMENTS

A. MEETINGS – CONTRACTOR’s Executive Director or designee shall participate, when requested, in meetings facilitated by ADMINISTRATOR related to the provision of services pursuant to this Contract.

B. CULTURAL COMPETENCY – CONTRACTORs must ensure that their policies, procedures, and practices are consistent with the principles outlined and are embedded in the organizational structure, as well as being upheld in day-to-day operations. Translation services must be available for beneficiaries, as needed. CONTRACTOR shall maintain documentation of such efforts which may include; but not be limited to: records of participation in COUNTY-sponsored or other applicable training; recruitment and hiring policies and procedures; copies of literature in multiple languages and formats, as appropriate; and descriptions of measures taken to enhance accessibility for, and sensitivity
to, individuals who are physically challenged.

C. CONTRACTOR shall include bilingual/bicultural services to meet the needs of threshold languages as determined by COUNTY. Whenever possible, bilingual/bicultural staff should be retained. Any clinical vacancies occurring at a time when bilingual and bicultural composition of the clinical staffing does not meet the above requirement must be filled with bilingual and bicultural staff unless ADMINISTRATOR consents, in writing, to the filling of those positions with non-bilingual staff. Salary savings resulting from such vacant positions may not be used to cover costs other than salaries and employees benefits unless otherwise authorized in writing, in advance, by ADMINISTRATOR.

D. POSTINGS – CONTRACTOR shall post the following in a prominent place within the facility:

1. Business License
2. Conditional Use Permit (if applicable)
3. Fire clearance
4. Client rights
5. Grievance procedure
6. Employee Code of Conduct
7. Evacuation floor plan
8. Equal Employment Opportunity notices
9. Name, address, telephone number for fire department, crisis program, local law enforcement, and ambulance service.
10. List of resources within community which shall include medical, dental, mental health, public health, social services and where to apply for determination of eligibility for State, Federal or county entitlement programs.
11. Information on self-help meetings. AA, NA, and non-12 step meetings shall be included.

E. NO PROSELYTIZING POLICY – CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources, with respect to any person who has been referred to CONTRACTOR by COUNTY under the terms of this Contract. Further, CONTRACTOR agrees that the funds provided hereunder shall not be used to promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian institution, or religious belief.

F. NON-SMOKING POLICY – CONTRACTOR shall establish a written non-smoking policy which shall be reviewed and approved by ADMINISTRATOR.

G. GOOD NEIGHBOR POLICY – CONTRACTOR shall establish a Good Neighbor Policy, which shall be reviewed and approved by ADMINISTRATOR. The policy shall include, but not be limited to, staff training to deal with neighbor complaints, staff contact information available to neighboring residents and complaint procedures. CONTRACTOR shall also contact city management in each city where Client services are provided to inform them of the nature of the services provided under this Contract. CONTRACTOR shall work collaboratively with city management to resolve any concerns regarding community relations.
H. VISITATION POLICY – CONTRACTOR shall establish a written Visitation Policy if visitors are allowed, to be reviewed and approved by ADMINISTRATOR, which shall include, but not be limited to, the following:
   1. Sign in logs;
   2. Visitation hours; and
   3. Designated visiting areas at the Facility.

I. OPIOID OVERDOSE EMERGENCY TREATMENT – CONTRACTOR shall have available at each program site at minimum one (1) Naloxone Nasal Spray for the treatment of known or suspected opioid overdose. At least one (1) staff per shift shall be trained in administering the Naloxone Nasal Spray. Naloxone Nasal Spray is not a substitute for emergency medical care. CONTRACTOR shall always seek emergency medical assistance in the event of a suspected, potentially life-threatening opioid emergency.

J. TOKENS – ADMINISTRATOR will provide CONTRACTOR the necessary number of Tokens for appropriate individual staff to access IRIS at no cost to the CONTRACTOR.
   1. CONTRACTOR recognizes that a Token is assigned to a specific individual staff member with a unique password. Tokens and passwords shall not be shared with anyone.
   2. CONTRACTOR shall maintain an inventory of the Tokens, by serial number, and the staff member to whom each is assigned.
   3. CONTRACTOR shall indicate in the monthly staffing report, the serial number of the Token for each staff member assigned a Token.
   4. CONTRACTOR shall return to ADMINISTRATOR all Tokens under the following conditions:
      a. Token of each staff member who no longer supports this Contract.
      b. Token of each staff member who no longer requires access to IRIS.
      c. Token of each staff member who leaves employment of CONTRACTOR.
      d. Tokens malfunctioning.
   5. ADMINISTRATOR will issue Tokens for CONTRACTOR’s staff members who require access to the IRIS upon initial training or as a replacement for malfunctioning Tokens. CONTRACTOR shall reimburse the COUNTY for Tokens lost, stolen, or damaged through acts of negligence.

K. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the General Requirements Paragraph of this Exhibit A to the Contract.
VI. SERVICES

A. FACILITY – CONTRACTOR shall ensure facility remains clean, safe and in good repair. The Sobering Center consists of 15 cots, an intake station, showers, food storage, and a laundry facility. CONTRACTOR shall store client personal belongings while receiving services. Services shall be provided at the following locations, or at any other location approved in advance, in writing, by ADMINISTRATOR:

265 South Anita Drive
Orange, CA 92868

B. PERSONS TO BE SERVED – Sobering Center services shall be provided to adults 18 years of age and older, who present with intoxication and can safely be served at the facility. These persons might otherwise be detained by law enforcement or utilize hospital emergency departments for issues related to intoxication. Persons must arrive at the center by vehicle. Arriving on foot is not permitted. Referrals will come from HCA identified referral sources. This service will be provided to all eligible individuals, regardless of insurance.

C. SERVICES

1. Screening - CONTRACTOR shall perform phone screening with referral source to determine if the individual can be safely served in the facility.

2. Admissions - CONTRACTOR shall ensure admissions are conducted 24 hours a day.

3. Intake – CONTRACTOR shall record demographics and past medical history.

4. Engagement – CONTRACTOR shall utilize evidence based practices such as Motivational Interviewing and/or Negotiated interviewing to engage clients who may not wish to participate to assist with preventing clients from leaving prior to it being safe for them to do so.

5. Monitoring – CONTRACTOR shall monitor of signs and symptoms of intoxication per protocols established by medical staff. CONTRACTOR shall incorporate blood pressure checks and the Clinical Opiate Withdrawal Scale (COWS) and/or Clinical Institute Withdrawal Assessment of Alcohol (CIWA) scale Clients who are sleeping will be monitored visually every 30 minutes.

6. Anticipated length of stay to last between 6 and 8 hours. Length of stay shall be less than 24 hours.

7. Ancillary Services – CONTRACTOR shall provide light snacks and hydration, temporary clean clothing, toiletries, clean linen and laundry service.

8. Discharge Planning – CONTRACTOR must begin Discharge Planning as soon as the Client enters Sobering Services. CONTRACTOR shall develop an exit/transition plan with the Client. The exit/transition plan shall include:
a) A strategy or strategies to assist the Client in maintaining an alcohol and drug free lifestyle.

b) A plan for linkage and transition of the Client to appropriate services, including treatment services. When Residential Treatment services are appropriate, CONTRACTOR shall link client to the residential access center by phone to complete an assessment and obtain residential authorization.

c) Linkage – CONTRACTOR shall provide a warm link transfer to ongoing physical health, and/or behavioral health treatment as appropriate utilizing ASAM criteria to determine appropriate level of care. CONTRACTOR shall provide referral and linkage to support group meetings, and Social Service benefits.

9. Transportation – Contractor shall arrange for or provide transportation to next care setting upon discharge.

10. Support Services – CONTRACTOR shall provide housekeeping, maintenance and arrangements for emergency and non-emergency medical services.

11. Follow-up – CONTRACTOR shall obtain consent to follow-up while client is in services and shall follow up with client at 7 and 30 days post-services.

D. PERFORMANCE OUTCOMES

1. Capture average transfer rate of clients from services.

2. Capture number of clients served.

3. Capture number of first time admissions

4. Capture average vacancy rate

5. Provide percentage of clients who accepted a referral appointment upon discharge

6. Capture percentage of clients who complete a feedback survey – including positive and negative feedback from clients on the impact of services provided and led by staff and on the their likelihood of engaging in follow-up treatment

7. Provide information on Stage of change indicator and appropriate interventions/referrals based on stage of change indicator

8. Capture percentage of clients who complete a relapse prevention plan prior to discharge

9. Capture percentage of clients who are reached through a 7-day follow-up phone call

10. Capture percentage of clients who successfully complete referral appointment

11. Capture percentage of clients who are reached through a 30-day follow-up phone call.

E. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Services paragraph of this Exhibit A to the Contract.

VII. STAFFING

A. CONTRACTOR shall provide adequate staffing to assure that the services outlined above are performed in an efficient manner.
B. CONTRACTOR shall include bilingual/bicultural services to meet the needs of threshold languages as determined by ADMINISTRATOR. Whenever possible, bilingual/bicultural staff should be retained. Any clinical vacancies occurring at a time when bilingual and bicultural composition of the clinical staffing does not meet the above requirement, the vacancies must be filled with bilingual and bicultural staff unless ADMINISTRATOR consents, in advance and in writing, to the filling of those positions with non-bilingual staff. Salary savings resulting from such vacant positions may not be used to cover costs other than salaries and employees benefits unless otherwise authorized, in advance and in writing, by ADMINISTRATOR.

C. CONTRACTOR shall maintain personnel files for each staff person, including management and other administrative positions, both direct and indirect to the Contract, which shall include, but not be limited to, an application for employment, qualifications for the position, applicable licenses, waivers, registrations, documentation of bicultural/bilingual capabilities (if applicable), pay rate and evaluations justifying pay increases.

D. CONTRACTOR shall make its best effort to provide services pursuant to the Contract in a manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR shall maintain documents of such efforts which may include; but not be limited to: records of participation in COUNTY-sponsored or other applicable training; recruitment and hiring P&Ps; copies of literature in multiple languages and formats, as appropriate; and descriptions of measures taken to enhance accessibility for, and sensitivity to, clients who are physically challenged.

E. CONTRACTOR shall ensure that all staff, paid or unpaid, complete necessary training prior to discharging duties associated with their titles and any other training necessary to assist the CONTRACTOR and COUNTY to be in compliance with prevailing standards of practice as well as State and Federal regulatory requirements.

F. CONTRACTOR shall ensure that all staff, including interns and volunteers, are trained and have a clear understanding of all P&Ps. CONTRACTOR shall provide signature confirmation of the P&P training for each staff member and place in their personnel files.

G. CONTRACTOR shall provide detailed job descriptions, including education and experience requirements, all applicable responsibilities, assigned duties, and workflow for each delineated position.

H. CONTRACTOR shall, at a minimum, provide the following staffing pattern expressed in Full-Time Equivalents (FTEs) continuously throughout the term of the Contract. One (1) FTE shall be equal to an average of forty (40) hours work per week.

<table>
<thead>
<tr>
<th>PROGRAM</th>
<th>Proposed FTEs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campus Administrator</td>
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<tr>
<td>Program Director</td>
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<tr>
<td>Regional Director of Operations</td>
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<td>Office Coordinator II</td>
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<td>Medical Records Technician</td>
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<td>SUTS Coordinator - Transportation Worker</td>
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<tr>
<td>SUTS Counselor</td>
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<td>SUTS Coordinator</td>
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<tr>
<td>Peer Recovery Coach</td>
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</table>

TOTAL FTEs: 12.02

I. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Staffing Paragraph of this Exhibit A to the Contract.
EXHIBIT B

TO CONTRACT FOR PROVISION OF

SOBERING CENTER SERVICES

BETWEEN

COUNTY OF ORANGE

AND

TELECARE CORPORATION

NOVEMBER 1, 2020 THROUGH JUNE 30, 2023

I. BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

1. The parties agree that the terms used, but not otherwise defined in the Common Terms and
Definitions Paragraph of Exhibit A to the Contract or in Subparagraph B below, shall have the same
meaning given to such terms under HIPAA, the HITECH Act, and their implementing regulations at
45 CFR Parts 160 and 164 (“the HIPAA regulations”) as they may exist now or be hereafter amended.

2. The parties agree that a business associate relationship under HIPAA, the HITECH Act,
and the HIPAA regulations between the CONTRACTOR and COUNTY arises to the extent that
CONTRACTOR performs, or delegates to subcontractors to perform, functions or activities on behalf of
COUNTY pursuant to, and as set forth in, the Contract that are described in the definition of “Business
Associate” in 45 CFR § 160.103.

3. The COUNTY wishes to disclose to CONTRACTOR certain information pursuant to the
terms of the Contract, some of which may constitute PHI, as defined below in Subparagraph B.10, to be
used or disclosed in the course of providing services and activities pursuant to, and as set forth, in the
Contract.

4. The parties intend to protect the privacy and provide for the security of PHI that may be
created, received, maintained, transmitted, used, or disclosed pursuant to the Contract in compliance
with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH
Act, and the HIPAA regulations as they may exist now or be hereafter amended.

5. The parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA
regulations do not pre-empt any state statutes, rules, or regulations that are not otherwise pre-empted by
other Federal law(s) and impose more stringent requirements with respect to privacy of PHI.

6. The parties understand that the HIPAA Privacy and Security rules, as defined below in
Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to the
covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the
terms of this Business Associate Contract, as it exists now or be hereafter updated with notice to
CONTRACTOR, and the applicable standards, implementation specifications, and requirements of the
Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Contract.

B. DEFINITIONS

1. “Administrative Safeguards” are administrative actions, and P&Ps, to manage the selection, development, implementation, and maintenance of security measures to protect ePHI and to manage the conduct of CONTRACTOR’s workforce in relation to the protection of that information.

2. “Breach” means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.
   a. Breach excludes:
      1) Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of CONTRACTOR or COUNTY, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.
      2) Any inadvertent disclosure by a person who is authorized to access PHI at CONTRACTOR to another person authorized to access PHI at the CONTRACTOR, or organized health care arrangement in which COUNTY participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule.
      3) A disclosure of PHI where CONTRACTOR or COUNTY has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.
   b. Except as provided in Subparagraph a. of this definition, an acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach unless CONTRACTOR demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:
      1) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
      2) The unauthorized person who used the PHI or to whom the disclosure was made;
      3) Whether the PHI was actually acquired or viewed; and
      4) The extent to which the risk to the PHI has been mitigated.

3. “Data Aggregation” shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.501.

4. “DRS” shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.501.

5. “Disclosure” shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

6. “Health Care Operations” shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.501.
7. “Individual” shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

8. “Physical Safeguards” are physical measures, policies, and procedures to protect CONTRACTOR’s electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.


10. “PHI” shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

11. “Required by Law” shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.103.

12. “Secretary” shall mean the Secretary of the Department of HHS or his or her designee.

13. “Security Incident” means attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. “Security incident” does not include trivial incidents that occur on a daily basis, such as scans, “pings”, or unsuccessful attempts to penetrate computer networks or servers maintained by CONTRACTOR.


15. “Subcontractor” shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

16. “Technical safeguards” means the technology and the P&Ps for its use that protect electronic PHI and control access to it.

17. “Unsecured PHI” or “PHI that is unsecured” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary of HHS in the guidance issued on the HHS Web site.

18. “Use” shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

1. CONTRACTOR agrees not to use or further disclose PHI COUNTY discloses to CONTRACTOR other than as permitted or required by this Business Associate Contract or as required by law.

2. CONTRACTOR agrees to use appropriate safeguards, as provided for in this Business Associate Contract and the Contract, to prevent use or disclosure of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY other than as provided for by this Business Associate Contract.
3. CONTRACTOR agrees to comply with the HIPAA Security Rule at Subpart C of 45 CFR Part 164 with respect to ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY.

4. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a Use or Disclosure of PHI by CONTRACTOR in violation of the requirements of this Business Associate Contract.

5. CONTRACTOR agrees to report to COUNTY immediately any Use or Disclosure of PHI not provided for by this Business Associate Contract of which CONTRACTOR becomes aware. CONTRACTOR must report Breaches of Unsecured PHI in accordance with Subparagraph E below and as required by 45 CFR § 164.410.

6. CONTRACTOR agrees to ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of CONTRACTOR agree to the same restrictions and conditions that apply through this Business Associate Contract to CONTRACTOR with respect to such information.

7. CONTRACTOR agrees to provide access, within fifteen (15) calendar days of receipt of a written request by COUNTY, to PHI in a DRS, to COUNTY or, as directed by COUNTY, to an Individual in order to meet the requirements under 45 CFR § 164.524. If CONTRACTOR maintains an EHR with PHI, and an individual requests a copy of such information in an electronic format, CONTRACTOR shall provide such information in an electronic format.

8. CONTRACTOR agrees to make any amendment(s) to PHI in a DRS that COUNTY directs or agrees to pursuant to 45 CFR § 164.526 at the request of COUNTY or an Individual, within thirty (30) calendar days of receipt of said request by COUNTY. CONTRACTOR agrees to notify COUNTY in writing no later than ten (10) calendar days after said amendment is completed.

9. CONTRACTOR agrees to make internal practices, books, and records, including P&Ps, relating to the use and disclosure of PHI received from, or created or received by CONTRACTOR on behalf of, COUNTY available to COUNTY and the Secretary in a time and manner as determined by COUNTY or as designated by the Secretary for purposes of the Secretary determining COUNTY’s compliance with the HIPAA Privacy Rule.

10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, and to make information related to such Disclosures available as would be required for COUNTY to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY, in a time and manner to be determined by COUNTY, that information collected in accordance with the Contract, in order to permit COUNTY to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.
12. CONTRACTOR agrees that to the extent CONTRACTOR carries out COUNTY’s obligation under the HIPAA Privacy and/or Security rules CONTRACTOR will comply with the requirements of 45 CFR Part 164 that apply to COUNTY in the performance of such obligation.

13. If CONTRACTOR receives Social Security data from COUNTY provided to COUNTY by a state agency, upon request by COUNTY, CONTRACTOR shall provide COUNTY with a list of all employees, subcontractors, and agents who have access to the Social Security data, including employees, agents, subcontractors, and agents of its subcontractors.

14. CONTRACTOR will notify COUNTY if CONTRACTOR is named as a defendant in a criminal proceeding for a violation of HIPAA. COUNTY may terminate the Contract, if CONTRACTOR is found guilty of a criminal violation in connection with HIPAA. COUNTY may terminate the Contract, if a finding or stipulation that CONTRACTOR has violated any standard or requirement of the privacy or security provisions of HIPAA, or other security or privacy laws are made in any administrative or civil proceeding in which CONTRACTOR is a party or has been joined. COUNTY will consider the nature and seriousness of the violation in deciding whether or not to terminate the Contract.

15. CONTRACTOR shall make itself and any subcontractors, employees or agents assisting CONTRACTOR in the performance of its obligations under the Contract, available to COUNTY at no cost to COUNTY to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against COUNTY, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by CONTRACTOR, except where CONTRACTOR or its subcontractor, employee, or agent is a named adverse party.

16. The Parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Business Associate Contract may be required to provide for procedures to ensure compliance with such developments. The Parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon COUNTY’s request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY concerning an amendment to this Business Associate Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. COUNTY may terminate the Contract upon thirty (30) days written notice in the event:
   a. CONTRACTOR does not promptly enter into negotiations to amend this Business Associate Contract when requested by COUNTY pursuant to this Subparagraph C; or
   b. CONTRACTOR does not enter into an amendment providing assurances regarding the safeguarding of PHI that COUNTY deems are necessary to satisfy the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations.

17. CONTRACTOR shall work with COUNTY upon notification by CONTRACTOR to
COUNTY of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph B.2.a above.

D. SECURITY RULE

1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR § 164.308, § 164.310, and § 164.312, with respect to electronic PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. CONTRACTOR shall develop and maintain a written information privacy and security program that includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of CONTRACTOR’s operations and the nature and scope of its activities.

2. CONTRACTOR shall implement reasonable and appropriate P&Ps to comply with the standards, implementation specifications and other requirements of 45 CFR Part 164, Subpart C, in compliance with 45 CFR § 164.316. CONTRACTOR will provide COUNTY with its current and updated policies upon request.

3. CONTRACTOR shall ensure the continuous security of all computerized data systems containing ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. CONTRACTOR shall protect paper documents containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. These steps shall include, at a minimum:
   a. Complying with all of the data system security precautions listed under Subparagraph E., below;
   b. Achieving and maintaining compliance with the HIPAA Security Rule, as necessary in conducting operations on behalf of COUNTY;
   c. Providing a level and scope of security that is at least comparable to the level and scope of security established by the OMB in OMB Circular No. A-130, Appendix III - Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies;

4. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or transmit ePHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same restrictions and requirements contained in this Subparagraph D of this Business Associate Contract.

5. CONTRACTOR shall report to COUNTY immediately any Security Incident of which it becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI in accordance with Subparagraph E below and as required by 45 CFR § 164.410.

6. CONTRACTOR shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this paragraph and for communicating on security matters with COUNTY.
E. DATA SECURITY REQUIREMENTS

1. Personal Controls

   a. Employee Training. All workforce members who assist in the performance of functions or activities on behalf of COUNTY in connection with Contract, or access or disclose PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, must complete information privacy and security training, at least annually, at CONTRACTOR’s expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member’s name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following the termination of Contract.

   b. Employee Discipline. Appropriate sanctions must be applied against workforce members who fail to comply with any provisions of CONTRACTOR’s privacy P&Ps, including termination of employment where appropriate.

   c. Confidentiality Statement. All persons that will be working with PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to such PHI. The statement must be renewed annually. The CONTRACTOR shall retain each person’s written confidentiality statement for COUNTY inspection for a period of six (6) years following the termination of the Contract.

   d. Background Check. Before a member of the workforce may access PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, a background screening of that worker must be conducted. The screening should be commensurate with the risk and magnitude of harm the employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. CONTRACTOR shall retain each workforce member’s background check documentation for a period of three (3) years.

2. Technical Security Controls

   a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the COUNTY.

   b. Server Security. Servers containing unencrypted PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
c. Minimum Necessary. Only the minimum necessary amount of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY required to perform necessary business functions may be copied, downloaded, or exported.

d. Removable media devices. All electronic files that contain PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Such PHI shall not be considered “removed from the premises” if it is only being transported from one of CONTRACTOR’s locations to another of CONTRACTOR’s locations.

e. Antivirus software. All workstations, laptops and other systems that process and/or store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have installed and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

f. Patch Management. All workstations, laptops and other systems that process and/or store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within thirty (30) days of vendor release. Applications and systems that cannot be patched due to operational reasons must have compensatory controls implemented to minimize risk, where possible.

g. User IDs and Password Controls. All users must be issued a unique user name for accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every ninety (90) days, preferably every sixty (60) days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three (3) of the following four (4) groups from the standard keyboard:

1) Upper case letters (A-Z)
2) Lower case letters (a-z)
3) Arabic numerals (0-9)
4) Non-alphanumeric characters (punctuation symbols)

h. Data Destruction. When no longer needed, all PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
must be wiped using the Gutmann or US DoD 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission by COUNTY.

i. System Timeout. The system providing access to PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must provide an automatic timeout, requiring re-authentication of the user session after no more than twenty (20) minutes of inactivity.

j. Warning Banners. All systems providing access to PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.

k. System Logging. The system must maintain an automated audit trail which can identify the user or system process which initiates a request for PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, or which alters such PHI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If such PHI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least three (3) years after occurrence.

l. Access Controls. The system providing access to PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must use role based access controls for all user authentications, enforcing the principle of least privilege.

m. Transmission encryption. All data transmissions of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as website access, file transfer, and E-Mail.

n. Intrusion Detection. All systems involved in accessing, holding, transporting, and protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

3. Audit Controls

a. System Security Review. CONTRACTOR must ensure audit control mechanisms that record and examine system activity are in place. All systems processing and/or storing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have at least an annual system risk assessment/security review which provides
assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.

b. Log Reviews. All systems processing and/or storing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have a routine procedure in place to review system logs for unauthorized access.

c. Change Control. All systems processing and/or storing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

4. Business Continuity/Disaster Recovery Control

a. Emergency Mode Operation Plan. CONTRACTOR must establish a documented plan to enable continuation of critical business processes and protection of the security of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY kept in an electronic format in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Contract for more than twenty-four (24) hours.

b. Data Backup Plan. CONTRACTOR must have established documented procedures to backup such PHI to maintain retrievable exact copies of the PHI. The plan must include a regular schedule for making backups, storing backup offsite, an inventory of backup media, and an estimate of the amount of time needed to restore DHCS PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of DHCS data. BCP for CONTRACTOR and COUNTY (e.g. the application owner) must merge with the DRP.

5. Paper Document Controls

a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. Such PHI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

b. Escorting Visitors. Visitors to areas where PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY is contained shall be escorted and such PHI shall be kept out of sight while visitors are in the area.

c. Confidential Destruction. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must be disposed of through confidential means, such as cross cut shredding and pulverizing.
d. Removal of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must not be removed from the premises of the CONTRACTOR except with express written permission of COUNTY.

e. Faxing. Faxes containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.

f. Mailing. Mailings containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall be sealed and secured from damage or inappropriate viewing of PHI to the extent possible. Mailings which include five hundred (500) or more individually identifiable records containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of COUNTY to use another method is obtained.

F. BREACH DISCOVERY AND NOTIFICATION

1. Following the discovery of a Breach of Unsecured PHI, CONTRACTOR shall notify COUNTY of such Breach, however both parties agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 CFR § 164.412.

   a. A Breach shall be treated as discovered by CONTRACTOR as of the first day on which such Breach is known to CONTRACTOR or, by exercising reasonable diligence, would have been known to CONTRACTOR.

   b. CONTRACTOR shall be deemed to have knowledge of a Breach, if the Breach is known, or by exercising reasonable diligence would have known, to any person who is an employee, officer, or other agent of CONTRACTOR, as determined by federal common law of agency.

2. CONTRACTOR shall provide the notification of the Breach immediately to the COUNTY Privacy Officer. CONTRACTOR’s notification may be oral, but shall be followed by written notification within twenty-four (24) hours of the oral notification.

3. CONTRACTOR’s notification shall include, to the extent possible:

   a. The identification of each Individual whose Unsecured PHI has been, or is reasonably believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;

   b. Any other information that COUNTY is required to include in the notification to Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period set forth in 45 CFR § 164.410 (b) has elapsed, including:

      1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
4) A brief description of what CONTRACTOR is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any future Breaches; and
5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the COUNTY.

5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that CONTRACTOR made all notifications to COUNTY consistent with this Subparagraph F and as required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach.

6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR’s initial report of the Breach to COUNTY pursuant to Subparagraph F.2. above.

8. CONTRACTOR shall continue to provide all additional pertinent information about the Breach to COUNTY as it may become available, in reporting increments of five (5) business days after the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable requests for further information, or follow-up information after report to COUNTY, when such request is made by COUNTY.

9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or other costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs in addressing the Breach and consequences thereof, including costs of investigation, notification, remediation, documentation or other costs associated with addressing the Breach.

G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

1. CONTRACTOR may use or further disclose PHI COUNTY discloses to CONTRACTOR as necessary to perform functions, activities, or services for, or on behalf of, COUNTY as specified in
the Contract, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by
COUNTY except for the specific Uses and Disclosures set forth below.

a. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary, for the proper management and administration of CONTRACTOR.

b. CONTRACTOR may disclose PHI COUNTY discloses to CONTRACTOR for the proper management and administration of CONTRACTOR or to carry out the legal responsibilities of CONTRACTOR, if:

   1) The Disclosure is required by law; or
   2) CONTRACTOR obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person and the person immediately notifies CONTRACTOR of any instance of which it is aware in which the confidentiality of the information has been breached.

c. CONTRACTOR may use or further disclose PHI COUNTY discloses to CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of CONTRACTOR.

2. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary, to carry out legal responsibilities of CONTRACTOR.

3. CONTRACTOR may use and disclose PHI COUNTY discloses to CONTRACTOR consistent with the minimum necessary P&Ps of COUNTY.

4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as required by law.

H. PROHIBITED USES AND DISCLOSURES

1. CONTRACTOR shall not disclose PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY about an individual to a health plan for payment or health care operations purposes if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 USC § 17935(a) and 45 CFR § 164.522(a).

2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by 42 USC § 17935(d)(2).

I. OBLIGATIONS OF COUNTY

1. COUNTY shall notify CONTRACTOR of any limitation(s) in COUNTY’s notice of privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect CONTRACTOR’s Use or Disclosure of PHI.
2. COUNTY shall notify CONTRACTOR of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect CONTRACTOR’s Use or Disclosure of PHI.

3. COUNTY shall notify CONTRACTOR of any restriction to the Use or Disclosure of PHI that COUNTY has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect CONTRACTOR’s Use or Disclosure of PHI.

4. COUNTY shall not request CONTRACTOR to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Rule if done by COUNTY.

J. BUSINESS ASSOCIATE TERMINATION

1. Upon COUNTY’s knowledge of a material Breach or violation by CONTRACTOR of the requirements of this Business Associate Contract, COUNTY shall:
   a. Provide an opportunity for CONTRACTOR to cure the material Breach or end the violation within thirty (30) business days; or
   b. Immediately terminate the Contract, if CONTRACTOR is unwilling or unable to cure the material Breach or end the violation within thirty (30) days, provided termination of the Contract is feasible.

2. Upon termination of the Contract, CONTRACTOR shall either destroy or return to COUNTY all PHI CONTRACTOR received from COUNTY or CONTRACTOR created, maintained, or received on behalf of COUNTY in conformity with the HIPAA Privacy Rule.
   a. This provision shall apply to all PHI that is in the possession of Subcontractors or agents of CONTRACTOR.
   b. CONTRACTOR shall retain no copies of the PHI.
   c. In the event that CONTRACTOR determines that returning or destroying the PHI is not feasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or destruction infeasible. Upon determination by COUNTY that return or destruction of PHI is infeasible, CONTRACTOR shall extend the protections of this Business Associate Contract to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for as long as CONTRACTOR maintains such PHI.

3. The obligations of this Business Associate Contract shall survive the termination of the Contract.
EXHIBIT C
TO CONTRACT FOR PROVISION OF
SOBERING CENTER SERVICES
BETWEEN
COUNTY OF ORANGE
AND
TELECARE CORPORATION
NOVEMBER 1, 2020 THROUGH JUNE 30, 2023

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

Any reference to statutory, regulatory, or contractual language herein shall be to such language as in effect or as amended.

A. DEFINITIONS

1. "Breach" shall have the meaning given to such term under the IEA and CMPPA. It shall include a "PII loss" as that term is defined in the CMPPA.

2. "Breach of the security of the system" shall have the meaning given to such term under the CIPA, CCC § 1798.29(d).

3. "CMPPA Contract" means the CMPPA Contract between the SSA and CHHS.

4. "DHCS PI" shall mean PI, as defined below, accessed in a database maintained by the COUNTY or DHCS, received by CONTRACTOR from the COUNTY or DHCS or acquired or created by CONTRACTOR in connection with performing the functions, activities and services specified in the Contract on behalf of the COUNTY.

5. "IEA" shall mean the IEA currently in effect between the SSA and DHCS.

6. "Notice-triggering PI" shall mean the PI identified in CCC § 1798.29(e) whose unauthorized access may trigger notification requirements under CCC § 1709.29. For purposes of this provision, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, a photograph or a biometric identifier. Notice-triggering PI includes PI in electronic, paper or any other medium.

7. "PII" shall have the meaning given to such term in the IEA and CMPPA.

8. "PI" shall have the meaning given to such term in CCC § 1798.3(a).

9. "Required by law" means a mandate contained in law that compels an entity to make a use or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or
regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

10. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PI, or confidential data utilized in complying with this Contract; or interference with system operations in an information system that processes, maintains or stores PI.

B. TERMS OF CONTRACT

1. Permitted Uses and Disclosures of DHCS PI and PII by CONTRACTOR. Except as otherwise indicated in this Exhibit, CONTRACTOR may use or disclose DHCS PI only to perform functions, activities, or services for or on behalf of the COUNTY pursuant to the terms of the Contract provided that such use or disclosure would not violate the CIPA if done by the COUNTY.

2. Responsibilities of CONTRACTOR

CONTRACTOR agrees:

a. Nondisclosure. Not to use or disclose DHCS PI or PII other than as permitted or required by this Personal Information Privacy and Security Contract or as required by applicable state and federal law.

b. Safeguards. To implement appropriate and reasonable administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of DHCS PI and PII, to protect against anticipated threats or hazards to the security or integrity of DHCS PI and PII, and to prevent use or disclosure of DHCS PI or PII other than as provided for by this Personal Information Privacy and Security Contract. CONTRACTOR shall develop and maintain a written information privacy and security program that include administrative, technical and physical safeguards appropriate to the size and complexity of CONTRACTOR's operations and the nature and scope of its activities, which incorporate the requirements of Subparagraph c. below. CONTRACTOR will provide COUNTY with its current policies upon request.

c. Security. CONTRACTOR shall ensure the continuous security of all computerized data systems containing DHCS PI and PII. CONTRACTOR shall protect paper documents containing DHCS PI and PII. These steps shall include, at a minimum:

1) Complying with all of the data system security precautions listed in Subparagraph E. of the Business Associate Contract, Exhibit B to the Contract; and

2) Providing a level and scope of security that is at least comparable to the level and scope of security established by the OMB in OMB Circular No. A-130, Appendix III-Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies.

3) If the data obtained by CONTRACTOR from COUNTY includes PII, CONTRACTOR shall also comply with the substantive privacy and security requirements in the CMPPA Contract between the SSA and the CHHS and in the Contract between the SSA and DHCS, known as the IEA. The specific sections of the IEA with substantive privacy and security requirements
to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the SSA. CONTRACTOR also agrees to ensure that any of CONTRACTOR’s agents or subcontractors, to whom CONTRACTOR provides DHCS PII agree to the same requirements for privacy and security safeguards for confidential data that apply to CONTRACTOR with respect to such information.

d. Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of DHCS PI or PII by CONTRACTOR or its subcontractors in violation of this Personal Information Privacy and Security Contract.

e. CONTRACTOR’s Agents and Subcontractors. To impose the same restrictions and conditions set forth in this Personal Information and Security Contract on any subcontractors or other agents with whom CONTRACTOR subcontracts any activities under the Contract that involve the disclosure of DHCS PI or PII to such subcontractors or other agents.

f. Availability of Information. To make DHCS PI and PII available to the DHCS and/or COUNTY for purposes of oversight, inspection, amendment, and response to requests for records, injunctions, judgments, and orders for production of DHCS PI and PII. If CONTRACTOR receives DHCS PII, upon request by COUNTY and/or DHCS, CONTRACTOR shall provide COUNTY and/or DHCS with a list of all employees, contractors and agents who have access to DHCS PII, including employees, contractors and agents of its subcontractors and agents.

g. Cooperation with COUNTY. With respect to DHCS PI, to cooperate with and assist the COUNTY to the extent necessary to ensure the DHCS’s compliance with the applicable terms of the CIPA including, but not limited to, accounting of disclosures of DHCS PI, correction of errors in DHCS PI, production of DHCS PI, disclosure of a security Breach involving DHCS PI and notice of such Breach to the affected individual(s).

h. Breaches and Security Incidents. During the term of the Contract, CONTRACTOR agrees to implement reasonable systems for the discovery of any Breach of unsecured DHCS PI and PII or security incident. CONTRACTOR agrees to give notification of any Breach of unsecured DHCS PI and PII or security incident in accordance with Subparagraph F, of the Business Associate Contract, Exhibit B to the Contract.

i. Designation of Individual Responsible for Security. CONTRACTOR shall designate an individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for carrying out the requirements of this Personal Information Privacy and Security Contract and for communicating on security matters with the COUNTY.
Contract Summary Form

Telecare Corporation
Sobering Center Services

SUMMARY OF SIGNIFICANT CHANGES

This is a new Contract for provision of Sobering Center Services which will commence as of November 1, 2020.

SUBCONTRACTORS

This contract does not currently include subcontractors or pass through to other providers.

CONTRACT OPERATING EXPENSES

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<td>$ 1,147,481</td>
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REVENUE

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<td>$ 1,147,481</td>
<td>$2,940,932</td>
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- Indirect Costs – A percentage cost allocation applied to the total program costs as overhead that may include administrative support such as finance, human resources, and executive management.
Revision to ASR and/or Attachments

Date: October 19, 2020
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: Frank Kim, County Executive Office
Re: ASR Control #: N/A, Meeting Date 10/20/20, Item No. # S16G
Subject: Purchase and Funding for Homekey Program Properties

Explanation:

Changes to Recommend Action #15 and Financial Impact Section and reflect corrected funding information.

☑ Revised Recommended Action(s)

15. Direct the Auditor-Controller to increase revise appropriations and revenues; transfers in and out and fund balance assigned for in OC Community Resources - Housing & Community Fund (Fund 15G) and Health Care Agency (Fund 100) as indicated in the table below in accordance with Government Code Sections 29130, 29125 and 25252, as follows (Requires four-fifths vote):

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<th>Fund</th>
<th>Dept</th>
<th>Bud. Ctrl</th>
<th>Unit</th>
<th>Object/Rev. Src./BSA</th>
<th>DObj/ DRSRC</th>
<th>Revenue Inc/(Dec)</th>
<th>Appropriations Inc/(Dec)</th>
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<td>$23,088,000</td>
<td>$23,088,000</td>
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☑ Make modifications to the:
Homekey Program is a state grant program that requires matching from local participants such as the City of Stanton and the County of Orange. Existing Appropriations in the Housing & Community Development Fund (Fund 15G) are insufficient for this project and revisions are included with the Recommended Actions to increase appropriations for Services and Supplies by $15,168,000 and Capital Assets by $7,920,000 offset by revenue from the State’s Homekey Program. Financial Impacts are detailed as follows:

**Property No. 1**

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<th>Sources:</th>
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<tr>
<td>California Department of Housing and Community Development (HCD) Homekey Program Capital Request</td>
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<td>Local Match Capital Request City of Stanton</td>
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<td>Local Match Capital Request County of Orange (MHSA)</td>
<td>1,085,000</td>
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<td><strong>Total Sources of Capital to acquire and place in service</strong></td>
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<td>Other Cost</td>
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<td><strong>Total Uses of capital to acquire and place in service</strong></td>
<td><strong>9,005,000</strong></td>
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An additional $1,728,000 in State Homekey General Funds was awarded for operations.

**Property No. 2**

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<td>HCD Homekey Program Capital Request</td>
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<table>
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<td><strong>Total Uses of capital to acquire and place in service</strong></td>
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</table>

An additional $1,440,000 in State Homekey General Funds was awarded for operations.
Appropriations for this project will come for the state's Homekey Program and will be included in Amended budget control fund for FY 2020-2021. The County's share of funding for future years will be included in the budgeting process for those years.

☐ Revised Attachments (attach revised attachment(s) and redlined copy(s))
October 15, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the October 20, 2020, Board Hearing.

Agency: County Executive Office
Subject: Purchase and Funding for Homekey Program Properties
Districts: 2

Reason for supplemental: The County Executive Office is requesting this Supplemental Item be placed on the October 20, 2020, Board agenda due to state deadlines regarding the receipt of Homekey Program funds and the purchase of properties. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
    County Executive Office
    County Counsel
SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 10/20/20
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 2
SUBMITTING AGENCY/DEPARTMENT: County Executive Office
DEPARTMENT HEAD REVIEW: 
DEPARTMENT CONTACT PERSON(S): Thomas Miller (714) 834-6019
Dylan Wright (714) 480-2788

SUBJECT: Purchase and Funding for Homekey Program Properties

CEOs CONCUR
Michelle Aguirre

COUNCIL REVIEW
Approve to Form
Action

CLERK OF THE BOARD
Discussion 4/5 Vote

Budgeted: No
Current Year Cost: See Financial Impact Section
Annual Cost: See Financial Impact Section
Staffing Impact: No
# of Positions: 
Sole Source: No
Current Fiscal Year Revenue: See Financial Impact Section
Funding Source: See Financial Impact Section
County Audit in last 3 years N/A

Prior Board Action: 09/15/2020 #17, 08/25/2020 #14, 07/28/2020 #25, 12/17/2019 #20

RECOMMENDED ACTION(S)

1. Find that the subject activity is exempt from the California Environmental Quality Act pursuant to the Statute and Guidelines Section 21080.50 and for activities funded by Homekey funds pursuant to Health & Safety Code Section 50675.1.2.

2. Authorize OC Community Resources Director or designee to accept Homekey Program grant funds in an amount up to $23,088,000 and execute State Standard Agreements and any documentation including escrow instructions necessary to receive and accept Homekey Program funds and/or direct said funds to escrow, or escrows, in accordance with the attached Purchase and Sale Agreement for 7161 Katella Avenue, Stanton and for purchase of 11850 Beach Boulevard, Stanton as well as costs associated with pre-development, rehabilitation, relocation, recording/title fees and other costs funded by Homekey Program grant funds as needed. All distributions from the escrow, or escrows, shall be approved by the OC Community Resources Director or designee pursuant to the State Standard agreements.
3. Authorize the Chief Real Estate Officer or designee to complete the purchase of the motel property located at 7161 Katella Avenue, Stanton, for housing operations using state grant funds from the Homekey Program in the amount of $7,300,000, to be funded into escrow pursuant to the terms of the attached Purchase and Sale Agreement with Global Student Housing, LLC, dba Stanton Inn & Suites including making minor modifications and amendments that do not materially alter the terms of the transaction and to sign related documents and perform related actions as required to finalize due diligence, complete the purchase and to close escrow, including executing and accepting the final Grant Deed for transfer of the property.

4. Authorize the Chief Real Estate Officer or designee to spend up to $200,000 for costs related to the due diligence and other related costs for investigation of the property located at 7161 Katella Avenue, Stanton, and, upon satisfactory completion of all due diligence, to complete the purchase of the property.

5. Direct the Auditor-Controller, upon notification and approval by the Chief Real Estate Officer or designee to issue payments or fund escrow up to a total amount not to exceed $200,000 to County agencies or County contracted vendors and/or Jamboree Housing for payment of due diligence and title research required for land survey, engineering reports, hazardous material assessment report(s), trust deed clearance fees, forward fees, subordination fees and other fees associated with the due diligence and title research as applicable to 7161 Katella Avenue, Stanton.

6. Approve the use of Homekey program grant funds in the amount of $9,500,000 to be funded into an escrow for the purchase of the motel property located at 11850 Beach Boulevard, Stanton by JHC-ACQUISITIONS LLC, an entity of Jamboree Housing Corporation, in return for a 60-year regulatory agreement committing JHC-ACQUISITIONS LLC to meet the affordability requirements of the Regulatory Agreement on the motel property.

7. Approve the Relocation Plan for 11850 Beach Boulevard, Stanton, in substantial conformance with the plan attached with the approval of County Counsel.

8. Approve the Ground Lease Agreement with JHC-ACQUISITIONS LLC for a term not to exceed 60-years to plan, design, fund, construct, renovate, market, operate, manage and maintain the property located at 7161 Katella Avenue, Stanton, and authorize the Chief Real Estate Officer or designee to execute the Ground Lease Agreement in substantial conformance with the attached form, with approval of County Counsel, upon the County’s purchase of the property, and to make non-material revisions and updates to the Ground Lease without further Board of Supervisors approval.

9. Adopt the Resolution making certain findings pursuant to Government Code 26227 related to the approval of the Ground Lease and disposal or transfer of associated improvements and personal property to JHC-ACQUISITIONS LLC for the use, construction, entitlement, operation, maintenance and management of the property at 7161 Katella Avenue, Stanton.

10. Approve the Mental Health Services Act loan commitment to Jamboree Housing Corporation or a to-be-formed limited partnership to develop 10 units located at 7161 Katella Avenue, Stanton, in an amount not to exceed $1,085,000 to be funded into escrow for purchase of the property, subject to contingencies outlined in this Agenda Status Report.
11. Authorize the OC Community Resources Director or designee to decrease the amount of Mental Health Services Act funds in the 2020 Supportive Housing Notice of Funding Availability by $1,085,000 and use the funds to fulfill the state’s local match requirement and to purchase of property located at 7161 Katella Avenue, Stanton.

12. Approve subordination of Mental Health Services Act loan to Jamboree Housing Corporation or a to-be-formed limited partnership for the purchase of property located at 7161 Katella Avenue, Stanton, at permanent financing to additional senior debt up to 100 percent of the cumulative loan-to-value based on the as-built appraised market value, if necessary, based on any future changes in project financing.

13. Authorize the OC Community Resources Director or designee to execute subordination agreements; standard set of loan documents and restrictive covenants; escrow instructions, and such additional agreements, contracts, instructions, amendments and instruments necessary or appropriate for the implementation of the Homekey Program and the operation of both 7161 Katella Avenue and 11850 Beach Boulevard, Stanton, including the development of 10 units at 7161 Katella Avenue, in a form approved by County Counsel.

14. Authorize the Auditor-Controller, upon notification from and approval by OC Community Resources Director or designee, to fund escrow accounts in accordance with this Agenda Staff Report.

15. Direct the Auditor-Controller to revise appropriations, revenues, transfers in and out and fund balance-assigned for OC Community Resources - Housing & Community Development (Fund 15G) and Health Care Agency (Fund 100) in accordance with Government Code Sections 29130, 29125 and 25252, as follows (Requires four-fifths vote):

<table>
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<tr>
<th>Fund</th>
<th>Dept.</th>
<th>Budget Ctrl.</th>
<th>Unit</th>
<th>Object/Rev. Src./BSA</th>
<th>DObj./DRSRC</th>
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<th>Appropriations Inc/(Dec)</th>
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<td>1000</td>
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**SUMMARY:**
Approval of the recommended actions will allow use of state Homekey Program funds to purchase, ground lease and operate 7161 Katella, Stanton, and to purchase and operate, through co-applicant Jamboree Housing Corporation, 11850 Beach Boulevard, Stanton, for immediate use as interim housing and subsequent conversion into permanent supportive housing under 60-year regulatory agreements.

BACKGROUND INFORMATION:

Project Roomkey was established in March of 2020 to help control the spread of COVID-19 among populations experiencing homelessness and vulnerable populations. The County leased motel properties throughout the County for housing individuals experiencing homelessness and vulnerable individuals. Each location has been managed by contract service providers and collectively those accommodations have proved effective in controlling the spread of COVID-19.

On June 30, 2020, Governor Gavin Newsom announced the Homekey Program as the successor to Project Roomkey. The State of California set aside a combined $600 million from the Coronavirus Relief Fund and the state General Fund for counties to partner with the state to “acquire and rehabilitate a variety of housing types: hotels, motels, vacant apartment buildings, residential care facilities, and other tiny homes” to assist those who are experiencing homelessness or at-risk of homelessness and whom are impacted by the COVID-19 pandemic.

Since the beginning of the pandemic, an interagency task force comprised of staff from OC Community Resources (OCCR), Health Care Agency (HCA) and County Executive Office (CEO) Real Estate have met regularly to identify suitable properties and motel and hotel properties that could serve the anticipated Homekey Program purposes. The team communicated with many stakeholders and issued a County wide Request for Information (RFI) seeking development partners with eligible properties in addition to independently searching for suitable properties. That multifaceted consultation, and the responses received from the RFI culminated in identification of three properties and partnership with Jamboree Housing Corporation (Jamboree) as co-applicant for state Homekey Program funding.

On July 28, 2020, the Board of Supervisors (Board) passed a resolution authorizing the County of Orange (County) to submit application(s) to apply for up to $60,630,044 from the Homekey program. Subsequently, on September 15, 2020, the Board approved revised resolutions authorizing the County to jointly submit applications to apply for Homekey Program funding with Jamboree, as co-applicant, and authorized the OCCR Director or designee to execute applications, Standard Agreements and any subsequent amendments and other program-related documents. Form Exhibits A, B, D and E from the state are included as Attachment D.

On August 13, 2020, the County submitted three applications for funding. Two of the properties were designated as Tier 1 opportunities and have received an award of funding. The third property is still in negotiation and is a Tier 2 opportunity (if funding remains available and the negotiations are completed).

The first property awarded Homekey Program funds is a 72-unit motel property currently known as Stanton Inn and Suites. It is located at 7161 Katella Avenue, Stanton (Property No. 1). Property No. 1 can be acquired in fee and ground leased for 60 years to Jamboree or its designee for operations providing both housing for individuals and families experiencing homelessness or at risk of experiencing homelessness and who are impacted by the COVID-19 pandemic.

The second property is a 60-unit motel property currently known as the Tahiti Motel. It is located at 11850 Beach Boulevard, Stanton (Property No. 2). Property No. 2 can be encumbered to provide Permanent
Supportive Housing (PSH) and affordable housing for 60 years with the use of a Regulatory Agreement encumbrance (Encumbrance). Prior to the creation of the Homekey Program, this property was under contract between the Seller and Jamboree in partnership with the City of Stanton.

Property No. 1
Property No. 1 is currently being leased by the County of Orange as part of Project Roomkey. Following Board approval, award and issuance of state funding and close of escrow, the current participants will transition into the Homekey Program in November and December of 2020. Also following acquisition, necessary immediate repairs will be made to the two buildings of the motel so it can be rapidly and professionally operated and occupied as interim housing, for up to five years. During those years, Low-Income Housing Tax Credits, project-based vouchers and other affordable housing funds will be secured to further improve the property and convert it into PSH with amenities. Property management, resident services and intensive case management will be provided by American Family Housing (AFH). Property No. 1 is a pathway to immediately address the housing needs of those experiencing homelessness for the City of Stanton and Central Service Planning Area (SPA).

This property is three stories with an elevator and lobby. It has indoor and outdoor weather-sheltered meeting areas and was built in 1989. Once initial renovations are completed, Property No. 1 will consist of 72 efficiency/studio units including two units for management/maintenance staff. The property management/supportive services group will utilize the current front lobby space, which includes a large meeting room. The property will have controlled access, supportive services, on-site amenities and an onsite property manager. The rooms are large for a motel property and include full private bathrooms. The larger unit size lends itself to the future addition of full function kitchenettes. Proximity to transportation, employment and services are also excellent fundamentals for this property.

Pursuant to Board authority granted on August 25, 2020, the Chief Real Estate Officer entered into a Purchase and Sale Agreement, dated August 31, 2020 (attached hereto), for the purchase of Property No. 1 for $7.3 million. The CEO Real Estate valuations team has substantiated that this is fair market price for the property. CEO Real Estate will continue to complete due diligence investigations underway on Property No. 1 to assure the property does not carry undesirable characteristics such as a significant environmental hazard. A Phase I Environmental Site Assessment will be completed. Due diligence will also include review of the preliminary title report and all underlying title documents and a land survey to support the issuance of an American Land Title Association Policy of Title Insurance. In addition, OC Public Works will inspect the building infrastructure and systems and CEO/Risk Management will conduct a safety inspection. A structural/seismic assessment of Property No. 1 and the building will also be completed.

Property No. 2
Property No. 2 involves the adaptive re-use of a 60-unit motel; first as interim housing, for a period of up to five years to serve homeless individuals sheltered from COVID-19 and ultimately into PSH for extremely low-income residents.

This motel was built in 1960 and is in fair condition. Following acquisition, Jamboree will make immediate repairs to life-safety systems and meet accessibility requirements. Jamboree contracted with Overland Pacific and Cutler (OPC) to prepare the Relocation Plan and manage the relocation of existing long-term tenants that do not currently meet the program eligibility requirements for this development. OPC posted the Relocation Plan for public comment on September 1, 2020, for the required 30 days. No comments were received. OPC will diligently pursue the relocation plan in conformance with federal and state law. Due to the County's involvement in the use of the property and the resulting displacement and relocation of some of the existing long-term tenants, the County, as the public agency, is required to obtain approval of the Relocation Plan from its legislative body, the Board.
Once initial renovations are completed, the property will consist of 60 efficiency/studio units including one manager’s unit. Like Property No. 1, property management, resident services and intensive case management will be provided by AFH. The property management/supportive services group will utilize the current front lobby space, which includes a full kitchen and two large rooms for resident support services. The property will have secured controlled access, on-site amenities, supportive services and an onsite property manager. The rooms average approximately 280 square feet and have existing kitchenettes and full private bathrooms. In addition, on October 27, 2020, the Stanton City Council will consider a proposal to offer a 50-yr lease of the adjacent parcel to the south to the Jamboree entity. That parcel contains a modular building that can be used for delivering a variety of services to residents. There has been a coordinated effort by the City of Stanton, Jamboree and the County to reinvest in this property’s neighborhood while simultaneously addressing the need for housing and homeless housing. The state’s Homekey Program funds will advance this project from concept to reality, and like Property No. 1 this property provides a pathway to immediately address the housing needs of those experiencing homelessness for the City of Stanton and Central SPA.

Jamboree’s JHC-ACQUISITIONS LLC entity or successor is the co-applicant with the County for the Homekey Program, will be the owner of Property No. 2 and is performing all the due diligence on the property prior to acquisition.

City of Stanton
In 2013 the City of Stanton adopted its 2014-2021 Housing Element. That plan has guided its diligent efforts: 1) to determine the number of individuals and families using motels as temporary residences, and 2) to match its resources with experienced regional partners for the conversion of motel units into permanent housing. To that end, funds available from the closing of its former redevelopment agency held by Stanton’s Housing Successor Agency are being allocated for both acquisition and operating costs and were approved for commitment to these two properties at the City of Stanton’s September 22, 2020, City Council meeting.

OC Community Resources
On December 17, 2019, the Board approved recommended changes in policy and process for the 2020 Supportive Housing Notice of Funding Availability (2020 NOFA) and authorized the OCCR Director or designee to issue the 2020 NOFA with an emphasis on development of extremely low-income housing using a combination of up to $13 million in Orange County Housing Successor Agency funds, Home Investment Partnerships program funds (HOME) and Mental Health Services Act (MHSA) funds as well as up to 200 Project Based Vouchers. The 2020 NOFA authorizes OCCR, with Board approval, to decrease the amount in the 2020 NOFA. OCCR is asking the Board to approve a decrease in the amount of funding available in the County’s 2020 NOFA. After the proposed reduction, $1,839,910 in MHSA funding will remain in the 2020 NOFA. Presently, there are no pending applications for funding awaiting review.

Due to the expedited timeline set forth in the Homekey Program, it will be difficult for Jamboree to undergo the 2020 NOFA application process and still meet the Homekey Program timelines for the County to acquire the property and lease it to Jamboree. Staff evaluated the proposed project during the RFI process. Under the Homekey Program, the state will provide acquisition funding up to $100,000 per door with no match requirement and any acquisition funding requests beyond $100,000 per door, up to $200,000 per door, would require a 1:1 match or a 2:1 match. As proposed, the County will utilize $1,085,000 in MHSA funds from the 2020 NOFA as local match for the acquisition of Property No. 1, which will develop 10 MHSA units upon conversion to permanent supportive housing. The MHSA funds are structured in the form of a Loan to Jamboree. The loan terms are 3 percent simple interest for 55 years. The loan will fund at
acquisition but is structured as a permanent loan that will be repaid through residual receipts after the property converts to PSH.

Upon the closing of Property No. 1, Jamboree and the County will enter into a Ground Lease (Attachment C). The Ground Lease has a term not to exceed 60 years. In consideration of the public benefit afforded by the acquisition of Property No. 1 and Jamboree’s operation of this property, the annual rent is based on residual receipts and will only be paid after the MHSA loan is repaid. The attached resolution makes certain findings pursuant to Government Code 26227 to permit the Board to approve the execution of the Lease with Jamboree, a nonprofit entity. Jamboree will have an obligation to contribute to a capital improvement fund that will assist with upkeep of the property and transition of the property to the County upon termination of the 60-year term.

During a five-year interim period, Jamboree commits to maintaining the affordability restrictions on both developments at 30 percent Area Median Income or below, which will be secured by regulatory agreements. The properties will serve those experiencing homelessness that meet the income and program requirements. The County will work with Jamboree to ensure the properties transition from interim housing to PSH within the five-year timeframe.

**Health Care Agency**

The Health Care Agency, Office of Care Coordination in collaboration with the County’s Continuum of Care Board and Cal Optima will bring a Master Agreement with Jamboree Housing in a separate subsequent ASR regarding operating subsidies and payments for services delivered to residents. It is anticipated that Jamboree will manage property operations as an interim housing program and that those operations will be managed by Jamboree’s operator, American Family Housing (AFH), including onsite security 24 hours a day, seven days per week, site supervision, support services, referral access line, daily meals and janitorial services. The operator’s staff will connect all eligible participants to benefits, permanent housing options and community resources.

**Compliance with CEQA:**

The proposed project is exempt from the California Environmental Quality Act pursuant to Statute and Guidelines Section 21080.50 to provide permanent supportive housing and affordable housing dwellings and for activities funded by Homekey Program funds pursuant to Health & Safety Code Section 50675.1.2.

**FINANCIAL IMPACT:**

Homekey Program is a state grant program that requires matching from local participants such as the City of Stanton and the County of Orange. Financial Impacts are as follows:

**Property No. 1**

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<thead>
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<th>Sources:</th>
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<tbody>
<tr>
<td>California Department of Housing and Community Development (HCD) Homekey Program Capital Request</td>
<td>7,920,000</td>
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<tr>
<td>Local Match Capital Request City of Stanton</td>
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<tr>
<td>Local Match Capital Request County of Orange (MHSA)</td>
<td>1,085,000</td>
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<tr>
<td>Total Sources of Capital to acquire and place in service</td>
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</table>

**Uses:**

| Acquisition Costs | 7,300,000 |

Rehabilitation Costs | 826,550  
Other Cost | 878,450  

| Total Uses of capital to acquire and place in service | 9,005,000 |

An additional $1,728,000 in State Homekey General Funds was awarded for operations.

**Property No. 2**

| Sources: |  
| HCD Homekey Program Capital Request | 12,000,000  
| Local Match Capital Request City of Stanton | 1,961,438  
| Local Match Capital Request County of Orange | 0  
| Total Sources of Capital to acquire and place in service | 13,961,438 |

| Uses: |  
| Acquisition Costs | 9,500,000  
| Rehabilitation Costs | 1,240,550  
| Other Cost | 3,220,888  
| Total Uses of capital to acquire and place in service | 13,961,438 |

An additional $1,440,000 in State Homekey General Funds was awarded for operations.

Appropriations for this project will come for the state's Homekey Program and will be included in Amended budget control fund for FY 2020-2021. The County's share of funding for future years will be included in the budgeting process for those years.

**STAFFING IMPACT:**

N/A

**REVIEWING AGENCIES:**

OC Community Resources  
Health Care Agency

**ATTACHMENT(S):**

Attachment A - Purchase and Sale Agreement for 7161 Katella Avenue, Stanton  
Attachment B - Real Property Acquisition Questionnaire for 7161 Katella Avenue  
Attachment C - Ground lease for 7161 Katella Avenue, Stanton  
Attachment D - State of California Homekey Program Standard Agreement Exhibits A, B, D and E  
Attachment E - Health & Safety Code Section 50675.1.2.  
Attachment F - Government Code Section 26227  
Attachment G - Resolution  
Attachment H - Site Locations Diagrams  
Attachment I - Affidavits of Publication and Posting  
Attachment J - State NOFA for the Homekey Program  
Attachment K - Relocation Plan for 11850 Beach Boulevard
PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS

This Purchase and Sale Agreement and Joint Escrow Instructions (this “Agreement”), between GLOBAL STUDENT HOUSING, LLC, DBA STANTON INN & SUITES ("Seller") and the COUNTY OF ORANGE, a political subdivision of the State of California ("County"), is entered into as of August 31, 2020 (the “Effective Date”). This Agreement shall also constitute the joint escrow instructions of County and Seller to STEWART TITLE INSURANCE COMPANY (the “Escrow Agent” and/or “Title Company”). County and Seller are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

A. Seller is the owner of that certain real property consisting Assessor’s Parcel Numbers 079-762-61 and 079-762-26 located at 7161 Katella Avenue, Stanton, CA 90680, and more particularly described in the legal description attached as Exhibit A and the site plan depicted in the attached Exhibit B and incorporated herein by this reference (“Property”).

B. The Parties desire to enter into this Agreement to document the purchase and sale of the Property between Seller and County on all of the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, County and Seller hereby agree as follows:

Section 1. Purchase and Sale.

Seller hereby agrees to sell to County, and County hereby agrees to purchase from Seller the Property, together with any and all easements, rights-of-way, privileges, rights and appurtenances, improvements, personal property benefiting, appertaining or belonging to the Property, including, without limitation, any and all of Seller’s right to contiguous streets and roads (whether opened or proposed) on the Property, riparian rights, water or water rights, and/or oil, gas or other minerals laying under the Property.

Section 2. Purchase Price.

The purchase price for the Property shall be SEVEN MILLION THREE HUNDRED THOUSAND DOLLARS ($7,300,000.00) (the “Purchase Price”). The Purchase Price shall be payable upon the Close of Escrow.

Section 3. Escrow and Deposit.

(a) By this Agreement, County and Seller establish an escrow (“Escrow”) with Escrow Agent. Escrow shall close no later than thirty (30) calendar days after the later of expiration of the Due Diligence Period or Extended Escrow Period, both as defined below, but in no event shall the closing date be later than December 30, 2020.

(b) County shall deposit ONE HUNDRED THOUSAND DOLLARS ($100,000.00) into Escrow ("Initial Deposit") concurrently with the opening of Escrow. The Initial Deposit shall be applicable toward the Purchase Price and shall be fully refundable to County and not released until the following conditions are satisfied; (1) County, in its sole and absolute discretion, has not terminated this Agreement prior to expiration of the Due Diligence Period, as defined below; and (2) the County has obtained full funding for the purchase of the Property from the State. As a condition to the release of the Initial Deposit to Seller, Seller and
County shall execute and deliver to Escrow Agent, in a form suitable for recording, the Memorandum of Agreement attached to this Agreement as Exhibit D (the "Memorandum"). The Initial Deposit shall remain on deposit with the Escrow Agent until close of escrow by the County. Escrow Agent shall concurrently with the payment of the Deposit to Seller, record the Memorandum in the Official Records of the County of Orange. Upon recordation of the Memorandum, County shall deliver a properly executed and notarized Quitclaim Deed for the Property. This quitclaim deed shall be held by Escrow Agent until there is a termination of the Purchase Agreement, if any. Escrow Agent shall record the quitclaim deed at the time of a termination of the Purchase Agreement.

(c) Independent Contract Consideration. Concurrently with County’s delivery of the Initial Deposit to the Escrow Agent, County shall deliver to Escrow Agent the sum of $100.00 (the "Independent Contract Consideration"), which shall be immediately released by Escrow Agent to Seller, and shall be accepted by Seller as the independent contract consideration for Seller’s execution and delivery of this Agreement and the rights extended to County hereunder. The Independent Contract Consideration is earned as of the execution hereof by County and Seller, and is nonrefundable under all circumstances. At Closing, the Independent Contract Consideration shall be applied to the Purchase Price.

Section 4. Due Diligence Period.

(a) Commencing on the Effective Date and terminating sixty (60) calendar days thereafter County may, at County’s sole cost and expense, undertake an investigation of the Property (the "Due Diligence Period"). County’s Due Diligence may include, but not be limited to, at County’s sole discretion:

i. A review, inspection and examination of the physical, geological and environmental condition of the Property, including, but not limited to, the receipt of one or more environmental site assessment reports (collectively, the "Environmental Report"); provided, however, County shall not conduct any geotechnical soil borings, test pits and other invasive environmental tests of the Property without Seller’s prior written consent;

ii. A review and investigation of any zoning, maps, permits, reports, engineering data, regulations, ordinances, and laws affecting the Property;

iii. An appraisal of the Property (the "Appraisal"); and

iv. A review of the economic feasibility of County’s proposed use of the Property.

(b) During the Due Diligence Period and through the close of Escrow the County may enter upon the Property for any and all purposes related to its Due Diligence. County shall indemnify, defend and hold Seller and its employees and agents and the Property free and harmless of all claims, liabilities, actions, suits, and judgments and costs or charges arising out of the entry upon the Property by County and County’s agents for the County’s purposes related to its Due Diligence.

(c) County at County’s sole cost, shall repair all damage caused by County or County’s agents in connection with any such inspection or entry and shall return the Property to the condition existing prior to such inspections.

(d) If County, in its sole and absolute discretion, disapproves the results of any inspection or its investigation, County may elect, on or prior to the last day of the Due Diligence Period to terminate this Agreement by giving Seller written notification of its election and receive the return of the Deposit. In the event County fails to deliver written notice to Seller of its disapproval of the Property prior to the expiration
of the Due Diligence Period, County shall be deemed to have approved of the Property.

(e) Within fifteen (15) calendar days following the Effective Date, Seller shall deliver to County copies of documents, materials or information relating to the Property in Seller’s possession (the “Due Diligence Materials”), including for example: the disclosure of all parties who have any financial or equitable interest in the Property, all liens on and/or debts secured by the Property, all threatened or pending litigation, all leases, subleases, assignments of leases, site plans, service contracts, warranties, guaranties, engineering plans and studies, landscape plans, architectural and civil plans and specifications, covenants, conditions and restrictions, reciprocal easement and/or parking agreements (that are not a matter of record title), utility will-serve letters, zoning letters, subdivision plats, surveys, property condition reports, environmental reports and studies and soils reports that are owned by or in the possession of Seller. Seller acknowledges that such Due Diligence Materials represent all documents in Seller’s possession with respect to the Property. In the event that any additional documents are discovered by Seller or come into Seller’s possession after the Effective Date, Seller shall promptly deliver said document(s).

(f) In the event County terminates this Agreement prior to Closing, County shall promptly return all Due Diligence Materials provided by Seller.

(g) Seller shall provide County with access to the Property during the Due Diligence Period(s) and through the close of Escrow upon no less than twenty-four (24) hours prior written notice to Seller of County’s request therefor.

(h) Unless otherwise agreed to in writing, the Property is sold “AS-IS” in its present physical condition as of the date of acceptance and subject to County’s investigation rights.

Section 5. Conditions Precedent.

(a) Conditions to County’s Performance. County’s obligation to perform under this Agreement is subject to the following conditions:

i. County’s approval of the Property as provided in Section 4 and Section 7;

ii. Application for and receipt of all necessary governmental permits, licenses, conditional use permits and approvals for the use of the Property, if any, Seller shall, in good faith, cooperate with County in its applications, provided that Seller shall not be obligated to incur any expense in connection therewith;

iii. Each representation and warranty made in this Agreement by Seller shall be materially true and correct at the time made and as of the Close of Escrow;

iv. Seller’s performance of all obligations under this Agreement prior to the Close of Escrow hereunder and delivery to Escrow Agent the items required to be delivered by Seller;

v. Escrow Agent being prepared to issue the Title Policy (as hereinafter defined) on the Closing Date, subject only to the Approved Exceptions (as hereinafter defined).

vi. Prior to the release of the Initial Deposit, Seller shall provide assurances acceptable to the County that any party with a financial or equitable interest in the Property (“Note Holder”) will cooperate with, and approve of, the sale of the Property as contemplated in this Agreement.

(b) Conditions to Seller’s Performance. Seller’s obligations hereunder, including, but not limited
to, its obligation to consummate the purchase transaction provided for herein, are subject to the satisfaction, of each of the following conditions, each of which is for the sole benefit of Seller and may be waived by Seller in writing:

   i.    County shall have delivered to Escrow Agent the items required to be delivered by County pursuant to Section 6 hereof;

   ii.   County shall not be in default under this Agreement and shall have duly performed each and every covenant, undertaking and agreement to be performed by it prior to the Close of Escrow hereunder;

   iii.  Each representation and warranty made in this Agreement by County shall be true and correct at the time made and as of the Close of Escrow; and

Section 6. Closing Deliveries.

   (a) Seller’s Closing Deliveries. Not less than one (1) business day prior to the Closing Date, Seller shall deliver or cause to be delivered to Escrow Agent the following items:

   i.    A grant deed fully executed and acknowledged by Seller conveying the Real Property in the form attached hereto as Exhibit C (the “Grant Deed”) with all documentary transfer tax information disclosed;

   ii.   A Certificate of Non-Foreign Status duly executed by Seller certifying that Seller is not a “foreign person” within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended, together with the equivalent California form (Form 593-C) executed by Seller (collectively, the “Non-Foreign Affidavits”); and

   iii.  Any other document, instrument or agreement necessary to consummate the transactions contemplated herein reasonably requested by County or Escrow Agent.

   (b) County’s Closing Deliveries. Not less than one (1) business day prior to the Closing Date, County shall deliver or cause to be delivered to Escrow Agent the following items:

   i.    The balance of the Purchase Price;

   ii.   Certificate of Acceptance to be attached to the Grant Deed; and

   iii.  Any other documents, instruments or agreements necessary to consummate the transactions contemplated herein reasonably requested by Seller or Escrow Agent.

Section 7. Title and Survey.

   (a) Within ten (10) calendar days following the Effective Date, Seller shall instruct Escrow Agent to issue to County a current preliminary title report pertaining to the Property, together with the copies of all title exceptions and other matters referred to in such preliminary title report (the "Preliminary Title Report").

   (b) Within the Due Diligence Period(s), County may, at County’s sole cost and expense, cause a land survey of the Property to be prepared.

   (c) On or before expiration of the Due Diligence Period, County shall notify Seller in writing, in
County’s sole and absolute discretion, of County’s approval or disapproval of each exception or other matter that adversely affects County’s intended use of the Property shown on the Preliminary Title Report or land survey. If County fails to timely provide written notice to Seller of County’s disapproval of any item such failure shall be deemed an election by County to approve all title exceptions identified in the Preliminary Title Report. The Exceptions approved by or deemed approved by County hereunder shall be referred to as the “Approved Exceptions.”

(d) If any Exception is disapproved in writing by County pursuant to Section 6(c) above (each a "Disapproved Exception"), Seller shall, within ten (10) calendar days of Seller’s receipt of County’s written notice thereof, which must be delivered on prior to expiration of the Due Diligence Period or such right to disapprove shall be waived, notify County in writing of Seller’s agreement to remove, alter, modify or otherwise mitigate to the satisfaction of County any Disapproved Exception. In the event that Seller is not willing to remove, alter, modify or otherwise mitigate to the satisfaction of County any Disapproved Exception, County shall elect to either (i) waive its disapproval of such exception, in which case such exception shall then be deemed to be an Approved Exception, or (ii) terminate its obligation to purchase the Property and receive the return of the Deposit. County’s failure to give such notice shall be deemed an election to terminate its obligation to purchase the Property. In the event County elects or is deemed to have elected, to terminate its obligation to purchase the Property in accordance with this Section 6, County’s obligation to purchase, and Seller’s obligation to sell, the Property shall terminate, and neither Party shall have any further obligation to the other except as otherwise provided in this Agreement.

(e) In the event of any supplement to or update of the Preliminary Title Report, County shall have an additional five (5) calendar day period following County’s receipt of such supplement or update to approve or disapprove such item in its sole and absolute discretion. Any disapproval will be subject to the notice/response provisions as set forth in Section 7(d) above.

Section 8. Seller Covenants.

(a) Commencing at the Effective Date and until the Closing Date, Seller shall not cause or approve to be recorded against the Property any liens, encumbrances, or easements other than the Approved Exceptions, nor shall Seller enter into or modify any agreement regarding the sale, rental, management, repair, improvement, including the tenant lease or any other matter affecting the Property that would be binding on County or the Property after the Closing without the prior written consent of County.

(b) Commencing at the Effective Date and until the Closing Date, Seller shall operate and manage the Property substantially in accordance with Seller’s prevailing custom and practice, subject to casualty and condemnation and shall not cause or approve any act of waste. Seller shall deliver the Property broom clean on the Closing Date, and remove all of Seller’s personal property, including furniture, fixtures and equipment from the Property on or before the Closing Date.

(c) Until Closing, Seller shall keep any mortgage(s) against the Property current and pay all outstanding taxes and other public charges against the Property so as to avoid forfeiture of County’s rights under this Agreement. County is aware that a Notice of Default was recorded on July 16, 2020 against the Property, and Seller is currently in the process of resolving the default with the lender relating to that Default. Seller shall provide assurances acceptable to the County that any Note Holder will cooperate with, and approve of, the sale of this Property as set forth in this Agreement.

(d) Seller agrees as a condition of Closing that it shall deliver exclusive possession of the Property to County on the Closing Date, free and clear of any and all service contracts, leases and any rights in favor of third parties to use or occupy any portion of the Property.
Section 9. Closing.

(a) **Title.** Simultaneously with the Closing, Escrow Agent shall issue a CLTA standard coverage owner's policy of title insurance to County, with liability equal to the Purchase Price, subject only to the Approved Exceptions and the other standard inclusions found in such policies, as approved by the County during the Due Diligence Period (the "**Title Policy**").

(b) **Escrow Instructions.** This fully executed Agreement or counterparts hereof shall when delivered to Escrow Agent, constitute Escrow Agent's escrow instructions. Any standard form escrow instructions submitted by Escrow Agent or any other clarification or addition to the instructions contained herein shall, when executed by County and Seller, constitute additional escrow instructions. In the event of any conflict between such additional instructions and this Agreement, the terms of this Agreement shall prevail.

(c) **Closing Date.** The “**Close of Escrow**” or “**Closing**” means the date on which the Grant Deed conveying title to the Property to County is recorded. The Close of Escrow shall occur on or before the later of the date which is thirty (30) calendar days after the expiration of the Due Diligence Period or Extended Escrow Period, but in no case shall the Closing occur after **December 30, 2020** (the “**Closing Date**”). County shall be permitted to close on or before this Closing Date in County’s sole discretion. Seller understands the significance to the County to close by this date due to funding requirements from Project Homekey. The County shall continue to rent the Property until Closing prorated through the Closing Date on the terms set forth in the Emergency Occupancy Agreement between Seller and County dated April 3, 2020.

(d) **Close of Escrow.** Provided that Escrow Agent shall not have received written notice in a timely manner from County or Seller of the failure of any condition to the Close of Escrow or of the termination of the Escrow subject to rights afforded herein, and upon County and Seller depositing into Escrow the funds and documents required by this Agreement, Escrow Agent shall:

i. **Record Documents.** Cause the Grant Deed to be recorded;

ii. **Delivery to County.** Immediately upon recording of the Grant Deed or as soon as available thereafter, deliver to County: (i) a conformed copy of the Grant Deed; (ii) the Non-Foreign Affidavits; (iii) any funds deposited by County, and any interest earned thereon, in excess of the amount required to be paid by County hereunder; and (iv) the Title Policy issued by Title Company;

iii. **Delivery to Seller.** Immediately upon the recording of the Grant Deed deliver to Seller the balance of the Purchase Price, after satisfying closing costs, prorations and adjustments to be paid by Seller pursuant to this Agreement.

(e) **Closing Costs.** County shall pay (i) one-half (1/2) of Escrow Agent’s escrow fee; (ii) any charges for extended title coverage and any additional title endorsements requested by County; (iii) any charges or fees for the Appraisal. Seller shall pay (i) one-half (1/2) of Escrow Agent’s escrow fee; (ii) Title Company’s charges for the CLTA standard coverage Title Policy; and (iii) the cost of recording the Grant Deed. All other closing costs and charges shall be paid by the respective Parties in accordance with the customary practice in the County. The foregoing provisions of this Section notwithstanding, should the obligations of County to purchase, and Seller to sell, the Property be terminated in accordance with this Agreement, County and Seller shall each pay one-half (1/2) of the cost of the escrow cancellation fees and other amounts due Escrow Agent and the Title Company; provided, however, that should this Escrow be terminated as a result of the default by one of the Parties hereto, the defaulting Party shall pay the entire amount of the cancellation fees and other amounts due Escrow Agent and the Title Company, and the non-defaulting Party shall have no liability therefor. County and Seller shall each pay their own attorneys’ fees in connection with the preparation and negotiation of this Agreement and in connection with the consummation of the transactions contemplated...
hereby.

(f) Prorations. All current and delinquent property taxes shall be paid by Seller through the end of the tax year in which the Closing Date occurs. Seller may request a refund of property taxes directly from the Treasurer Tax Collector for that portion of the property taxes paid from the Closing Date until the end of the current tax year.

Section 10. Damage and Destruction.

(a) Casualty during Escrow. If there is material damage to the Property or if the Property is destroyed or materially damaged by earthquake, flood, landslide, or other casualty prior to the Closing Date, then County shall have the right, by written notice delivered to Seller and Escrow Agent within ten (10) calendar days after such damage or destruction, to terminate this Agreement and cancel Escrow. Otherwise, if County does not so elect to terminate this Agreement and cancel Escrow by written notice delivered to Seller and Escrow Agent within such ten (10) calendar day period, then this Agreement shall remain in full force and effect, and all insurance proceeds payable to Seller with respect to such damage or destruction, if any, shall be assigned and delivered by Seller to County at the Close of Escrow hereunder. If this Agreement and the Escrow are terminated by County by written notice delivered to Seller and Escrow Agent during such ten (10) calendar day period as provided above, then, notwithstanding the provisions of Section 9(f) above, County and Seller shall each pay one half (1/2) of the Escrow cancellation charges.

(b) Condemnation. If before the Close of Escrow, all or any portion of the Property is subject to an actual or threatened taking by a governmental or quasi-governmental entity or public authority, by the power of eminent domain or otherwise, County shall have the right, exercisable by giving written notice to Seller within ten (10) calendar days after County’s receipt of written notice from Seller of such taking to either (a) to terminate its obligation to purchase the Property, in which case County’s obligation to purchase, and Seller’s obligation to sell, the Property shall terminate, and neither Party shall have any further obligation to the other except as otherwise provided in this Agreement, or (b) to accept the applicable portion of the Property in its then existing condition, in which case, all condemnation awards shall be paid or assigned to County. County’s failure to deliver such notice within the time period specified shall be deemed to constitute County’s election to accept the applicable portion of the Property in its then existing condition.

(c) As used herein the terms “material” or “materially” shall be deemed to refer to an insured or uninsured casualty to the Property having an estimated cost of repair that exceeds ten percent (10%) of the Purchase Price, as determined by a licensed general contractor selected by Seller and reasonable acceptable to County. As used herein the term a “taking” shall mean where such government or quasi-governmental action affects the Property if the estimated value of the portion of the Property taken exceeds ten percent (10%) of the Purchase Price. The term “estimated value” shall mean an estimate obtained from a M.A.I. appraiser, who has at least five (5) years’ experience evaluating property located in the County of Orange, similar in nature and function to that of the Property, selected by Seller and reasonably acceptable to County.

Section 11. County’s Representations and Warranties.

County hereby makes the representations and warranties set forth in this section for the benefit of Seller and its successors and assigns, which representations are true in all respects as of the Effective Date. County shall notify Seller in writing promptly if County becomes aware that any representation or warranty has become untrue or misleading in light of information obtained by County after the Effective Date.

(a) Authority. County is a political subdivision of the State of California duly organized, validly existing and in good standing under the laws of the State of California. County has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder. The execution of delivery of
this Agreement by County has been duly authorized.

(b) **No Conflict.** The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of County do not and will not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the Property or assets of County by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which County is a party or which is or purports to be binding upon County or which otherwise affects County, which will not be discharged, assumed or released at the Close of Escrow.

(c) **Litigation.** Seller is aware of litigation associated with the Property. The County does not want to become involved in this litigation in any manner. Seller and its members shall immediately indemnify, defend and hold harmless the County, its employees and agents regarding litigation currently underway in the Orange County Superior Court, Case No. 30-2018-01025983-CU-BC—CJC, entitled *Global Student Housing v. James Turco et al* and any other litigation that is or may become associated with the Property, including but not limited to claims by third parties against the County arising out of the sale of this Property to the County. To the extent that the Closing does not occur due to this litigation, at no fault of the County, County shall be entitled to a full refund of the Initial Deposit and Independent Contract Consideration.

(d) **Default.** County is aware of the Notice of Default recorded against the Property on July 16, 2020 by The Evergreen Advantage, LLC. Seller is currently working with the Lender to resolve this Notice of Default. To the extent that the Closing does not occur due to this Notice of Default, at no fault of the County, County shall be entitled to a full refund of the Initial Deposit and Independent Contract Consideration in addition to any and all remedies set forth herein.

**Section 12. Seller's Representations and Warranties.**

Seller hereby makes the representations and warranties set forth in this section for the benefit of County, which representations are true in all respects as of the Effective Date. Seller shall notify County in writing promptly if Seller becomes aware that any representation or warranty has become untrue or misleading or of any material inaccuracy of any of the representations and warranties in light of information obtained by Seller after the Effective Date.

(a) **Authority of Seller.** Seller is a limited liability company duly formed under the laws of the State of California, is in good standing, and has been qualified to do business in the State of California. The execution, delivery and performance of this Agreement by Seller have been duly authorized by the requisite action on the part of Seller, and no other authorization or consent is required therefor.

(b) **Violation of Law.** Seller has not received notice from any governmental entity and has no knowledge of any condition at the Property that violates any health, safety, fire, environmental, sewage, building, or other federal, state, or local law, code, ordinance, or regulation, which notice has not been addressed by Seller.

(c) **Hazardous Substances.** The following terms shall have the following definitions: (1) "Environmental Laws" means all federal, state, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any government authority regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance (as later defined), or pertaining to occupational health or industrial hygiene (and only to the extent that the occupational health or industrial hygiene laws, ordinances, or regulations relate to Hazardous Substances on, under, or about the Property), occupational or environmental conditions on, under, or about the Property, currently in effect; and (2)
"Hazardous Substances" means, without limitation, those substances included within the definitions of "hazardous substance," "hazardous waste," "hazardous material," "toxic substance," "solid waste," or "pollutant or contaminant" under any Environmental Law; and other substances, materials, and wastes that are regulated or classified as hazardous or toxic under federal, state, or local laws or regulations, including petroleum hydrocarbons and asbestos. Seller represents that, to its knowledge:

i. The Property does not contain Hazardous Substances in violation of any Environmental Laws;

ii. Seller has received no notice, warning, notice of violation, administrative complaint, judicial complaint, or other formal or informal notice alleging, and has no knowledge, that conditions on the Property are in violation of any Environmental Law, or informing Seller that the Property is subject to investigation or inquiry regarding Hazardous Substances on the Property or the violation of any Environmental Law; and

iii. Seller has disclosed to County all information, documents, records, and studies in the possession of Seller in connection with the Property concerning Hazardous Substances.

(d) Litigation. The only litigation Seller is aware of relating to the Property is Orange County Superior Court, Case No. 30-2018-01025983-CU-BC—CJC, entitled Global Student Housing v. James Turco et al. During the pendency of this Agreement, Seller shall immediately disclose to County any other litigation or threatened litigation relating to this Property.

(e) No Conflict. To Seller's knowledge, the execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Seller do not and will not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any terms or provisions of, or constitute a default under the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Seller is a part or which is or purports to be binding upon Seller or which otherwise affects Seller, which will not be discharged, assumed or released at the Close of Escrow.

(f) Commitments to Governmental Authorities. Except as may be reflected on title to the Property, no commitments have been made by Seller to any governmental authority, utility company, school board, any homeowners' association or to any other organization, group or individual, relating to the Property, which would impose an obligation upon County or its successors or assigns to make any contribution or dedication of money or land, or to construct, install or maintain any improvements of a public or private nature on or off the Property that have not been disclosed in writing to County.

(g) Right of First Refusal. To the best of Seller's actual knowledge no one other than County has a contract, option or right of first refusal to purchase the Property or any part thereof.

(h) Seller shall promptly notify County of any fact or circumstance that becomes known to Seller, which would make any of the foregoing representations or warranties untrue, provided that (a) where any such fact or circumstance was not known to Seller as of the Effective Date, Seller shall not be in default hereunder, but County shall have the right to terminate this Agreement in accordance with the terms hereof, and (b) where such fact or circumstance was known to Seller on or prior to the Effective Date, Seller shall be in default hereunder.

(i) Management of Property. Until the Closing, Seller shall manage and maintain the Property according to Seller's usual and customary manner, in a prudent, businesslike fashion. Seller shall be responsible for maintaining insurance on the Property and for any losses or claims made on the Property prior to Closing.
(j) **Contracts.** There are no contracts, commitments, or agreements between Seller and any other party, whether written or oral, relating to the maintenance or operation of the Property or to the performance of services concerning the Property under which County would be obligated or liable from or after the Closing.

(k) **Documents.** The Due Diligence Materials (i) are complete in all material respects and include correct copies of what they purport to represent; and (ii) fairly presents the information contained therein in a manner which is not materially misleading.

(l) **Cooperation.** Seller shall cooperate with the County in its inspection of the Property and shall execute such documents as are reasonably necessary to facilitate this inspection and/or the development of the Property in accordance with County’s development concept and as required by the governing governmental authorities, including compliance with the State of California’s Project Homekey program.

**Section 13. As-Is Sale; Default and Remedies.**

(a) **As-Is Sale.** Except as otherwise set forth herein and disclosed by Seller, County does hereby acknowledge and agree that County is purchasing the Property in an “as-is, where is, with all faults” condition as of the Closing Date. Seller has made no representations or warranties regarding the Property (except as otherwise contained herein), County shall have undertaken all such inspections and examinations in connection with the Property as County deems necessary or appropriate.

(b) **County Default; Seller Remedy.** IF THE SALE OF THE PROPERTY IS NOT CONSUMMATED DUE TO COUNTY’S DEFAULT UNDER THIS AGREEMENT, THEN SELLER’S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT SHALL BE TO TERMINATE THIS AGREEMENT BY GIVING NOTICE OF SUCH TERMINATION TO COUNTY (WITH A COPY TO ESCROW HOLDER) WHEREUPON, NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS, DUTIES OR OBLIGATIONS HEREUNDER EXCEPT THOSE OBLIGATIONS THAT EXPRESSLY SURVIVE TERMINATION OF THIS AGREEMENT AND, IF THE AGREEMENT IS TERMINATED AFTER FULFILLMENT OF THE COUNTY’S CONDITIONS TO CLOSE, SET FORTH IN SECTION 5(A), ABOVE, SELLER SHALL BE ENTITLED TO REIMBURSEMENT FROM THE COUNTY OF THE REASONABLE, OUT-OF-POCKET COSTS, INCLUDING REASONABLE ATTORNEYS’ FEES, INCURRED BY THE SELLER SOLELY IN CONNECTION WITH THIS AGREEMENT IN THE MAXIMUM AMOUNT NOT TO EXCEED $25,000.00; WHICH AMOUNT MUST BE REQUESTED IN WRITING WITHIN NINETY (90) DAYS AFTER THE THEN SCHEDULED CLOSING DATE. SELLER AND COUNTY HEREBY AGREE THAT THIS SECTION IS INTENDED TO AND DOES LIMIT THE AMOUNT OF DAMAGES DUE SELLER AND THE REMEDIES AVAILABLE TO SELLER, AND SHALL BE SELLER’S EXCLUSIVE REMEDY AGAINST COUNTY, BOTH AT LAW AND IN EQUITY ARISING FROM OR RELATED TO A MATERIAL BREACH OR DEFAULT BY COUNTY. SELLER SHALL NOT HAVE ANY OTHER RIGHTS OR REMEDIES AS A RESULT OF ANY DEFAULT BY COUNTY, AND SELLER HEREBY WAIVES ANY OTHER SUCH REMEDY AS A RESULT OF A DEFAULT BY COUNTY. WITHOUT LIMITING THE OTHER PROVISIONS OF THIS AGREEMENT, SELLER ACKNOWLEDGES THAT THE PROVISIONS OF THIS SECTION ARE A MATERIAL PART OF THE CONSIDERATION BEING GIVEN TO PURCHASER FOR ENTERING INTO THIS AGREEMENT AND THAT COUNTY WOULD BE UNWILLING TO ENTER INTO THIS AGREEMENT IN THE ABSENCE OF THE PROVISIONS OF THIS SECTION. THE PROVISIONS OF THIS SECTION SHALL SURVIVE ANY TERMINATION OF THIS AGREEMENT.

(c) **Seller Default; County Remedy.** IF THE SALE OF THE PROPERTY IS NOT CONSUMMATED DUE TO SELLER’S DEFAULT UNDER THIS AGREEMENT, THEN COUNTY’S
REMEDY HEREUNDER SHALL BE LIMITED TO COUNTY’S ELECTION TO EITHER: (I) TERMINATE THIS AGREEMENT IN WHICH EVENT NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT; OR (II) PURSUE THE REMEDY OF SPECIFIC PERFORMANCE OF SELLER’S OBLIGATION TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT, PROVIDED THAT ANY SUCH SUIT FOR SPECIFIC PERFORMANCE MUST BE FILED WITHIN NINETY (90) DAYS AFTER THE THEN SCHEDULED CLOSING DATE. COUNTY SHALL NOT HAVE ANY OTHER RIGHTS OR REMEDIES AS A RESULT OF ANY DEFAULT BY SELLER, AND COUNTY HEREBY WAIVES ANY OTHER SUCH REMEDY AS A RESULT OF A DEFAULT BY SELLER. WITHOUT LIMITING THE OTHER PROVISIONS OF THIS AGREEMENT, COUNTY ACKNOWLEDGES THAT THE PROVISIONS OF THIS SECTION ARE A MATERIAL PART OF THE CONSIDERATION BEING GIVEN TO SELLER FOR ENTERING INTO THIS AGREEMENT AND THAT SELLER WOULD BE UNWILLING TO ENTER INTO THIS AGREEMENT IN THE ABSENCE OF THE PROVISIONS OF THIS SECTION. THE PROVISIONS OF THIS SECTION SHALL SURVIVE ANY TERMINATION OF THIS AGREEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLER WAIVES ALL RIGHTS TO OBTAIN BUYER’S SPECIFIC PERFORMANCE OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY RIGHTS PURSUANT TO CIVIL CODE SECTIONS 1680 AND 3384 THROUGH 3395.

SELLER’S INITIALS

(d) Notice and Cure. Notwithstanding anything contained in this Agreement to the contrary, if a Party is in breach under this Agreement ("Defaulting Party") the other Party shall have no right to terminate this Agreement or pursue any other remedy for such default unless such default remains uncured by 5:00 p.m. California time on the date that is five (5) business days after the Defaulting Party’s receipt of written notice of such breach or default from such other Party.


Seller and County each represent to the other that each has had no dealings with any broker, finder, or other Party concerning County’s purchase of the Property except as otherwise disclosed herein. At closing, Seller shall pay a broker’s commission to Joe La Croix in the amount of $45,000.00 as a result of his work for Jamboree Housing.

Section 15. Assignment; Successors.

County’s rights and obligations hereunder shall not be assignable without the prior written consent of Seller, in Seller’s sole and absolute discretion. County shall in no event be released from any of its obligations or liabilities hereunder in connection with any assignment. Subject to the provisions of this Section, this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.


Any notice, request, demand, instruction or other document (each of which is herein called a “Notice”) to be given hereunder to any Party shall be in writing and shall be delivered to the person at the appropriate address set forth below by personal service (including express or courier service), by electronic communication, whether by facsimile or electronic mail, or by certified mail, postage prepaid, return receipt requested, as follows:
If to Seller,

Braunstein & Braunstein, P.C
11755 Wilshire Blvd. Suite 1600
Los Angeles, CA 90025 Attention: Clark Braunstein
Telephone: 310-914-4999
E-Mail: clark@braunsteinpc.com

MacCarley & Rosen, PLC
700 N Brand Blvd, Suite 240
Glendale, CA 91203
Attention: Mark MacCarley
Telephone: (818) 241-5800
E-Mail: maccarle@ix.netcom.com

Bradley & Gmelich
700 North Brand Blvd., 10th Floor
Glendale, CA 91203
Attention: Jonathan A. Ross
Telephone (818) 243-5200
E-mail: jross@bglawyers.com

If to County, to:

CEO Real Estate
County of Orange
333 W. Santa Ana Blvd., 3rd Floor
Santa Ana, California 92701
Attention: Chief Real Estate Officer
Telephone: (714) 834-6019
Facsimile: (714) 834-3346
E-Mail: thomas.miller@ocgov.com

With a copy to:

Office of the County Counsel
County of Orange
333 W. Santa Ana Blvd., 4th Floor
Santa Ana, California 92701
Attention: Thomas A. Miller
Telephone: (714) 834-6019
E-Mail: thomas.miller@ocgov.com

If to Escrow Agent:

Stewart Title Insurance Company
Commercial Services
525 North Brand Boulevard, 2nd Floor
Glendale, CA 91203
Attention: Randy John
Telephone: (818) 547-2034
Facsimile: (818) 546-1374
E-Mail: Randy.John@stewart.com
Reference: 20000111884 / Stanton Inn & Suites

A copy of any Notice given by County or Seller to the other prior to the Close of Escrow shall also be given to Escrow Agent as above provided. Notices so submitted shall be deemed to have been given (i) on the
date personally served, if by personal service, (ii) on the date of confirmed dispatch, if by electronic communication or facsimile, or (iii) forty-eight (48) hours after the deposit of same in any United States Post Office mailbox in the state to which the Notice is addressed, or seventy-two (72) hours after deposit in any such post office box other than in the state to which the notice is addressed, postage prepaid, addressed as set forth above. The addresses and addressees, for the purpose of this Section, may be changed by giving written notice of such change in the manner herein provided for giving Notice. Unless and until such written Notice of change is received, the last address and addressee stated by written Notice, or provided herein if no such written Notice of change has been received, shall be deemed to continue in effect for all purposes hereunder. County and Seller hereby agree that Notices may be given hereunder by the Parties’ respective counsel and that, if any communication is to be given hereunder by County’s or Seller’s counsel, such counsel may communicate directly with all principals as required to comply with the provisions of this Section.

Section 17. Entire Agreement/Counterparts.

The Parties intend this paragraph to be a conclusive recital of fact pursuant to Section 622 of the California Evidence Code. This Agreement and the Exhibits attached hereto supersede any prior agreement, oral or written, and contain the entire agreement between the Parties on the subject matter hereof. This Agreement (including the Exhibits attached hereto) is intended to be a final expression of the agreement of the Parties and is an integrated agreement within the meaning of Section 1856 of the California Code of Civil Procedure. No subsequent agreement, representation or promise made by either Party hereto, or by or to any employee, officer, agent or representative of either Party shall be of any effect unless it is in writing and executed by the Party to be bound thereby. There are no contemporaneous separate written or oral agreements between the Parties in any way related to the subject matter of this Agreement. This Agreement and any modifications, amendments or supplements thereto may be executed in several counterparts, and all so executed shall constitute one agreement binding on all Parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart. The Parties may also deliver executed copies of this Agreement to each other by facsimile or electronic mail, which facsimile or electronic mail signatures shall be binding. Any facsimile or electronic mail delivery of signatures shall be followed by the delivery of executed originals.

Section 18. Severability.

If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

Section 19. Waivers.

A waiver or breach of covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement and no waiver shall be valid unless in writing and executed by the waiving Party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act. The exercise of any remedy provided by law and the provisions of this Agreement for any remedy shall not exclude other consistent remedies unless they are expressly excluded.

Section 20. Construction.

As used in this Agreement, the masculine, feminine or neuter gender and the singular or plural numbers shall each be deemed to include the other whenever the context indicates. This Agreement shall be construed as a whole and in accordance with its fair meaning, the captions being for convenience only and not intended to fully describe or define the provisions in the portions of the Agreement to which they pertain. Each Party hereto, and counsel for each Party hereto, has reviewed and revised this Agreement, and the normal rule of
construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation or construction of this Agreement. This document shall, in all respects, be governed by the laws of the State of California applicable to agreements executed and to be wholly performed within the State of California. Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute, law, ordinance or regulation contrary to which the Parties have no legal right to contract, the latter shall prevail but the provision of this document that is affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law.


The Parties agree to cooperate with each other in effecting a tax-deferred exchange or exchanges under Internal Revenue Code Section 1031; provided, however, that (a) any rights of the non-exchange Party pursuant to this Agreement shall not be impaired due to any exchange requested by the other Party, (b) the non-exchange Party shall incur no additional costs, expenses or liabilities as a result of or in connection with any exchange requested by the other Party except those incurred in connection with the non-exchange Party's review of customary exchange documentation, and (c) the non-exchange Party shall not be required to take title to any other Property in connection with any exchange requested by the other Party. Failure of either Party to identify or close escrow on an exchange property shall not delay nor be a condition to the close of this escrow. Subject to the foregoing, the Parties agree to execute customary escrow instructions, documents, agreements, or instruments to effect an exchange. Each Party agrees to indemnify, defend and hold the other Party free and harmless from and against any liability, loss, damage, cost or expense (including, without limitation, reasonable attorneys’ fees, costs and expenses) that may arise from the indemnifying Party's exchange.

Section 22. Time.

All periods of time referred to in this Agreement shall include all Saturdays, Sundays and State or National holidays, unless the period of time specifies “business days”, in which case such period of time shall exclude Saturdays, Sundays and State and National holidays; provided that if the date or last date to perform any act or give any notice with respect to this Agreement shall fall on a Saturday, Sunday or State or National holiday, such act or notice may be timely performed or given on the next succeeding day that is not a Saturday, Sunday or State or National holiday. For purposes of this Agreement, the phrase “State and National holiday” shall refer to any day in which the Escrow Agent, Title Company and/or the Office of the County Recorder for the County of Orange is/are closed for business.

Section 23. Authorization and Delegation.

COUNTY AND SELLER ACKNOWLEDGE THAT ONLY A MUTUALLY EXECUTED DEFINITIVE AGREEMENT APPROVED BY SELLER AND THE ORANGE COUNTY BOARD OF SUPERVISORS SHALL CONSTITUTE THE BINDING MUTUAL AGREEMENT FOR THE PURCHASE OF THE PROPERTY PURSUANT TO THIS AGREEMENT. The Chief Real Estate Officer of the County of Orange is authorized to sign or amend escrow instructions, escrow extensions and/or other written documents as may be required by Escrow Agent, and may take any actions and provide any notices required by County under this Agreement, including waiving any contingencies or conditions.

Section 24. Confidentiality.

Seller and County further agree not to disclose to any unrelated third party, County’s and Seller’s employees, agents, consultants, attorneys and accountants excluded, any of the facts concerning the execution and delivery of this Agreement or the consummation of the purchase and sale contemplated hereby, including
the Purchase Price payable hereunder, without the written consent of the non-disclosing Party, except as otherwise required by law. Notwithstanding the preceding, the rights and obligations of County under this Agreement are subject to Section 25350 of the Government Code of the State of California, which requires County to publicly advertise its intent to purchase real Property. Seller acknowledges that the Orange County Board of Supervisors will publish a Notice of Intention to Purchase the Property and agrees that if, upon public hearing held pursuant to said notice, the Board determines it is not in the public interest to purchase the Property, this Agreement may become null and void and the Parties hereto shall be relieved of all obligations under this Agreement.

Section 25. No Obligation to Third Parties.

Except as expressly set forth in this Agreement, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate either of the Parties hereto, to any person or entity other than each other.

Section 26. Independent Counsel.

EACH PARTY TO THIS AGREEMENT ADMITS, ACKNOWLEDGES AND REPRESENTS THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH AND BE REPRESENTED BY INDEPENDENT COUNSEL OF SUCH PARTIES' CHOICE IN CONNECTION WITH THE NEGOTIATION, EXECUTION AND AMENDMENT OF THIS AGREEMENT. EACH PARTY FURTHER ADMITS, ACKNOWLEDGES AND REPRESENTS THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR STATEMENT MADE BY ANY OF THE ATTORNEYS AND REPRESENTATIVES OF THE OTHER PARTY WITH REGARD TO THE SUBJECT MATTER, BASIS, OR EFFECT OF THIS AGREEMENT.

Section 27. Legal Fees.

If any action or proceeding is commenced by either Party to enforce their rights under this Agreement or to collect damages as a result of the breach of any of the provisions of this Agreement, or to interpret this Agreement, or for any other reason an action or proceeding is commenced by either Party in connection with this Agreement or the Property, each Party shall be responsible for its own costs and expenses, including actual attorneys' fees and expert witness fees.

Section 28. California Environmental Quality Act Compliance

Future use of the Property by the County shall be conditioned on compliance with the California Environmental Quality Act.

Section 29. Governing Law.

This Agreement shall be governed by and construed in accordance with California law.

(Signatures Appear on the Following Page)
SELLER

GLOBAL STUDENT HOUSING, LLC, DBA STANTON INN & SUITES

By: ____________________________

Its: Manager

Date: 8/27/2020

JM International Group, Inc.

By: ____________________________

Its: ____________________________

Date: ____________________________

Pacific Commercial Investor's Group, LLC

By: ____________________________

Its: President

Date: 8/27/2020

COUNTY

COUNTY OF ORANGE

By: ____________________________

Deputy County Counsel

By: ____________________________

Thomas A. Miller, Chief Real Estate Officer

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SELLER

GLOBAL STUDENT HOUSING, LLC, DBA STANTON INN & SUITES

By: ______________________________
Its: Manager
Date: ______________________________

JM International Group, Inc.

By: ______________________________
Its: Managing member
Date: 8/28/2020

Pacific Commercial Investor's Group, LLC

By: ______________________________
Its: ______________________________
Date: ______________________________

COUNTY

COUNTY OF ORANGE

By: ______________________________
Thomas A. Miller, Chief Real Estate Officer

Approved as to Form
Office of the County Counsel
Orange County, California

By: ______________________________
Deputy County Counsel
ACKNOWLEDGMENT OF ESCROW AGENT

The undersigned, as the Escrow Agent under the foregoing Agreement, hereby acknowledges receipt of fully-executed originals or counterpart copies thereof, and hereby agrees to act in accordance with the instructions set forth therein.

STEWART TITLE INSURANCE COMPANY

By: ____________________________

Its: _____________________________

Date: ____________________________
## SCHEDULE OF EXHIBITS

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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

To be provided by Title Company
EXHIBIT B

SITE PLAN OF BUILDING

PROPERTY:

7161 Katella Ave
Stanton, CA 90680
Lot Size: 16,388 SF
APN: 079-762-61

&

Lot Size: 30,740 SF
APN: 079-762-26
EXHIBIT C

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

________________________________
________________________________
Attention: ___________

AND MAIL TAX STATEMENTS TO:

Same as above.

(Space Above Line For Recorder's Use Only)

GRANT DEED

FOR VALUE RECEIVED, __________________________ (“Grantor”) hereby grants to the COUNTY OF ORANGE, a political subdivision of the State of California (“Grantee”) all that certain real property situated in the County of Orange, State of California, described on Exhibit “1” attached hereto (“Property”), together with any and all easements, rights-of-way, privileges, rights and appurtenances benefiting, appertaining or belonging to the Property, including, without limitation, any and all streets and roads (whether opened or proposed) abutting the Property, riparian rights, water or water rights, and/or oil, gas or other minerals laying under the Property. The Property conveyed hereby is subject to (i) non-delinquent general and special real property taxes; (ii) all matters of record; and (iii) such matters that a reasonable inspection or survey of the Property would reveal.

[Signature page follows.]
IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of _____________, 2020.

GRANTOR:

By: ________________________________
Name: ______________________________
Title: ______________________________

By: ________________________________
Name: ______________________________
Title: ______________________________

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 ____________________________

On ________________ before me, ____________________________,
A Notary Public personally appeared ____________________________

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 “1” TO GRANT DEED

DESCRIPTION OF PROPERTY

To be provided by Title Company
EXHIBIT D
MEMORANDUM OF AGREEMENT
MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (the "Memorandum") has been executed __________, 2020, by and between ____________________________ ("Owner") and the County of Orange ("County").

Owner and County have entered into a Purchase Agreement and Escrow Instructions, dated __________, 2020 ("Agreement") for the purchase by County from Owner of approximately ____ acres ("Property") located in the City of __________, County of Orange, California (APN: __________). The legal description of the Property is attached as Exhibit A.

Under the terms of the Agreement, Owner has agreed to sell the Property to County, and County has agreed to buy the Property from Owner.

The purpose of this Memorandum is to give notice of the existence of the County’s interest in the Property as set forth in the Agreement, which itself constitutes the agreement between the parties. This document may be executed in counterparts, each of which shall be an original.

"OWNER"                                                  "BUYER"

COUNTY OF ORANGE, a political subdivision of the State of California

By: ____________________________                     By: ____________________________
Name: ____________________________                     Name: ____________________________
Title: ____________________________                       Title: ____________________________
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 ________________________________

On __________________ before me, ________________________________,
A Notary Public personally appeared ________________________________

________________________

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
TO
MEMORANDUM OF AGREEMENT

LEGAL DESCRIPTION
Real Property Acquisition Questionnaire* for ASR
(*Applies to property purchase, or acquisition lease, license or easement)

Instructions:
- This questionnaire was developed with input from Auditor Controller, Internal Auditor and CEO Real Estate to assure that County leadership is fully informed.
- Insert the complete answer after each question below.
- When completed, save and include as an Attachment to your ASR.
- In the body of the ASR focus on the considerations relevant to the decision.
- If you need assistance, please contact CEO Real Estate.

1. What property interest is being considered for acquisition (fee, lease, license, easement)?
The proposed purchase is a fee interest in the motel property located at 7161 Katella Avenue, Stanton, assessor’s parcel numbers 079-762-61 and 079-762-26. The purchase is to be made using State of California Homekey Program grant funds supplemented by MHSA funds.
   a) Why is this property being considered for acquisition?
      To create Permanent Supportive Housing using grant funds from the State’s Homekey Program.
   b) How and who identified this property for a potential acquisition?
      This property has been part of project Roomkey protecting homeless and as risk populations from Covid-19. Staff noted its attributes and proposed purchase if funds became available.
   c) What factors are key in recommending this property for acquisition?
      Funding availability, location, room size, condition, availability.
   d) How does the proposed acquisition fit into the County’s/District’s strategic or general plan?
      The proposed acquisition is another important step in the County’s and City of Stanton’s efforts to address the need for Permanent Supportive Housing (PSH).
   e) What are the short and long term anticipated uses of the property?
      Upon acquisition, the property will be used to house homeless individuals and within the first five years the property will be improved to meet needs for PSH.
   f) Are there any limitations on the use of the property for its intended purposes?
      No. Upon acquisition, necessary repairs will be made immediately, and the property will continue to meet the needs of people experiencing homelessness. The addition of full function kitchenettes during the first five years will mark the transition to long term use for PSH.

2. What analysis has been performed as to whether to acquire the proposed real property interest?
   a) Have there been any internally or externally prepared reports regarding this property acquisition?
      As noted, location, room size and condition are all favorable for the intended use. Most other motel properties examined did not have all these favorable characteristics. Due diligence research is underway. Due to the State’s very short time frames, at the time of this writing reports were not completed. All due diligence (including appraisal, hazardous materials assessment, structural assessment will be carefully reviewed before completion of the acquisition.
   b) Who performed the analysis?
      Analyses are underway by Veritas International and other consultants.
   c) Provide details about the analysis and cost/benefit comparison.
      No formal cost benefit analysis has been conducted. The benefits of using State grant funds to purchase property that helps the County and City meet their goals of housing people experiencing homelessness and creating PSH are obvious, when compared to the cost of addressing those goals without State funding.

3. How was the acquisition price, or lease/license rent, determined?
   The price is the result of negotiations between the Seller and the County.
   a) Who performed the appraisal or market study and what certifications do they possess?
      An appraisal is underway as part of due diligence. A review of past transactions indicates the purchase price is in the range of prices for similar properties.
b) How does the price/rent compare with comparable properties?
The price is in the range of similar property transactions when adjusted for condition and other features unique to the subject property.
c) Does the setting of the price/rent follow industry standards and best practices?
Yes.
d) What are the specific maintenance requirements and other costs within the agreement and who is responsible? Provide an estimate of the costs to the County/District if applicable.
The initial maintenance/rehabilitation costs of $826,550 are funded as initial capital in essence as part of the acquisition cost. Repairs will be made with this capital to get the property in good condition for the next five years. During the first five years of operation, the Jamboree Housing operating entity will construct kitchenettes in the units and complete many other improvements and repairs throughout the property. That work, will be paid for from a new round of financing, as is done for any other affordable housing project. The Jamboree housing entity will be responsible for financing the maintenance costs over the remaining years of operation as stated in the regulatory agreement covering the subsequent 55 years of operation.

4. What additional post-acquisition remodeling or upgrade costs will be needed for the property to meet its intended use?
   Please see 3.d above.
a) Will any of the upgrades be required to meet County, ADA, or other standards and requirements?
   Yes, while not much is needed, some of the repairs and upgrades to be made immediately upon acquisition will assist in meeting County, ADA and safety standards. For example, the controlled access system and enhanced video monitoring will contribute to safety (and operating efficiency).
b) Include estimates of the costs.
   Again, as noted in 3.d., the costs upon acquisition are estimated to be $826,550.
c) What department will be responsible for the costs?
The costs are funded with MHSA funds as part of the project budget. The Jamboree Housing operating entity will be responsible for administering the repairs and improvements.

5. Can the County terminate the purchase/easement, lease/license?
   Yes. The County could terminate the purchase and forfeit the State grant funds back to the State Homekey Program for use by another county or city elsewhere in California.
a) What would be necessary to terminate the agreement, and when can it be terminated?
   Informing all the parties to the transaction of the reason for termination and settling all associated obligations and claims. Grant funds must be returned to the State if the purchase is terminated.
b) Are there penalties to terminate the purchase/easement, or lease/license?
   Yes. They may not be labeled “penalties,” but termination of the proposed purchase would have many significant affects on the County, Seller, Operating Partner, City of Stanton, Homekey Program and others. Termination without substantial justification would have extensive consequences.

6. What department will be responsible for the acquisition payments?
   State of California will fund the bulk of the acquisition cost. MHSA funds of $1,085,000 will supplement the Grant money.
a) Are the acquisition costs budgeted in the department's budget?
   Yes.
b) What fund number will the funds for the acquisition ultimately be drawn from?
   State funds grant will be used for the acquisition primarily. MHSA funds will be drawn from fund 12A.
c) Will any restricted funds be used for the acquisition? (Check with the Auditor Controller's General Accounting Unit and Counsel if you have questions about whether restricted funds are involved.)
   The State funds are restricted to Homekey program use and must be returned if not applied to an applicable Homekey purpose. The MHSA funds can be used a wide variety of service delivery purposes, including the purchase of property for MHSA purposes including PSH, availability, location, room size, condition, availability
d) If restricted funds will be used, has County Counsel advised that this is an allowable use of the proposed restricted funds? Yes.

7. Does the proposed purchase/lease/license/easement agreement comply with the CEO Real Estate standard language?
   Yes
   a) List any modified clauses and reasons for modification.
   The purchase agreement is based on a standard CEO Real Estate agreement. It has been carefully tailored to this particular transaction through negotiation with the Seller and the advice of County Counsel.

8. If this is a lease, is it a straight lease, an operating lease, a lease with an option to purchase, or a capital lease (see details below)?
   The proposed purchase transaction does not contain any of these features. It is the purchase of a fee simple interest in real estate, meaning the County has unencumbered rights as to the property.

   **Capital Lease Determination:** At the inception of any *potential* capital lease, it is important to contact the Auditor-Controller’s Capital Asset Unit for further guidance to ensure that proper classification and accounting for the lease occurs. There are specialized accounting rules and required forms for capital leases. See further details in the County’s Accounting Manual, Policy No. FA-1: *Accounting for Lease Purchases (Capital Leases)*, located on the intranet. For accounting purposes only, a capital lease exists if ANY one (1) of the following four (4) criteria is met:

   i) Lease transfers ownership to the County by the end of the term.
   ii) Lease contains an option to purchase the property by the end of the term for a price lower than the expected fair market value of the property. (For example, $1 or $1,000, and based on this option price, for accounting purposes only, the ultimate purchase of the property is deemed reasonably assured at the inception of the lease.)
   iii) Lease term is equal to 75% or more of the remaining estimated useful life of the leased property.*
   iv) Present value of the minimum lease payments is equal to 90% or more of the fair value of the property at the inception of the lease.*

   *Criteria iii) and iv) don’t apply if the lease term begins in the last 25% of a property’s estimated useful life.

To validate whether a lease is a capital lease for accounting purposes, please contact the Auditor-Controller’s Capital Asset Unit at [capitalassets@ac.ocgov.com](mailto:capitalassets@ac.ocgov.com).
GROUND LEASE

THIS GROUND LEASE ("Lease") is made and effective as of the ______ day of ________, 2020 ("Effective Date") by and between the COUNTY OF ORANGE, a political subdivision of the State of California ("County"), JHC-KATELLA LLC, a California limited liability company (hereinafter called "Tenant") (also referred to hereinafter each as "Party" or collectively as the "Parties").

RECITALS

A. County owns the Premises (as hereinafter defined) located at 7161 Katella Avenue, Stanton, CA 90680.

B. County agrees to lease the Premises to the Tenant for the purposes of the Project, as more fully defined hereafter, to entitle and redevelop a 72-room motel commonly known as “Stanton Inn & Suites” for interim housing, and following certain rehabilitation work, for use as permanent supportive housing, all as more fully described herein, upon the fulfillment of certain conditions precedent as set forth therein.

C. County and Tenant have jointly agreed to enter into this Lease as of the Effective Date set forth above.

D. County and Tenant will enter into a “Regulatory Agreement and Declaration of Restrictive Covenants” (hereinafter referred to as “Regulatory Agreement”) concurrent with entering into this Lease, which shall encumber the Tenant’s leasehold interest to be created by this Lease.

E. County and Tenant will also enter into a loan agreement (hereinafter referred to as "Loan Agreement") concurrent with entering into this Lease, under which the County will provide certain loan funds to the Tenant for the purposes of developing the Project.

NOW, THEREFORE, in consideration of the above Recitals, which are hereby incorporated into this Lease by reference, and mutual covenants and agreements hereinafter contained, County and Tenant mutually agree to the following:

ARTICLE I
DEFINITIONS

1.1 Definitions: The following defined terms used in this Lease shall have the meanings set forth below. Other terms are defined in other provisions of this Lease and shall have the definitions given to such terms in such other provisions.

1.1.1. "Affiliate" shall mean, with respect to any person (which as used herein includes an individual, trust or entity), any other person which directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, such person.
1.1.2. Intentionally Deleted.

1.1.3. **Aggregate Transfer** shall refer to the total “Ownership Interest(s)” in Tenant transferred or assigned in one transaction or a series of related transactions (other than an Excluded Transfer) occurring since the latest of (a) the Effective Date, (b) the execution by Tenant of this Lease, or (c) the most recent Tenant Ownership Change; provided, however, that there shall be no double counting of successive transfers of the same interest in the case of a transaction or series of related transactions involving successive transfers of the same interest. Isolated and unrelated transfers shall not be treated as a series of related transactions for purposes of the definition of “Aggregate Transfer.”

1.1.4. **Annual Operating Expenses** means all regular and customary annual expenses incurred in relation to the operation of the Premises, including the Improvements, as reflected on the annual budget that Tenant shall prepare and abide by each year during the Term of this Ground Lease, commencing on the Commencement Date, as approved in writing by the County, in County’s reasonable discretion. Said Annual Operating Expenses shall include a reasonable property management and administrative fee, fees related to the tax credit syndication of the Premises, utility charges, operating and maintenance expenses, Project property taxes and Project insurance premiums, and such other costs as approved by the County, in his/her reasonable discretion. Tenant will deliver an annual budget for the following year no later than December 1 for each year following issuance of a permanent certificate of occupancy for the Improvements. County shall deliver any comments, or its approval to such operating budget within thirty (30) days of receipt thereof. If an operating budget for the following year has not been approved by County and Tenant prior to January 1 of such year, the annual operating budget from the previous year, increased by three percent (3%), with the actual cost of property tax and insurance premiums, shall apply until a new operating budget is approved. Notwithstanding the foregoing, in no event shall Annual Operating Expenses include any costs, fees, fines, charges, penalties, awards, judgments or expenses (including, but not limited to legal and accounting fees and expenses) which are due to or arising out of the Tenant’s (A) breach or default of any mortgage loan, (B) fraudulent acts or willful misconduct or (C) breach or default under any other contract, lease or agreement pertaining to the Project. Annual Operating Expenses shall also not include other expenses not related to the Project’s operations such as depreciation, amortization, accrued principal and interest expense on deferred payment debt and capital improvement expenditures.

1.1.5. **Annual Project Revenue** means all annual revenue generated by the Project from any source, including, but not limited to, rent payments, governmental assistance housing payments, laundry and other vending machine and pay telephone income. Notwithstanding the foregoing, Annual Project Revenue shall not include the following items: (a) security deposits from subtenants (except when applied by Tenant to rent or other amounts owing by subtenants); (b) capital contributions to Tenant by its members, partners or shareholders (including capital contributions required to pay deferred developer fee); (c) condemnation or insurance proceeds; (d) there shall be no line item, expense, or revenue shown allocable to vacant unit(s) at the Project; or (e) receipt by an Affiliate of management fees or other bona fide arms-length payments for reasonable and necessary Operating Expenses associated with the Project.

1.1.6. **Auditor-Controller** shall mean the Auditor-Controller, County of Orange, or designee, or upon written notice to Tenant, such other person as may be designated by the Board of Supervisors.
1.1.7. “Base Rent” shall mean rent paid pursuant to Section 3.1.1.

1.1.8. “Board of Supervisors” shall mean the Board of Supervisors of the County of Orange, a political subdivision of the State of California, the governing body of the County.

1.1.9. “Certificate of Occupancy” shall mean a temporary or final certificate of occupancy (or other equivalent entitlement, however designated) which entitles Tenant to commence normal operation and occupancy of the Improvements.

1.1.10. “Chief Real Estate Officer” shall mean the Chief Real Estate Officer, County Executive Office, County of Orange, or designee, or upon written notice to Tenant, such other person as may be designated by the County Board of Supervisors. The Chief Real Estate Officer shall have authority to administer the terms of this Lease, including the granting of approvals, waivers, and consents, as required hereunder, except to the extent any of such actions would increase the costs, or decrease the revenues of County hereunder.

1.1.11. “City” shall mean the City of Stanton, California.

1.1.12. “Claims” shall mean liens, claims, demands, suits, judgments, liabilities, damages, fines, losses, penalties, costs and expenses (including without limitation reasonable attorneys’ fees and expert witness costs, and costs of suit), and sums reasonably paid in settlement of any of the foregoing.

1.1.13. “Commencement Date” shall have the same meaning as the “Conversion Date,” as that term is defined in the Loan Agreement and the Regulatory Agreement, which is the date the Project transitions to Permanent Supportive Housing. Notwithstanding anything to the contrary in the Loan Agreement or the Regulatory Agreement, the Commencement Date shall take place no later than five (5) years from the Effective Date. Tenant shall be responsible for informing the County in writing of the Conversion Date, which will also be the Commencement Date. Base Rent shall become due and payable beginning on the Commencement Date.

1.1.14. “Contractor” shall mean Tenant’s general contractor for the Work to be performed.

1.1.15. “County” shall mean the County of Orange, a political subdivision of the State of California.

1.1.16. “Effective Date” is defined in the introductory paragraph to this Lease.

1.1.17. “Event of Default” is defined in Section 11.1.

1.1.18. “Excluded Transfer” shall mean any of the following:

(a) A transfer by any direct or indirect partner, shareholder, or member of Tenant (or of a limited partnership, corporation, or limited liability company that is a direct or indirect owner in Tenant’s ownership structure) as of the Effective Date or the date on which a Tenant Ownership Change occurred as to the interest transferred, to any other direct or indirect partner, shareholder, or member of Tenant or to an entity majority owned by such direct or indirect partner, shareholder or member of Tenant (or of a limited partnership, corporation, or limited liability
company that is a direct or indirect owner in Tenant’s ownership structure) as of the Effective Date, including in each case to or from a trust for the benefit of the immediate family of any direct or indirect partner or member of Tenant who is an individual;

(b) A transfer of an Ownership Interest in Tenant or in constituent entities of Tenant (i) to a member of the immediate family of the transferor (which for purposes of this Lease shall be limited to the transferor’s spouse, children, parents, siblings, and grandchildren); (ii) to a trust for the benefit of a member of the immediate family of the transferor; (iii) from such a trust or any trust that is an owner in a constituent entity of Tenant as of the Effective Date, to the settlor or beneficiaries of such trust or to one or more other trusts created by or for the benefit of any of the foregoing persons, whether any such transfer described in this subsection is the result of gift, devise, intestate succession, or operation of law; or (iv) in connection with a pledge by any partners or members of a constituent entity of Tenant to an Affiliate of such partner or member;

(c) A transfer of a direct or indirect interest resulting from public trading in the stock or securities of an entity, when such entity is a corporation or other entity whose stock and/or securities is/are traded publicly on a national stock exchange or traded in the over-the-counter market and the price for which is regularly quoted in recognized national quotation services;

(d) A mere change in the form, method, or status of ownership (including, without limitation, the creation of single-purpose entities) as long as the ultimate beneficial ownership remains the same as of the Effective Date, or is otherwise excluded in accordance with subsections (a) – (c) above;

(e) A transfer to an Affiliated nonprofit public benefit corporation or for-profit corporation, or to a limited partnership whose general partner is a nonprofit corporation, for-profit corporation or limited liability company Affiliated with the Tenant or the Tenant’s general partner, subject to the County and Agency’s right to reasonably approve the agreement to effect such assignment or transfer;

(f) The lease, assignment of lease or sublease of any individual residential unit in the Improvements;

(g) A transfer of the Tenant’s interest in the Premises by foreclosure or deed in lieu of foreclosure (i) to any bona fide third-party lender holding a lien encumbering the Premises (or its nominee), and (ii) by a Lender Foreclosure Transferee to a third-party made in accordance with Section 17.6.5;

(h) Transfers of any limited partnership or membership interest in the Tenant to an investor solely in connection with the tax credit syndication of the Premises in accordance with Section 42 of the Internal Revenue Code of 1986, as amended (the “Tax Credit Laws”), (including, without limitation, a subsequent transfer of the Limited Partner’s interest to an Affiliate of the Limited Partner), provided, such syndication shall not extend the Term of this Lease;

(i) The grant or exercise of an option agreement or right of first refusal solely in connection with the tax credit syndication of the Premises in accordance with the Tax Credit Laws provided that the syndication shall not extend the Term of this Lease;
(j) The removal and replacement of one or both of Tenant’s general partners pursuant to the terms of Tenant’s Partnership Agreement as of the Effective Date and replacement by the Limited Partner, or an Affiliate thereof; or

(k) Any assignment of the Lease by Tenant to an Affiliate of Tenant or to a Mortgagee as security in which there is no change to the direct and indirect beneficial ownership of the leasehold interest.

1.1.19. “Force Majeure Event” is defined in Article XIV.

1.1.20. “Hazardous Material(s)” is defined in Section 4.5.

1.1.21. “HCD” shall mean the California Department of Housing and Community Development.

1.1.22 “Improvements” shall mean and includes all buildings (including above-ground and below ground portions thereof, and all foundations and supports), building systems and equipment (such as HVAC, electrical and plumbing equipment), physical structures, fixtures, hardscape, paving, curbs, gutters, sidewalks, fences, landscaping and all other improvements of any type or nature whatsoever now or hereafter made, constructed and/or rehabilitated on the Premises, in accordance with the terms of this Lease. During the entire Term, the Improvements, as they may be reconstructed or rehabilitated, will be restricted to the following uses:

(a) multifamily affordable housing,
(b) interim housing
(c) permanent supportive housing units and related services, and
(d) related commercial and community-serving uses as needed for the siting of the affordable housing and supportive housing units, as approved by the County.

1.1.24. “Includes” shall mean “includes but is not limited to” and “including” shall mean “including but is not limited to.”

1.1.25. “Interest Rate” shall mean the lower of: (a) the reference or prime rate of U.S. Bank National Association, in effect from time to time plus three percent (3%); or (b) the highest rate of interest permissible under the Laws not to exceed the rate of twelve percent (12%) per annum.

1.1.27. “Laws” shall mean all laws, codes, ordinances, statutes, orders and regulations now or hereafter made or issued by any federal, state, county, local or other governmental agency or entity that are binding on and applicable to the Premises, Improvements, and Work to be performed.

1.1.28. “Lease” shall mean this Ground Lease (including any and all addenda, amendments and exhibits hereto), as now or hereafter amended.

1.1.29. “Leasehold Estate” is defined in Section 17.1.1.

1.1.30. “Leasehold Foreclosure Transferee” is defined in Section 17.1.2.
1.1.31. “Leasehold Mortgage” is defined in Section 17.1.3.

1.1.32. “Leasehold Mortgagee” is defined in Section 17.1.4.

1.1.33. “Lender” shall mean: (a) a bank, savings bank, investment bank, savings and loan association, mortgage company, insurance company, trust company, commercial credit corporation, real estate investment trust, pension trust or real estate mortgage investment conduit; or (b) some other type of lender engaged in the business of making commercial loans, provided that such other type of lender has total assets of at least $2,000,000 and capital/statutory surplus or shareholder’s equity of at least $500,000,000 (or a substantially similar financial capacity if the foregoing tests are not applicable to such type of lender); or (c) a local, state or federal governmental entity, including but not limited to HCD, which provides predevelopment, acquisition, construction and/or permanent financing for Tenant’s acquisition and development of the Property.

1.1.34. “County’s Interest” shall mean all of County’s interests in the real property, the Premises, this Lease and its existing and reversionary interest in the real property, Premises, as well as the Improvements upon the expiration of the Term or earlier termination thereof.

1.1.35. “County Parties” shall mean, collectively and individually, the County and its respective Affiliates, governing boards, agents, employees, members, officers, directors and attorneys.

1.1.36. “Limited Partner” shall mean any limited partner or investor member (and its successors and/or assigns) of Tenant and shall include all references to “investor” in this Ground Lease.

1.1.37 “New Lease” is defined in Section 17.7.1.

1.1.40. “Operating Costs” is defined in Section 3.4.1.

1.1.41. “Ownership Interests” shall mean the share(s) of stock, partnership interests, membership interests, other equity interests or any other direct or indirect ownership interests in Tenant, regardless of the form of ownership and regardless of whether such interests are owned directly or through one or more layers of constituent partnerships, corporations, limited liability companies, or trusts.

1.1.42. “Partnership Related Fees” shall mean the following fees of Tenant (or partners thereof pursuant to Tenant’s Partnership Agreement) which are actually paid including:

   (i) a limited partner asset management fee payable to the Limited Partner in the annual amount of $7,500 (increased annually by 3%); and

   (ii) partnership management fee (administrative and/or managing general partner) payable to the general partners of Tenant in the aggregate annual amount of $25,000 (increased annually by 3%).

1.1.43. “Person” shall include firms, associations, partnerships, joint ventures, trusts, corporations and other legal entities, including public or governmental bodies, agencies or instrumentalities, as well as natural persons.
1.1.44. “**Premises**” shall mean that certain real property containing approximately 1.01 acres located at 7161 Katella Avenue, Stanton, CA 90680, and its improvements, parking areas, and fixtures affixed thereto together with all easements, rights and privileges appurtenant thereto, to be leased to Tenant pursuant to this Lease and on which Tenant shall rehabilitate and/or construct, as necessary, the existing motel, the Stanton Inn & Suites into interim housing and then permanent supportive housing. The legal description of the Premises is attached hereto as **Exhibit A**. A rendering showing the approximate boundaries of the Premises is attached hereto as **Exhibit A-1**.

1.1.45. “**Project**” shall mean the completed Work for the Tenant’s rehabilitation and/or construction of the Premises, as necessary, for its use as permanent supportive housing after the Interim Use, as defined below.

1.1.46. “**Rent**” shall mean and includes the Base Rent and Additional Rent payable by Tenant under this Lease.

1.1.47. “**Residual Receipts**” means the Annual Project Revenue less (A) Annual Operating Expenses (hereinafter defined), (B) obligated debt service on Leasehold Mortgages for the funding of the Project, or as otherwise approved pursuant to Section 17.2, below, (C) payment obligations approved in writing by the County at the closing of the construction financing for the Project, (D) Partnership Related Fees (including accrued by unpaid Partnership Related Fees from the prior year or years), (E) repayment of loans, if any, made by Limited Partner to Tenant for development and/or operating expense deficits on terms reasonably acceptable to County, (F) repayment of loans, if any, made by a general partner of Tenant solely for development and/or operating expense deficits on terms reasonably acceptable to County, (G) deferred developer fee, and (H) scheduled deposits to reserves approved in writing by the County at the closing of the construction financing for the Project (or such higher reserve deposits as may be reasonably required by the Limited Partner or any Leasehold Mortgagee).

1.1.48. “**Risk Manager**” shall mean the Manager of County Executive Office, Risk Management, County of Orange, or designee, or upon written notice to Tenant, such other person as may be designated by the Board of Supervisors, or designee, or upon written notice to Tenant, such other person as may be designated by the City Council.

1.1.49. “**Taxes**” is defined in Section 3.11.2.

1.1.51. “**TCAC**” is defined as the California Tax Credit Allocation Committee.

1.1.52“**Tenant Ownership Change**” shall mean (a) any transfer or assignment by Tenant of the Leasehold Estate or (b) any “Aggregate Transfer” of at least twenty five percent (25%) of the “Ownership Interest(s)” in Tenant, in each case that is not an “Excluded Transfer.”

1.1.54. “**Tenant’s Partnership Agreement**” shall mean an Amended and Restated Agreement of Limited Partnership to be entered into in connection with the closing of constructing financing for the Project, a copy of which will be provided to the County.

1.1.55. “**Term**” is defined in Section 2.2.
1.1.56. “Transfer” is defined in Section 10.1.1.

1.1.57. “Transfer Notice” is defined in Section 10.4.

1.1.58. “Treasurer-Tax Collector” shall mean the Treasurer-Tax Collector, County of Orange, or designee, or upon written notice to Tenant, such other person or entity as may be designated by the Board of Supervisors.

1.1.59. “Utility Costs” is defined in Section 3.4.1.

1.1.60. “Work” shall mean both Tenant’s rehabilitation activity with respect to the Improvements, including permitted future changes, alterations and renovations thereto and also including, without limiting the generality of the foregoing, site preparation, landscaping, installation and/or rehabilitation of utilities, street construction or improvement and grading or filling in or on the Premises necessary for the Project as set forth on Exhibit B. Notwithstanding the foregoing, however, “Work” shall not include any rehabilitation performed by Tenant to enable Tenant to use the Premises for the Interim Use, as more fully discussed in Section 4.1.1.

ARTICLE II
LEASE OF PROPERTY

2.1 Lease of Premises.

2.1.1. County hereby leases the Premises to Tenant for the Term for the purposes of the Project, and Tenant hereby leases the Premises from County for the Term, subject to the terms, conditions, covenants, restrictions and reservations of this Lease.

2.1.2. Warranty of Peaceful Possession. County covenants and warrants that, subject to the Tenant’s payment of Rent and performance and observation of all of the covenants, obligations and agreements herein contained and provided to Tenant, Tenant shall and may peaceably and quietly have, hold, occupy, use and enjoy the Premises during the Term and may exercise all of its rights hereunder. Except as otherwise set forth herein, the County covenants and agrees that they shall not grant any mortgage or lien on or in respect of its fee interest in the Premises unless the same is expressly subject and subordinate to this Lease or any New Lease.

2.2 Term. The “Term” of this Lease shall commence on the Effective Date of this Lease, and shall expire at 12:00 midnight Pacific Standard Time on the Fifty-Fifth (55th) anniversary of the Commencement Date, unless sooner terminated as a result of Tenant’s non-compliance with any terms, conditions, covenants, restrictions or reservations of this Lease. Notwithstanding the foregoing, the Term shall not exceed Sixty (60) years from the Effective Date.

2.3 Termination at End of Term. This Lease shall terminate, without need of further notice by any Party, at 12:00 midnight Pacific Standard Time on the last day of the Term.

2.4 Condition of the Premises. TENANT HEREBY ACCEPTS THE PREMISES “AS IS” AND ACKNOWLEDGES THAT THE PREMISES IS IN SATISFACTORY CONDITION. COUNTY MAKES NO WARRANTY, IMPLIED OR OTHERWISE, AS TO THE SUITABILITY OF THE PREMISES FOR TENANT’S PROPOSED USES. COUNTY MAKE NO COVENANTS OR WARRANTIES, IMPLIED OR OTHERWISE, RESPECTING
THE CONDITION OF THE SOIL, SUBSOIL, OR ANY OTHER CONDITIONS OF THE PREMISES OR THE PRESENCE OF HAZARDOUS MATERIALS, NOR DOES COUNTY COVENANT OR WARRANT, IMPLIED OR OTHERWISE, AS TO THE SUITABILITY OF THE PREMISES FOR THE PROPOSED REHABILITATION OR USE BY TENANT. COUNTY SHALL NOT BE RESPONSIBLE FOR ANY LAND SUBSIDENCE, SLIPPAGE, SOIL INSTABILITY OR DAMAGE RESULTING THEREFROM. COUNTY SHALL NOT BE REQUIRED OR OBLIGATED TO MAKE ANY CHANGES, ALTERATIONS, ADDITIONS, IMPROVEMENTS OR REPAIRS TO THE PREMISES. TENANT SHALL RELY ON ITS OWN INSPECTION AS TO THE SUITABILITY OF THE PREMISES FOR THE INTENDED USE.

TENANT INITIALS: ______  ______

2.5 Limitations of the Leasehold. This Lease and the rights and privileges granted Tenant in and to the Premises are subject to all covenants, conditions, restrictions, and exceptions of record as of the date hereof or otherwise disclosed to Tenant prior to the date hereof. Nothing contained in this Lease or in any document related hereto shall be construed to imply the conveyance to Tenant of rights in the Premises which exceed those owned by County, or any representation or warranty, either express or implied, relating to the nature or condition of the Premises or County’s interest therein.

2.6 Tenant’s Investigation. Tenant acknowledges that it is solely responsible for investigating the Premises to determine the suitability thereof for the uses contemplated by Tenant. Tenant further acknowledges by executing this Lease that it has completed its investigation and has made such determinations as Tenant believes may be required under the circumstances.

ARTICLE III
TOTAL RENT

3.1 Base Rent. Beginning on the Commencement Date, Tenant shall pay to the County the Base Rent as set forth herein.

3.1.1 Base Rent. On the schedule set forth in the Promissory Note, Tenant shall make annual payments to County of twenty-five (25%) of the then available Residual Receipts (defined above), but only to the extent said Residual Receipts are available (“Base Rent”). Base Rent shall only become due after the Tenant has repaid that certain loan from the County, evidenced by a Loan Agreement, Promissory Note and Leasehold Deed of Trust, in the amount of $1,085,000, which is also being paid out of the same twenty-five percent (25%) of the Residual Receipts. Notwithstanding the foregoing, Landlord acknowledges that the percentage of Residual Receipts to be paid as Base Rent, may be decreased, with the prior written consent of the County, if Tenant obtains commitments for financing that is required to be paid out of Residual Receipts. Landlord agrees to reasonably cooperate with Tenant on a fair and reasonable allocation of Residual Receipts, including compliance with any applicable regulations that require that a designated percentage of Residual Receipts be allocated to such financing. Any reduction of the Base Rent shall be memorialized in an amendment to this Lease executed by the Tenant and the Chief Real Estate Officer.

3.2 Triple Net Rent. It is the intent of the Parties that all Rent shall be absolutely net to County and that, except as otherwise provided herein, Tenant will pay all costs, charges, insurance premiums, taxes, utilities, expenses and assessments of every kind and nature incurred for, against or
in connection with the Premises which arise or become due during the Term as a result of Tenant’s use and occupancy of the Premises. Under no circumstances or conditions, whether now existing or hereafter arising, or whether beyond the present contemplation of the Parties, shall County be obligated or required to make any payment of any kind whatsoever or be under any other obligation or liability under this Lease except as expressly provided herein.

3.3 Insufficient Funds. For purposes of this Section 3.3, Rent shall have the same meaning as stated in Section 1.1.42. If any payment of Rent or other fees made by check is returned due to insufficient funds or otherwise, County shall have the right to require Tenant to make all subsequent Rent payments by cashier’s check, certified check or automated clearing house debit system. All Rent or other fees shall be paid in lawful money of the United States of America, without offset or deduction or prior notice or demand. No payment by Tenant or receipt by County of a lesser amount than the Rent or other fees due shall be deemed to be other than on account of the Rent or other fees due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and County shall accept such check or payment without prejudice to County’s right to recover the balance of the Rent or other fees or pursue any other remedy available to the County in this Lease.

3.4 Intentionally Deleted.

3.5 Additional Rent.

3.5.1. Additional Rent. During the Term, the Base Rent shall be absolutely net to County so that all costs (including but not limited to Operating Costs and Utility Costs, as defined below), fees, taxes (including but not limited to Real Estate Taxes and Equipment Taxes, as defined below), charges, expenses, impositions, reimbursements, and obligations of every kind relating to the Premises shall be paid or discharged by Tenant as additional rent (“Additional Rent”). Additional Rent shall also include such amounts as described in Article XI. As more particularly set forth in Sections 3.5.3 and 3.5.6, below, Tenant has the right to pay under protest the foregoing Additional Rent, as applicable, and defend against the same. Any imposition rebates shall belong to Tenant.

3.5.2. Taxes. During the Term, Tenant shall pay directly to the taxing authorities all Taxes (as herein defined) at least ten (10) days prior to delinquency thereof. For purposes hereof, “Taxes” shall include any form of assessment, license fee, license tax, business license fee, commercial rental tax, levy, penalty, sewer use fee, real property tax, charge, possessory interest tax, tax or similar imposition (other than inheritance or estate taxes), imposed by any authority having the direct or indirect power to tax, including any city, county, state or federal government, or any school, agricultural, lighting, drainage, flood control, water pollution control, public transit or other special district thereof, as against any legal or equitable interest of County in the Premises or any payments in lieu of taxes required to be made by County, including, but not limited to, the following:

(a) Any assessment, tax, fee, levy, improvement district tax, charge or similar imposition in substitution, partially or totally, of any assessment, tax, fee, levy, charge or similar imposition previously included within the definition of Taxes. It is the intention of Tenant and County that all such new and increased assessments, taxes, fees, levies, charges and similar impositions be included within the definition of “Taxes” for the purpose of this Lease.

(b) Any assessment, tax, fee, levy, charge or similar imposition allocable to or measured by the area of the Premises or the rent payable hereunder, including, without limitation,
any gross income tax or excise tax levied by the city, county, state or federal government, or any political subdivision thereof, with respect to the receipt of such rent, or upon or with respect to the possession, leasing, operating, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises, or any portion thereof;

(c) Any assessment, tax, fee, levy, charge or similar imposition upon this transaction or any document to which Tenant is a party, creating or transferring an interest or an estate in the Premises, including any possessory interest tax levied on the Tenant’s interest under this Lease;

(d) Any assessment, tax, fee, levy, charge or similar imposition by any governmental agency related to any transportation plan, fund or system instituted within the geographic area of which the Premises are a part.

The definition of “Taxes,” including any additional tax the nature of which was previously included within the definition of “Taxes,” shall include any increases in such taxes, levies, charges or assessments occasioned by increases in tax rates or increases in assessed valuations, whether occurring as a result of a sale or otherwise.

3.5.3. Contest of Taxes. Tenant shall have the right to contest, oppose or object to the amount or validity of any Taxes or other charge levied on or assessed against the Premises and/or Improvements or any part thereof; provided, however, that the contest, opposition or objection must be filed before such time the Taxes or other charge at which it is directed becomes delinquent. Furthermore, no such contest, opposition or objection shall be continued or maintained after the date the tax, assessment or other charge at which it is directed becomes delinquent unless Tenant has either: (i) paid such tax, assessment or other charge under protest prior to its becoming delinquent; or (ii) obtained and maintained a stay of all proceedings for enforcement and collection of the tax, assessment or other charge by posting such bond or other matter required by law for such a stay; or (iii) delivered to County a good and sufficient undertaking in an amount specified by County and issued by a bonding corporation authorized to issue undertakings in California conditioned on the payment by Tenant of the tax, assessments or charge, together with any fines, interest, penalties, costs and expenses that may have accrued or been imposed thereof within thirty (30) days after final determination of Tenant’s contest, opposition or objection to such tax, assessment or other charge.

3.5.4. Payment by County. Should Tenant fail to pay any Taxes required by this Article III to be paid by Tenant within the time specified herein, subject to Tenant’s right to contest such Taxes in accordance with Section 3.5.3, and if such amount is not paid by Tenant within fifteen (15) days after receipt of County’s written notice advising Tenant of such nonpayment, County may, without further notice to or demand on Tenant, pay, discharge or adjust such tax, assessment or other charge for the benefit of Tenant. In such event Tenant shall promptly on written demand of County reimburse County for the full amount paid by County in paying, discharging or adjusting such tax, assessment or other charge, together with interest at the Interest Rate from the date advanced until the date repaid.

3.5.5. Operating Costs. Tenant shall pay all Operating Costs during the Term prior to delinquency. As used in this Lease, the term “Operating Costs” shall mean all charges, costs and expenses related to the Premises, including, but not limited to, management, operation, maintenance, overhaul, improvement, replacement or repair of the Improvements and/or the Premises.
3.5.6. **Utility Costs.** Tenant shall pay all Utility Costs during the Term prior to delinquency. As used in this Lease, the term “Utility Costs” shall include all charges, surcharges, taxes, connection fees, service fees and other costs of installing and using all utilities required for or utilized in connection with the Premises and/or the Improvements, including without limitation, costs of heating, ventilation and air conditioning for the Premises, costs of furnishing gas, electricity and other fuels or power sources to the Premises, and the costs of furnishing water and sewer services to the Premises. Tenant agrees to indemnify and hold harmless the County against any liability, claim, or demand for the late payment or non-payment of Utility Costs.

**ARTICLE IV**

**USE OF PREMISES**

4.1 **Permitted Use of Premises.** Tenant shall use the Premises for the Project, including the rehabilitation, construction, entitlement, operation, maintenance, replacement and repair (as necessary to perform the Work and complete the Project) of the Improvements as follows:

4.1.1. **Required Services and Uses.** County’s primary purpose for entering into this Lease is to promote the development of the Project consistent with this Lease. In furtherance of that purpose, Tenant shall rehabilitate and during the entire Term operate, maintain, replace and repair the Improvements in a manner consistent with the Laws and for the following uses:

(a) multifamily affordable housing, and appurtenant improvements, including, without limitation, parking,

(b) permanent supportive housing units and related services, and

(c) related commercial and community-serving uses, as approved by the County.

Notwithstanding anything in this Lease to the contrary, commencing as of the Effective Date, Tenant shall perform necessary rehabilitation or other construction activities to the Improvements in order for the Improvements to be used as interim housing (the “Interim Use”). The Interim Use shall be permitted for a period of not more than five (5) years following the Effective Date, which may be extended with the prior written approval of the Chief Real Estate Officer. For the avoidance of doubt, all references in this Lease to Work and/or rehabilitation of the Improvements shall refer to the substantial rehabilitation work that comprises the Project after the Interim Use, and not the earlier rehabilitation work necessary to enable Tenant to use the Premises for the Interim Use; provided, however, that such minor rehabilitation work and such Interim Use shall be performed and carried out in accordance with all applicable Laws. Plans for the Interim Use shall be approved in writing in advance by the Chief Real Estate Officer, which approval shall not be unreasonably withheld, conditioned or delayed.

4.1.2. **Ancillary Services and Uses.** Subject to the prior written approval of County, which approval may be granted or withheld in the sole discretion of the County, Tenant may provide those additional services and uses which are ancillary to and compatible with the required services and uses set forth in Section 4.1.1., above.

4.1.3. **Additional Concessions or Services.** Tenant may establish, maintain, and operate such other additional facilities, concessions, and services as Tenant and County may jointly
from time to time reasonably determine to be reasonably necessary for the use of the Premises and which are otherwise permitted by Law for the sole purpose to provide affordable housing and/or emergency shelter.

4.1.4. Restricted Use. The services and uses listed in this Section 4.1, both required and optional, shall be the only services and uses permitted. Tenant agrees not to use the Premises for any other purpose or engage in or permit any other activity within or from the Premises unless approved in writing by the County, which approval may be granted or withheld in the sole discretion of the County.

4.1.5. Continuous Use. During the Term, Tenant shall continuously conduct Tenant’s business in the Premises in the manner provided under this Lease and shall not discontinue use of the Premises for any period of time except in the case of a Force Majeure Event or as permitted in advance and in writing by the County.

4.1.6. Alcohol Restrictions. Tenant shall not permit the sale or service of alcoholic beverages on the Premises.

4.1.7. Permits and Licenses. Tenant shall be solely responsible to obtain, at its sole cost and expense, any and all permits, licenses or other approvals required for the uses permitted herein and shall maintain such permits, licenses or other approvals for the entire Term.

4.2 Nuisance; Waste. Tenant shall not maintain, commit, or permit the maintenance or commission of any nuisance as now or hereafter defined by any statutory or decisional law applicable to the Premises and Improvements or any part thereof. Tenant shall not commit or allow to be committed any waste in or upon the Premises or Improvements and shall keep the Premises and the Improvements thereon in good condition, repair and appearance.

4.3 Compliance with Laws. Tenant shall not use or permit the Premises or the Improvements or any portion thereof to be used in any manner or for any purpose that violates any applicable Laws. Tenant shall have the right to contest, in good faith, any such Laws, and to delay compliance with such Laws during the pendency of such contest (so long as there is no material threat to life, health or safety that is not mitigated by Tenant to the satisfaction of the applicable authorities). County may cooperate with Tenant in all reasonable respects in such contest, including joining with Tenant in any such contest if County joiner is required in order to maintain such contest; provide, however, that any such contest shall be without cost to County, and Tenant shall indemnify, defend (with attorneys acceptable to County), and hold harmless the County from any and all claims, liabilities, losses, damages, or actions of any kind and nature, including reasonable attorneys’ fees, arising or related to Tenant’s failure to observe or comply with the contested Law during the pendency of the contest.

4.4 Hazardous Materials.

4.4.1. Definition of Hazardous Materials. For purposes of this Lease, the term “Hazardous Material” or “Hazardous Materials” shall mean any hazardous or toxic substance, material, product, byproduct, or waste, which is or shall become regulated by any governmental entity, including, without limitation, the County acting in its governmental capacity, the State of California or the United States government.
4.4.2. **Use of Hazardous Materials.** Except for those Hazardous Materials which are customarily used in connection with the rehabilitation, operation, maintenance and repair of the Improvements or used in connection with any permitted use of the Premises and Improvements under this Lease (which Hazardous Materials shall be used in compliance with all applicable Laws), Tenant or Tenant’s employees, agents, independent contractors or invitees (collectively “Tenant Parties”) shall not cause or permit any Hazardous Materials to be brought upon, stored, kept, used, generated, released into the environment or disposed of on, under, from or about the Premises (which for purposes of this Section shall include the subsurface soil and ground water).

4.4.3. **Tenant Obligations.** If the presence of any Hazardous Materials on, under or about the Premises caused or permitted by Tenant or Tenant Parties, and excluding Hazardous Materials existing on the Premises prior to the Effective Date (the “Existing Hazardous Materials”), results in (i) injury to any person, (ii) injury to or contamination of the Premises (or a portion thereof), or (iii) injury to or contamination or any real or personal property wherever situated, Tenant, at its sole cost and expense, shall promptly take all actions necessary or appropriate to remedy or repair any such injury or contamination in accordance with any and all applicable Laws. Without limiting any other rights or remedies of County under this Lease, Tenant shall pay the cost of any cleanup or remedial work performed on, under, or about the Premises as required by this Lease or by applicable Laws in connection with the removal, disposal, neutralization or other treatment of such Hazardous Materials caused or permitted by Tenant or Tenant Parties, excluding the Existing Hazardous Materials. Notwithstanding the foregoing, Tenant shall not take any remedial action in response to the presence, discharge or release, of any Hazardous Materials on, under or about the Premises caused or permitted by Tenant or Tenant Parties, or enter into any settlement agreement, consent decree or other compromise with any governmental or quasi-governmental entity without first obtaining the prior written consent of the County. All work performed or caused to be performed by Tenant as provided for above shall be done in good and workmanlike manner and in compliance with plans, specifications, permits and other requirements for such work approved by County.

4.4.4. **Indemnification for Hazardous Materials.**

(a) To the fullest extent permitted by law, Tenant hereby agrees to indemnify, hold harmless, protect and defend (with attorneys acceptable to County) County, its elected officials, officers, employees, agents, independent contractors, and the Premises, from and against any and all liabilities, losses, damages (including, but not limited, damages for the loss or restriction on use of rentable or usable space or any amenity of the Premises or damages arising from any adverse impact on marketing and diminution in the value of the Premises), judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses), whether foreseeable or unforeseeable (collectively, “Liabilities”), arising out of the presence, use, generation, storage, treatment, on or off-site disposal or transportation of Hazardous Materials on, into, from, under or about the Premises by Tenant or Tenant Parties, and excluding all Existing Hazardous Materials.

(b) The foregoing indemnity shall also specifically include the cost of any required or necessary repair, restoration, clean-up or detoxification of the Premises and the preparation of any closure or other required plans.
(c) The foregoing indemnity and defense obligations of this Lease shall survive its expiration or termination; provided, however, that the indemnity contained in this Section 4.4.4 shall not apply to any Liabilities arising or occurring (a) prior to the Effective Date of this Ground Lease, (b) after the expiration or earlier termination of the Term of this Ground Lease, or (c) as a result of the grossly negligent or wrongful acts or omissions of County.

4.5 Access by County. County reserves the right for County and its authorized representatives to enter the Premises upon two (2) business days’ prior written notice to Tenant, during normal business hours, in order to determine whether Tenant is complying with Tenant’s obligations hereunder, or to enforce any rights given to County under this Lease. County and its representatives shall report to the Tenant’s on-site office and must be accompanied by a representative of Tenant at all times while on the Property and obey Tenant’s rules and regulations. Tenant acknowledges County have the authority to enter the Premises and perform work on the Premises at any time as needed to provide immediate or necessary protection for the general public. County will take all necessary measures not to unreasonably interfere with Tenant’s business at the Premises in exercising its rights under this Section.

County shall indemnify and hold Tenant harmless from and against any loss, cost, damage or liability, including, without limitation, attorneys’ fees, which results from County’s willful misconduct or gross negligence, or willful misconduct or gross negligence committed by any party acting under County’s authority, of the rights granted by this Section 4.5.

ARTICLE V
WORK ON IMPROVEMENTS

5.1 Work on Improvements.

5.1.1. Rehabilitation for Permanent Supportive Housing. Upon the fulfillment of the Preconditions set forth in Section 5.1.2, below, and payment for and issuance of all permits required under the Laws (whether from County in its governmental capacity, or otherwise), Tenant shall cause the Work to be performed on the Property, in compliance with Exhibit B.

5.1.2. Preconditions. No Work shall be commenced, and no building or other materials shall be delivered to the Premises, until:

(a) Tenant has obtained a permit through the City, submitted Project design, conceptual development, plans and special provisions for the Work in accordance with the County’s criteria, standard and practices;

(c) Tenant has given County written notice of the proposed commencement of Work on the Premises or the delivery of construction materials in order to allow County to take all necessary actions under California Civil Code section 3094, including posting of a notice of non-responsibility at the Premises; and

(d) Tenant has provided to County evidence that (i) Tenant has entered into a Construction Contract with a Contractor in accordance with Section 5.2 below, (ii) Tenant has secured the construction funding required under Section 5.1.4 below, and (iii) Tenant has provided County with assurances sufficient to complete the Project in accordance with Section 5.3 below.
5.1.3. **Utilities.** Tenant, at no cost to County, shall perform any necessary rehabilitation with respect to the water, gas, heat, light, power, air conditioning, telephone, broadband internet, and other utilities and related services supplied to and/or used on the Premises at Tenant’s sole cost and expense for the purposes of conducting Tenant’s operations thereon. All such utilities shall be separately metered from any utilities which may be used by County in conducting its operations, if any, on or about the Premises. Nothing contained in this Section is to be construed or implied to give Tenant the right or permission to install or to permit any utility poles or communication towers to be constructed or installed on the Premises.

5.1.4. **Construction Funding.** Prior to commencement of any Work, Tenant shall provide to County evidence reasonably satisfactory to County of funding available to Tenant that is sufficient to pay for Tenant’s estimated total cost of the Work, which evidence may consist of (i) a written commitment to Tenant from a Lender selected by Tenant to provide a construction loan to Tenant for the purpose of the Work (which may be secured by a Leasehold Mortgage encumbering Tenant’s leasehold interest under this Lease), (ii) actual equity funds then held by Tenant or irrevocably committed to be paid to Tenant for the purpose of the Work, or (iii) any combination of the foregoing. Tenant may from time to time change any of the foregoing funding sources and the allocation thereof, so long as the aggregate available funding continues to be sufficient to pay for Tenant’s estimated remaining cost of rehabilitating the Improvements, provided that Tenant shall promptly notify County of any such change.

5.1.5. **Compliance with Laws and Permits.** Tenant shall cause all Work to be performed in substantial compliance with all applicable Laws, including all applicable grading permits, building permits, and other permits and approvals issued by governmental agencies and bodies having jurisdiction over the Project. No permit, approval, or consent given hereunder by County, in its governmental capacity, shall affect or limit Tenant’s obligations hereunder, nor shall any approvals or consents given by County, as a Party to this Lease, be deemed approval as to compliance or conformance with applicable governmental codes, laws, rules, or regulations.

5.1.6. **Reports.** Not less than monthly from the commencement of the Work, Tenant shall provide County with written Project status reports in the form of AIA No. G702 (“Application and Certification for Payment”) or comparable form, augmented by oral reports if so requested by County.

5.1.7. **Certificate of Occupancy.** Tenant shall provide County with a copy of the Certificate of Occupancy promptly following issuance thereof.

5.1.8. **Insurance.** Tenant (or the Contractor, as applicable) shall deliver to County both (i) certificates of insurance evidencing coverage for “builder’s risk,” as specified in Section 8.1, and (ii) evidence of worker’s compensation insurance, which provide the requisite insurance levels in accordance with Article VIII, for all persons employed in connection with the Work on the Premises and with respect to whom death or bodily injury claims could be asserted against County or the Premises. Tenant shall (or shall cause Contractor to) maintain, keep in force and pay all premiums required to maintain and keep in said insurance herein at all times during which construction Work is in progress.
5.1.9. Mechanic’s Liens.

(a) Payment of Liens. Tenant shall pay or cause to be paid the total cost and expense of all “Work of Improvement,” as that phrase is defined in the California Mechanics’ Lien law in effect and as amended from time to time. Tenant shall not suffer or permit to be enforced against the Premises or Improvements or any portion thereof, any mechanics’, materialmen’s, contractors’ or subcontractors’ liens arising from any work of improvement, however it may arise. Tenant may, however, in good faith and at Tenant’s sole cost and expense contest the validity of any such asserted lien, claim, or demand, provided Tenant (or any contractor or subcontractor, as applicable) has furnished the release bond (if required by County or any construction lender) required in California Civil Code section 8000 et seq. (or any comparable statute hereafter enacted for providing a bond freeing the Premises from the effect of such lien claim). In the event a lien or stop-notice is imposed upon the Premises as a result of such construction, repair, alteration, or installation, and provided the lien is not the result of actions of, or work performed by, the County, Tenant shall either:

(1) Record a valid Release of Lien, or

(2) Procure and record a bond in accordance with Section 8424 of the Civil Code, which releases the Premises from the claim of the lien or stop-notice and from any action brought to foreclose the lien, or

(3) Post such security as shall be required by Tenant’s title insurer to insure over such lien or stop-notice, or

(4) Should Tenant fail to accomplish either of the three optional actions above within 30 days after Tenant receives notice of the filing of such a lien or stop-notice, it shall constitute an Event of Default hereunder.

(b) Indemnification. Tenant shall at all times indemnify, defend with counsel approved in writing by County and hold County harmless from all claims, losses, demands, damages, cost, expenses, or liability costs for labor or materials in connection with rehabilitation, repair, alteration, or installation of structures, improvements, equipment, or facilities within the Premises, and from the cost of defending against such claims, including reasonable attorneys’ fees and costs, but excluding any liability to the extent resulting from the gross negligence or willful misconduct of County, and excluding any liens resulting from the actions of, or work performed by, the County.

(c) Protection Against Liens. County shall have the right to post and maintain on the Premises any notices of non-responsibility provided for under applicable California law. During the course of the Work, Tenant shall obtain customary mechanics’ lien waivers and releases. Upon completion of the Project, Tenant shall record a notice of completion in accordance with applicable law. Promptly after completion of the Project, Tenant shall (or shall cause Contractor to) record a notice of completion as defined and provided for in California Civil Code section 8000 et seq.

(d) County’s Rights. If Tenant (or any contractor or subcontractor, as applicable) does not cause to be recorded the bond described in California Civil Code section 8000 et seq. or otherwise protect the Premises and Improvements under any alternative or successor statute,
and a final judgment has been rendered against Tenant by a court of competent jurisdiction for the foreclosure of a mechanic’s, materialman’s, contractor’s or subcontractor’s lien claim, and if Tenant fails to stay the execution of judgment by lawful means or to pay the judgment, County shall have the right, but not the duty to pay or otherwise discharge, stay or prevent the execution of any such judgment or lien or both. Upon any such payment by County, Tenant shall immediately upon receipt of written request therefor by County, reimburse County for all sums paid by County under this paragraph together with all County reasonable attorney’s fees and costs, plus interest at the Interest Rate from the date of payment until the date of reimbursement.

5.1.10. **No Responsibility.** Any approvals by County with respect to any Improvements shall not make County responsible for the Improvement with respect to which approval is given or the construction thereof. Tenant shall indemnify, defend and hold County harmless from and against all liability and all claims of liability (including, without limitation, reasonable attorneys’ fees and costs) arising during the Term of this Lease for damage or injury to persons or property or for death of persons arising from or in connection with the Improvement or construction thereof, but excluding any liability to the extent resulting from the active negligence or willful misconduct of County, and excluding any liens resulting from the actions of, or work performed by, the County.

5.2 **Construction Contracts.**

5.2.1. **Construction Contract.** Tenant shall enter into a written contract with a general contractor (“Contractor”) for the Work and completion of the Project. All Work shall be performed by contractors and subcontractors duly licensed as such under the laws of the State of California. Tenant shall give County a true copy of the contract or contracts with the Contractor.

5.2.2. **Assignment to County.** Tenant shall obtain the written agreement of the Contractor that, at County election and in the event that Tenant fails to perform its contract with the Contractor, such Contractor will recognize County as the assignee of the contract with the Contractor, and that County may, upon such election, assume such contract with credit for payments made prior thereto. Notwithstanding the foregoing, the County’s rights under this Section 5.2.2 are hereby made subject and subordinate to the lien of each Leasehold Mortgage.

5.3 **Tenant’s Assurance of Construction Completion.** Prior to commencement of construction of the Work, or any phase thereof, within the Premises by Tenant, Tenant shall furnish to County evidence that assures County that sufficient monies will be available to complete the Work. The amount of money available shall be at least the total estimated construction cost. Such evidence may take one of the following forms, with such form to be elected by Tenant, subject to the approval of County, which approval shall not be unreasonably withheld, conditioned, or delayed:

5.3.1. Performance bond and labor and materials bond in a principal sum equal to the total estimated construction cost supplied by Contractor or subcontractors, provided said bonds are issued jointly to Tenant, County, and any Leasehold Mortgagees as obligees.

5.3.2. Irrevocable letter of credit issued to County from a financial institution to be in effect until County acknowledges satisfactory completion of the Work;

5.3.3. Cash deposited with the County (may be in the form of cashier’s check or money order or may be electronically deposited);
5.3.4. A completion guaranty, in favor of County from the Tenant, in a form reasonably acceptable to County;

5.3.4. Any combination of the above.

All bonds and letters of credit must be issued by a company qualified to do business in the State of California and acceptable to County. All bonds and letters of credit shall be in a form acceptable to County, and County’s Risk Manager in their reasonable discretion, and shall insure faithful and full observance and performance by Tenant of all terms, conditions, covenants, and agreements relating to Work within the Premises.

Tenant shall provide or cause its Contractor to provide payment and/or performance bonds in connection with the construction of the Work and shall name the County as an additional obligee on, with the right to enforce, any such bonds.

5.4 Ownership of Improvements.

5.4.1. For purposes of this Section 5.4, “Term” shall have the meaning stated in Section 2.2.3.

5.4.2. During Term. Fee title to all personal property and Improvements on the Premises, including Improvements existing on the Effective Date (reflected in the Bill of Sale attached hereto as Exhibit E and Quitclaim Deed attached hereto as Exhibit F), and as rehabilitated, and/or any new Improvements that are constructed or placed on the Premises by Tenant are and shall be vested in Tenant during the Term of this Lease, until the expiration or earlier termination thereof. Any and all depreciation, amortization and tax credits for federal or state purposes relating to the Improvements located on the Premises and any and all additions thereto shall be deducted or credited exclusively by Tenant during the Term. The Parties agree for themselves and all persons claiming under them that the Improvements are real property.

5.4.3. Upon Expiration or Earlier Termination of Term. All Improvements on the Premises at the expiration or earlier termination of the Term of this Lease shall, without additional payment to Tenant, then become County’s property free and clear of all claims to or against them by Tenant and free and clear of all Leasehold Mortgages and any other liens and claims arising from Tenant’s use and occupancy of the Premises, and with Taxes paid current as of the expiration or earlier termination date. Tenant shall execute a Quitclaim Deed as necessary for any Improvements at the expiration of the Term, in the same form and substance as the Quitclaim Deed attached hereto as Exhibit F. Tenant shall upon the expiration or earlier termination of the Term deliver possession of the Premises and the Improvements to County in good order, condition and repair consistent with the requirements of this Lease and in compliance with all applicable laws and regulations for the occupancy of the Project, taking into account reasonable wear and tear and the age of the Improvements. In order to ensure that Tenant has sufficient funds reserved to make certain necessary repairs and/or replacements to the Improvements so as to meet its obligation stated herein, County, five (5) years prior to the expiration of the Term, may request, and Tenant must deliver, an estimate showing estimated costs of all repairs and/or replacements necessary to allow Tenant to deliver possession of the Premises and the Improvements to County in a well-maintained condition. If funds in the Capital Improvement Fund, as more particularly described in Section 5.6, below, are insufficient to bring the Improvements into compliance with this Section 5.4.3, Tenant shall be solely responsible for securing any funding necessary to perform any rehabilitation or maintenance required
to timely bring the Improvements into compliance with this Section 5.4.3, which funding shall not be secured by the Improvements on the Premises.

5.5 “AS-BUILT” Plans. Within sixty (60) days following completion of any substantial improvement within the Premises, including the Work, to the extent such improvement, or the Work, consists of the construction of new Improvements or the expansion of the existing Improvements, Tenant shall furnish the County a complete set of reproducibles and two sets of prints of “As-Built” plans and a magnetic tape, disk or other storage device containing the “As-Built” plans in a form usable by County, to County’s satisfaction, on County’s computer aided mapping and design (“CAD”) equipment. CAD files are also to be converted to Acrobat Reader (pdf format), which shall be included on the disk or CD ROM. In addition, Tenant shall furnish County copy of the final construction costs for the construction of such improvements.

5.6 Capital Improvement Fund.

5.6.1. As of the Commencement Date, Tenant shall establish and maintain, for the remainder of the Term (as “Term” is defined in Section 2.2), a reserve fund (the "Capital Improvement Fund") in accordance with the provisions of this Section 5.6 designated to pay for Permitted Capital Expenditures (as defined below) for the Improvements during the Term of this Lease.

5.6.2. Tenant and County agree and acknowledge that the purpose of the Capital Improvement Fund shall be to provide sufficient funds to pay for the costs of major replacements, renovations or significant upgrades of or to the Improvements, including without limitation building facade or structure and major building systems (such as HVAC, mechanical, electrical, plumbing, vertical transportation, security, communications, structural or roof) that significantly affect the capacity, efficiency, useful life or economy of operation of the Improvements or their major systems, after the completion of the Project ("Permitted Capital Expenditure(s)").

5.6.3. The Capital Improvement Fund shall not be used to fund any portion of the cost of the Work. In addition, Permitted Capital Expenditures shall not include the cost of periodic, recurring or ordinary maintenance expenditures or maintenance, repairs or replacements that keep the Improvements in an ordinarily efficient operating condition, but that do not significantly add to their value or appreciably prolong their useful life. Permitted Capital Expenditures must constitute capital replacements, improvements or equipment under generally accepted accounting principles consistently applied or constitute qualifying aesthetic improvements. Permitted Capital Expenditures shall not include costs for any necessary repairs to remedy any broken or damaged Improvements, all of which costs shall be separately funded by Tenant.

5.6.4. All specific purposes and costs for which Tenant desires to utilize amounts from the Capital Improvement Fund shall be at Tenant’s reasonable discretion and subject to County's written approval as provided for in Section 5.6.9, below. Tenant shall furnish to the County applicable invoices, evidence of payment and other back-up materials concerning the use of amounts from the Capital Improvement Fund.

5.6.5. The Capital Improvement Fund shall be held in an account established with a Lender acceptable to the County, into which deposits shall be made by Tenant pursuant to Section 5.6.8, below.
5.6.6. Tenant shall have the right to partly or fully satisfy the Capital Improvement Fund obligations of this Section 5.6 with capital improvement reserves (or replacement reserves) required by Tenant's Leasehold Mortgagees or the Limited Partner, as long as such capital improvement reserves or replacement reserves are in all material respects administered and utilized in accordance, and otherwise comply, with the terms, provisions and requirements of this Section 5.6.

5.6.7. In the event of default by Tenant and the early termination of this Lease, the County shall have full access to the Capital Improvement Fund, provided the Tenant’s Leasehold Mortgagee does not use it within a reasonable time for the purposes stated in this Section 5.6; provided, however, that County’s rights under this Section 5.6.7 are hereby made subject and subordinate to the lien of each Leasehold Mortgage.

5.6.8. Commencing on the fifteenth (15th) day of the month during which the fifth (5th) anniversary of the Commencement Date occurs, and continuing on or before the fifteenth (15th) day of each month thereafter until five (5) years prior to the expiration of the Term, Tenant shall make an annual contribution to the Capital Improvement Fund in an amount equal to three-hundred dollars ($300) per unit per year. All interest and earnings on the Capital Improvement Fund shall be added to the Capital Improvement Fund, but shall not be treated as a credit against the Capital Improvement Fund deposits required to be made by Tenant pursuant to this Section 5.6.

5.6.9. Disbursements shall be made from the Capital Improvement Fund only for costs which satisfy the requirements of this Section 5.6. For the purpose of obtaining the County’s prior approval of any Capital Improvement Fund disbursements, Tenant shall submit to the County on an annual calendar year basis a capital expenditure plan for the upcoming year which details the amount and purpose of anticipated Capital Improvement Fund expenditures (“Capital Improvement Plan”). County shall approve or disapprove such Capital Improvement Plan within thirty (30) days of receipt, which approval shall not be unreasonably withheld, conditioned or delayed. Any expenditure set forth in the approved Capital Improvement Plan shall be considered pre-approved by County (but only up to the amount of such expenditure set forth in the Capital Improvement Plan) for the duration of the upcoming year. Tenant shall have the right during the course of each year to submit to the County for the County’s approval revisions to the then current Capital Improvement Plan, or individual expenditures not noted on the previously submitted Capital Improvement Plan. In the event of an unexpected emergency that necessitates a Permitted Capital Expenditure not contemplated by the Capital Improvement Plan, the Tenant may complete such work using the funds from the Capital Improvement Fund with contemporaneous or prior (if possible) written notice to the County and provide applicable documentation to the County thereafter for approval. If the County disapproves the emergency expenditure which was not previously approved by County, Tenant shall refund the amount taken from the Capital Improvement Fund within thirty (30) days of written notice from the County of its decision.

5.6.10. Notwithstanding anything above to the contrary, if Tenant incurs expenditures that constitute Permitted Capital Expenditures but which are not funded out of the Capital Improvement Fund because sufficient funds are not then available in such fund, then Tenant may credit the Permitted Capital Expenditures so funded by Tenant out of its own funds against future Capital Improvement Fund contribution obligations of Tenant; provided, that such credit must be applied, if at all, within four (4) years after such Permitted Capital Expenditure is incurred by the Tenant.
ARTICLE VI
REPAIRS, MAINTENANCE, ADDITIONS AND RECONSTRUCTION

6.1 Maintenance by Tenant. Throughout the Term of this Lease, Tenant shall, at Tenant’s sole cost and expense, keep and maintain the Premises and any and all Improvements now or hereafter constructed and installed on the Premises in good order, condition and repair (i.e., so that the Premises does not deteriorate more quickly than its age and reasonable wear and tear would otherwise dictate) and in a safe and sanitary condition and in compliance with all applicable Laws in all material respects. Tenant shall immediately notify the County of any damage relating to the Premises.

6.2 Interior Improvements, Additions and Reconstruction of Improvements. Following the completion of the Project, Tenant shall have the right from time to time to make any interior improvements to the Improvements that are consistent with the County’s approved use of the Premises as reflected in this Lease, without County’s prior written consent, but with prior written notice to the County (except in the event of an emergency, in which case no prior written notice shall be required but Tenant shall notify County of any emergency work done as soon as practicable). With prior written approval of County, Tenant may restore and reconstruct the Improvements, and in that process make any modifications otherwise required by changes in Laws, following any damage or destruction thereto (whether or not required to do so under Article VII); and/or to make changes, revisions or improvements to the Improvements for uses consistent with the County approved use of the Premises as reflected in this Lease. Tenant shall perform all work authorized by this Section at its sole cost and expense, including, without limitation, with insurance proceeds approved for such use in accordance with Article VII, if any, and in compliance with all applicable Laws in all material respects.

6.3 All Other Construction, Demolition, Alterations, Improvements and Reconstruction. Following the completion of the Project, and except as specified in Sections 6.1 and 6.2, any construction, alterations, additions, demolition, or improvements of any kind shall require the prior written consent of the Chief Real Estate Officer, which consent shall not be unreasonably conditioned, delayed or withheld, and if not contemplated pursuant to this Lease, may require the approval of the Board of Supervisors. Tenant shall perform all work authorized by this Section at its sole cost and expense, including, without limitation, with insurance proceeds approved for such use in accordance with Article VII, if any, and in compliance with all applicable Laws in all material respects.

6.4 Requirements of Governmental Agencies. At all times during the Term of this Lease, Tenant, at Tenant’s sole cost and expense, shall: (i) make all alterations, improvements, demolitions, additions or repairs to the Premises and/or the Improvements required to be made by any law, ordinance, statute, order or regulation now or hereafter made or issued by any federal, state, county, local or other governmental agency or entity; (ii) observe and comply in all material respects with all Laws now or hereafter made or issued respecting the Premises and/or the Improvements (subject to Tenant’s right to contest such Laws in accordance with Section 4.4); (iv) indemnify, defend and hold County, the Premises and the Improvements free and harmless from any and all liability, loss, damages, fines, penalties, claims and actions resulting from Tenant’s failure to comply with and perform the requirements of this Article VI.
6.5 **County Obligations.** Tenant specifically acknowledges and agrees that County, and County Parties do not and shall not have any obligations with respect to the maintenance, alteration, improvement, demolition, replacement, addition or repair of any Improvements.

6.6 **County Reservations.** Without limiting County’s rights with respect to the Premises, County reserves for themselves, its successors and assigns those rights necessary to assure proper maintenance and operation of the Premises and to permit any steps to be taken which the County deems necessary or desirable to maintain, repair, improve, modify or reconstruct the Premises. The rights reserved to County in this section or any other section of this Lease shall be exercised by the County at its sole discretion, unless otherwise provided herein.

**ARTICLE VII**

**DAMAGE AND RESTORATION**

7.1 **Damage and Restoration.** In the event the whole or any part of the Improvements shall be damaged or destroyed by fire or other casualty, damage or action of the elements which is fully covered by insurance required to be carried by Tenant pursuant to this Lease or in fact caused by Tenant, at any time during the Term, Tenant shall with all due diligence, at Tenant’s sole cost and expense, repair, restore and rebuild the Improvements on substantially the same plan and design as existed immediately prior to such damage or destruction and to substantially the same condition that existed immediately prior to such damage, with any changes made by Tenant to comply with then applicable Laws and with any upgrades or improvements that Tenant may determine in its reasonable discretion. If Tenant desires to change the use of the Premises following such casualty, then Tenant may make appropriate changes to the Premises to accommodate such changed use after approval of such change of use by the County pursuant to Article IV above. This Article shall not apply to cosmetic damage or alterations.

In the event that Tenant shall determine, subject to the rights of the Leasehold Mortgagees and Limited Partner, if applicable, by notice to the County given by the later of ninety (90) days after the date of the damage or destruction or thirty (30) days after receipt by Tenant of any such insurance proceeds, that there are not adequate proceeds to restore the Improvements and/or the Premises to substantially the same condition in which they existed prior to the occurrence of such damage or destruction, then Tenant may terminate this Lease as of a date that is not less than thirty (30) days after the date of such notice. Notwithstanding Section 17.9, if Tenant terminates this Lease pursuant to this Section 7.1, Tenant shall surrender possession of the Premises to the County immediately and assign to the County (or, if same has already been received by Tenant, pay to the County) all of its right, title and interest in and to the proceeds from Tenant’s insurance upon the Premises, less (i) any costs, fees, or expenses incurred by Tenant in connection with the adjustment of the loss or collection of the proceeds, (ii) any reasonable costs incurred by Tenant in connection with the Premises after the damage or destruction, which costs are eligible for reimbursement from such insurance proceeds, and (iii) the proceeds of any rental loss or business interruption insurance applicable prior to the date of surrender of the Premises to the County.

7.2 **Restoration.** In the event of any restoration or reconstruction pursuant to this Section, all such work performed by Tenant shall be constructed in a good and workmanlike manner according to and in conformance with the Laws, rules and regulations of all governmental bodies and agencies and the requirements of this Lease applicable to the Work.

7.3 **No Rental Abatement.** Tenant shall not be entitled to any abatement, allowance, reduction, or suspension of Rent because part or all of the Improvements become untenantable as a result of the partial or total destruction of the Improvements, and Tenant’s obligation to keep and
perform all covenants and agreements on its part to be kept and performed hereunder, shall not be decreased or affected in any way by any destruction of or damage to the Improvements; except as otherwise provided herein.

7.4 Application of Insurance Proceeds. If following the occurrence of damage or destruction to the Premises or Improvements, Tenant is obligated to or determines that there are adequate proceeds to restore the Premises and Improvements pursuant to this Article VII, then all proceeds from the insurance required to be maintained by Tenant on the Premises and the Improvements shall be applied to fully restore the same, and, subject to the rights of the Leasehold Mortgagees and Limited Partner, if applicable, any excess proceeds shall be paid to Tenant and any deficit in necessary funds plus the amount of any deductible shall be paid by Tenant. If Tenant after commencing or causing the commencement of the restoration of Premises and Improvements shall determine that the insurance proceeds are insufficient to pay all costs to fully restore the Improvements, Tenant shall pay the deficiency and shall nevertheless proceed to complete the restoration of Premises and the Improvements and pay the cost thereof. Upon lien free completion of the restoration, subject to the rights of the Leasehold Mortgagees, if applicable, any balance of the insurance proceeds remaining over and above the cost of such restoration shall be paid to Tenant.

7.5 Exclusive Remedies. Notwithstanding any destruction or damage to the Premises and/or the Improvements, Tenant shall not be released from any of its obligations under this Lease, except to the extent and upon the conditions expressly stated in this Article VII. County and Tenant hereby expressly waive the provisions of California Civil Code Sections 1932(2) and 1933(4) with respect to any damage or destruction of the Premises and/or the Improvements and agree that its rights shall be exclusively governed by the provisions of this Article VII.

7.6 Damage Near End of Term. If, during the last five (5) years of the Term, as applicable, the Improvements shall be damaged or destroyed for which the repair and/or replacement cost is fifty percent (50%) or more of then replacement cost of the Improvements, then Tenant shall have the option, to be exercised within ninety (90) days after such damage or destruction:

7.6.1. to notify the County of its election to repair or restore the Improvements as provided in this Article VII; or

7.6.2. subject to the rights of Leasehold Mortgagees and such provisions of this Lease that survive termination, to terminate this Lease by notice to the County, which termination shall be deemed to be effective as of the date of the damage or destruction. If Tenant terminates this Lease pursuant to this Section 7.6.2, Tenant shall surrender possession of the Leased Premises to the County immediately and assign to the County (or, if same has already been received by Tenant, pay to the County) all of its right, title and interest in and to the proceeds from Tenant's insurance upon the Premises less (i) any costs, fees, or expenses incurred by Tenant in connection with the adjustment of the loss or collection of the proceeds, (ii) any reasonable costs incurred by Tenant in connection with the Premises after the damage or destruction, which costs are eligible for reimbursement from such insurance proceeds, and (iii) the proceeds of any rental loss or business interruption insurance applicable prior to the date of surrender of the Premises to the County.

ARTICLE VIII
INSURANCE AND INDEMNITY

8.1 Tenant's Required Insurance.
8.1.1. Tenant agrees to purchase all required insurance at Tenant's expense and to
deposit with Chief Real Estate Officer certificates of insurance, including all endorsements required
herein, necessary to satisfy Chief Real Estate Officer that the insurance provisions of this Lease have
been complied with and to keep such insurance coverage and the certificates and endorsements
therefore on deposit with Chief Real Estate Officer during the entire term of this Lease.

8.1.2. Tenant agrees that it shall not operate on the Premises at any time the required
insurance is not in full force and effect as evidenced by a certificate of insurance and necessary
endorsements or, in the interim, an official binder being in the possession of Chief Real Estate
Officer; rent however shall not be suspended. In no cases shall assurances by Tenant, its employees,
agents, including any insurance agent, be construed as adequate evidence of insurance. Chief Real
Estate Officer will only accept valid certificates of insurance and endorsements, or in the interim, an
insurance binder as adequate evidence of insurance. Tenant also agrees that upon cancellation,
termination, or expiration of Tenant's insurance, Chief Real Estate Officer may take whatever steps
are necessary to interrupt any operation from or on the Premises until such time as the Chief Real
Estate Officer reinstates the Lease.

8.1.3. If Tenant fails to provide Chief Real Estate Officer with a valid certificate of
insurance and endorsements, or binder at any time during the term of the Lease, County and Tenant
agree that this shall constitute a material breach of the Lease. Whether or not a notice of default has
or has not been sent to Tenant, said material breach shall permit Chief Real Estate Officer to take
whatever steps are necessary to interrupt any operation from or on the Premises, and to prevent any
persons, including, but not limited to, members of the general public, and Tenant's employees and
agents, from entering the Premises until such time as the Chief Real Estate Officer is provided with
adequate evidence of insurance required herein. Tenant further agrees to hold County harmless for
any damages resulting from such interruption of business and possession, including, but not limited
to, damages resulting from any loss of income or business resulting from Chief Real Estate Officer's
action.

8.1.4. All contractors and subcontractors performing work on behalf of Tenant
pursuant to this Lease shall obtain insurance subject to the same terms and conditions as set forth
herein for Tenant and limits of insurance as described in Section 8.1.6 (e), Section 8.1.6 (f) and
Section 8.1.6 (g). Tenant shall not allow contractors or subcontractors to work if contractors have
less than the level of coverage required by County under this Lease. It is the obligation of the Tenant
to provide written notice of the insurance requirements to every contractor and to receive proof of
insurance prior to allowing any contractor to begin work within the Premises. Such proof of
insurance must be maintained by Tenant through the entirety of this Lease and be available for
inspection by Chief Real Estate Officer at any reasonable time.

8.1.5. All self-insured retentions (SIRs) shall be clearly stated on the Certificate of
Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars
($50,000) shall specifically be approved by the County’s Risk Manager, or designee, upon review of
Tenant’s current audited financial report. If Tenant’s SIR is approved, Tenant, in addition to, and
without limitation of, any other indemnity provision(s) in this Lease, agrees to all of the following:

1) In addition to the duty to indemnify and hold the County harmless against any and all
liability, claim, demand or suit resulting from Tenant’s, its agents, employee’s or
subcontractor’s performance of this Lease, Tenant shall defend the County at its sole cost and
expense with counsel approved by Board of Supervisors against same; and
2) Tenant’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Tenant’s SIR provision shall be interpreted as though the Tenant was an insurer and the County was the insured.

If the Tenant fails to maintain insurance acceptable to the County for the full term of this Lease, the County may terminate this Lease.

8.1.6. All policies of insurance required under this Article VIII must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer must be licensed to do business in the state of California.

(a) If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the Chief Real Estate Officer retains the right to approve or reject a carrier after a review of the carrier's performance and financial ratings.

(b) If the insurance carrier is not an admitted carrier in the state of California and does not have an A.M. Best rating of A-/VIII, the Chief Real Estate Officer retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

(c.1) The policy or policies of insurance maintained by the TENANT DURING CONSTRUCTION shall provide the minimum limits and coverage as set forth below:

<table>
<thead>
<tr>
<th>Coverages</th>
<th>Minimum Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Builder's Risk (during the Construction Period) naming retained General Contractor</td>
<td>Project value and no coinsurance provision.</td>
</tr>
<tr>
<td>Commercial General Liability</td>
<td>$5,000,000 per occurrence $5,000,000 aggregate</td>
</tr>
<tr>
<td>Automobile Liability including coverage for owned, non-owned and hired vehicles</td>
<td>$1,000,000 limit per occurrence</td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>Statutory Minimum</td>
</tr>
<tr>
<td>Employers' Liability Insurance</td>
<td>$1,000,000 per occurrence</td>
</tr>
</tbody>
</table>

(c.2) The policy or policies of insurance maintained by the TENANT’S GENERAL CONTRACTOR DURING CONSTRUCTION shall provide the minimum limits and coverage as set forth below:
<table>
<thead>
<tr>
<th>Coverages</th>
<th>Minimum Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial General Liability</td>
<td>$5,000,000 per occurrence $10,000,000 aggregate</td>
</tr>
<tr>
<td>Automobile Liability including coverage for owned, non-owned and hired vehicles</td>
<td>$2,000,000 limit per occurrence</td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>Statutory Minimum</td>
</tr>
<tr>
<td>Employers' Liability Insurance</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>Contractor’s Pollution Liability including NODS</td>
<td>$5,000,000 per claims made or per occurrence</td>
</tr>
</tbody>
</table>

(d) The policy or policies of insurance maintained by the TENANT’S SUBCONTRACTORS DURING CONSTRUCTION shall provide the minimum limits and coverage as set forth below:

<table>
<thead>
<tr>
<th>Coverages</th>
<th>Minimum Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial General Liability</td>
<td>$1,000,000 per occurrence $2,000,000 aggregate</td>
</tr>
<tr>
<td>Automobile Liability including coverage for owned, non-owned and hired vehicles</td>
<td>$1,000,000 limit per occurrence</td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>Statutory Minimum</td>
</tr>
<tr>
<td>Employer’s Liability Insurance (not required for self-employed subcontractors)</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>Contractor’s Pollution Liability including NODS (Required only of those subcontractors involved in pollution remediation)</td>
<td>$1,000,000 per claims made or per occurrence</td>
</tr>
</tbody>
</table>
Coverages | Minimum Limits
---|---
Professional Liability (architect, structural, electrical engineer, mechanical/plumbing engineering, environmental engineer, civil engineer, landscape architect, and geotechnical engineer) | $2,000,000 per occurrence  
$2,000,000 aggregate
Commercial General Liability | $1,000,000 per occurrence  
$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles | $1,000,000 limit per occurrence
Workers' Compensation | Statutory Minimum
Employers' Liability Insurance | $1,000,000 per occurrence

(f) The policy or policies of insurance maintained by the TENANT AFTER CONSTRUCTION shall provide the minimum limits and coverage as set forth below:

<table>
<thead>
<tr>
<th>Coverages</th>
<th>Minimum Limits</th>
</tr>
</thead>
</table>
| Commercial General Liability | $5,000,000 per occurrence  
$5,000,000 aggregate
Including Sexual Misconduct (defined as abuse, molestation and assault and battery) | $1,000,000 limit per occurrence
Automobile Liability including coverage for owned, non-owned and hired vehicles | $1,000,000 limit per occurrence
Workers' Compensation | Statutory Minimum
Employers' Liability Insurance | $1,000,000 per occurrence
Commercial Property Insurance on an "All Risk" or "Special Causes of Loss" basis covering all buildings, contents and any tenant improvements including Business Interruption/Loss of Rents with a 12 month limit | 100% of the Replacement Cost Value and no coinsurance provision

Tenant shall provide a builder’s risk policy, naming the Contractor, providing coverage for the full project value and no coinsurance provision. The policy shall provide coverage for all perils excluding earthquake, and flood. Tenant is responsible for any deductible amount. The County of Orange shall be named as a Loss Payee as its financial interests may appear. This shall be evidenced by a Loss Payee endorsement which shall accompany the Certificate of Insurance.
The Builder’s Risk policy shall not be required to cover any tools, equipment, or supplies, unless such tools, equipment, or supplies are part of the Work being constructed. The Contractor shall be responsible for securing and maintaining appropriate insurance on any tools, equipment, or supplies that are not part of the work being constructed.

The County and the Contractor waive all rights against each other and the subcontractors, sub-subcontractors, officers, and employees of each other, and the Contractor waives all rights against County’s separate contractors, if any, and its subcontractors, sub-subcontractors, officers and employees for damages caused by fire or other perils to the extent paid by the Builder’s Risk insurance, except such rights as they may have to the proceeds of such insurance. The Contractor shall require of its subcontractors and sub-subcontractors by appropriate agreements, similar waivers, each in favor of all other parties enumerated in the preceding sentence.

(g) The policy or policies of insurance maintained by the TENANT’S CONTRACTOR AFTER CONSTRUCTION shall provide the minimum limits and coverage as set forth below when performing maintenance and minor work after the building is in operation:

<table>
<thead>
<tr>
<th>Coverages</th>
<th>Minimum Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial General Liability</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td></td>
<td>$2,000,000 aggregate</td>
</tr>
<tr>
<td>Automobile Liability including coverage for owned, non-owned and hired vehicles</td>
<td>$1,000,000 limit per occurrence</td>
</tr>
<tr>
<td>Workers’ Compensation</td>
<td>Statutory Minimum</td>
</tr>
<tr>
<td>Employers’ Liability Insurance</td>
<td>$1,000,000 per occurrence</td>
</tr>
</tbody>
</table>

8.1.7. **Required Coverage Forms.**

(a) The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

(b) The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

8.1.8. **Required Endorsements.** The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the County of Orange, and its respective elected and appointed officials, officers, employees, agents as Additional Insureds. Blanket coverage may also be provided which will state, as required by Lease.
2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad, evidencing that the TENANT’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

3) A Products and Completed Operations endorsement using ISO Form CG2037 (ed.04/13) or a form at least as broad, or an acceptable alternative is the ISO from CG2010 (ed. 11/85). (Pertains to contractors and subcontractors performing major construction). Contractors shall maintain Products and Completed Operations coverage for ten (10) years following completion of construction.

The Contractors Pollution Liability and Pollution Liability policies shall contain the following endorsements, which shall accompany the Certificate of Insurance:

1) An Additional Insured endorsement naming the County of Orange, and its respective elected and appointed officials, officers, employees, and agents as Additional Insureds.

2) A primary non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by County shall be excess and non-contributing.

   (a) The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and its respective elected and appointed officials, officers, agents and employees.

   (b) All insurance policies required by this Lease shall waive all rights of subrogation against the County of Orange, and its respective elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

   (c) The Commercial Property Building policy shall include the County of Orange as a Named Insured. A Certificate of Insurance shall be submitted as evidence of this requirement. The Builders’ Risk policy shall be endorsed to include the County of Orange as a Loss Payee. A Loss Payee endorsement shall be submitted with the Certificate of Insurance as evidence of this requirement.

   (d) Tenant shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to the County. Failure to provide written notice of cancellation may constitute a material breach of the Lease, after which the County may suspend or terminate this Lease.

   (e) The Commercial General Liability policy shall contain a severability of interests clause, also known as a "separation of insureds" clause (standard in the ISO CG 001 policy).

   (f) If Contractor’s Pollution Liability and Pollution Liability are claims-made policies, Contractor shall agree to maintain coverage for five (5) years following completion of the construction. If Contractor’s Professional Liability is a claims-made policy, Contractor shall agree to maintain coverage for ten (10) years following the completion of construction. Products and Completed Operations coverage shall be maintained for ten (10) years following the completion of construction.
(g) Insurance certificates should be forwarded to the County addresses provided in Section 18.19 below. Tenant has ten (10) business days to provide adequate evidence of insurance or it shall constitute an Event of Default.

(h) County expressly retains the right to require Tenant to increase or decrease insurance of any of the above insurance types throughout the term of this Lease which shall be mutually agreed upon by County and Tenant.

(i) Chief Real Estate Officer shall notify Tenant in writing of changes in the insurance requirements consistent with subsection (h) above. If Tenant does not deposit copies of certificates of insurance and endorsements with Chief Real Estate Officer incorporating such changes within thirty (30) days of receipt of such notice, it shall constitute an Event of Default.

(j) The procuring of such required policy or policies of insurance shall not be construed to limit Tenant's liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease, nor in any way to reduce the policy coverage and limits available from the insurer.

8.2 **Indemnification.** Tenant agrees to assume all risks, financial or otherwise, associated with the Premises. Tenant hereby releases and waives all claims and recourse against County, including the right of contribution for loss or damage of persons or property, arising from, growing out of or in any way connected with or related to this Lease, including any damage to or interruption of use of the Premises including, but not limited to, loss of business, damage to, destruction of, or relocation costs of Tenant’s Improvements or impaired utility of the Premises caused by erosion, flood, or flood overflow, or caused by any action undertaken in the operation, maintenance, repair, reconstruction, replacement, enlargement or improvement of the Premises except to the extent claims arise from the gross negligence or willful misconduct of County, its officers, agents, employees and contractors. Tenant hereby agrees to indemnify, defend (with counsel approved in writing by County in County’s reasonable discretion), and hold harmless, County, its elected and appointed officials, officers, agents, employees and contractors against any and all claims, losses, demands, damages, cost, expenses or liability for injury to any persons or property, arising out of the operation or maintenance of the Premises, and/or Tenant’s exercise of the rights under this Lease, except to the extent liability arises out of the gross negligence or willful misconduct of County, or any of its elected and appointed officials, officers, agents, employees or contractors including the cost of defense of any lawsuit arising therefrom, and except for claims arising after the later to occur of the expiration or earlier termination of the Term, or the date Tenant vacates the Premises. If County is named as co-defendant in a lawsuit in connection with this Lease, Tenant shall notify County of such fact and shall represent the County in such legal action unless County undertakes to represent themselves as co-defendant in such legal action, in which event, Tenant shall be responsible to pay County’s litigation costs, expenses, and reasonable attorneys’ fees. If judgment is entered against County and Tenant by a court of competent jurisdiction because of the concurrent active negligence of County and Tenant, County and Tenant agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment. A judgment or other judicial determination regarding County’s negligence shall not be a condition precedent to Tenant’s obligations stated in this Section.

Tenant acknowledges that it is familiar with the language and provisions of California Civil Code Section 1542 which provides as follows:
A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Tenant, being aware of and understanding the terms of Section 1542, hereby waives all benefit of its provisions to the extent described in this paragraph.

The foregoing indemnity and defense obligations of this Lease shall survive its expiration or termination. This Section 8.2 notwithstanding, indemnification with respect to Hazardous Materials shall be governed by Section 4.4.4.

8.3 Damage to Tenant’s Premises. County shall not be liable for injury or damage which may be sustained by the person, goods, wares, merchandise, or other property of Tenant, of Tenant’s employees, invitees, customers, or of any other person in or about the Premises or the Improvements caused by or resulting from any peril which may affect the Premises or Improvements, including fire, steam, electricity, gas, water, or rain which may leak or flow from or into any part of the Premises or the Improvements, whether such damage or injury results from conditions arising upon the Premises or from other sources; provided, however, County shall be liable for injury or damage under this Section 8.3 resulting from County and/or its elected and appointed officials, officers, agents, employees or contractor’s gross negligence or willful misconduct.

ARTICLE IX
CONDEMNATION

9.1 Definitions.

9.1.1. “Condemnation” means (i) the taking or damaging, including severance damage, by eminent domain or by inverse condemnation or for any public or quasi-public use under any statute, whether by legal proceedings or otherwise, by a Condemnor (hereinafter defined), and (ii) a voluntary sale or transfer to a Condemnor, either under threat of condemnation or while condemnation legal proceedings are pending.

9.1.2. “Date of Taking” means the later of (i) the date actual physical possession is taken by the Condemnor; or (ii) the date on which the right to compensation and damages accrues under the law applicable to the Premises.

9.1.3. “Award” means all compensation, sums or anything of value awarded, paid or received for a Total Taking, a Substantial Taking or a Partial Taking (hereinafter defined), whether pursuant to judgment or by agreement or otherwise.

9.1.4. “Condemnor” means any public or quasi-public authority or private corporation or individual having the power of condemnation.

9.1.5. “Total Taking” means the taking by Condemnation of all of the Premises and all of the Improvements.

9.1.6. “Substantial Taking” means the taking by Condemnation of so much of the Premises or Improvements or both that one or more of the following conditions results, as reasonably
determined by Tenant: (i) The remainder of the Premises would not be economically and feasibly usable by Tenant; and/or (ii) A reasonable amount of reconstruction would not make the Premises and Improvements a practical improvement and reasonably suited for the uses and purposes for which the Premises were being used prior to the Condemnation; and/or (iii) The conduct of Tenant’s business on the Premises would be materially and substantially prevented or impaired.

9.1.7. “Partial Taking” means any taking of the Premises or Improvements that is neither a Total Taking nor a Substantial Taking.

9.1.8. “Notice of Intended Condemnation” means any notice or notification on which a reasonably prudent person would rely and which he would interpret as expressing an existing intention of Condemnation as distinguished from a mere preliminary inquiry or proposal. It includes but is not limited to service of a Condemnation summons and complaint on a Party hereto. The notice is considered to have been received when a Party receives from the Condemnor a notice of intent to condemn, in writing, containing a description or map reasonably defining the extent of the Condemnation.

9.2 Notice and Representation.

9.2.1. Notification. The Party receiving a notice of one or more of the kinds specified below shall promptly notify the other Party (and the Limited Partner, if during the Compliance Period) of the receipt, contents and dates of such notice: (i) a Notice of Intended Condemnation; (ii) service of any legal process relating to the Condemnation of the Premises or Improvements; (iii) any notice in connection with any proceedings or negotiations with respect to such a Condemnation; (iv) any notice of an intent or willingness to make or negotiate a private purchase, sale or transfer in lieu of Condemnation.

9.2.2. Separate Representation. County and Tenant each have the right to represent its respective interest in each Condemnation proceeding or negotiation and to make full proof of his claims. No agreement, settlement, sale or transfer to or with the Condemnor shall be made without the consent of County and Tenant. County and Tenant shall each execute and deliver to the other any instruments that may be required to effectuate or facilitate the provisions of this Lease relating to Condemnation.

9.3 Total or Substantial Taking.

9.3.1. Total Taking. On a Total Taking, this Lease shall terminate on the Date of Taking.

9.3.2. Substantial Taking. If a taking is a Substantial Taking, Tenant may, with the consent of each Leasehold Mortgagee and the Limited Partner, to the extent required, by notice to County given within ninety (90) days after Tenant receives a Notice of Intended Condemnation, elect to treat the taking as a Total Taking. If Tenant does not so notify County, the taking shall be deemed a Partial Taking.

9.3.3. Early Delivery of Possession. Tenant may continue to occupy the Premises and Improvements until the Condemnor takes physical possession. At any time following Notice of Intended Condemnation, Tenant may in its sole discretion, with the consent of each Leasehold Mortgagee and the Limited Partner, to the extent required, elect to relinquish possession of the
Premises to County before the actual Taking. The election shall be made by notice declaring the
election and agreeing to pay all Rent required under this Lease to the Date of Taking. Tenant’s right
to apportionment of or compensation from the Award shall then accrue as of the date that the Tenant
relinquishes possession.

9.3.4. **Apportionment of Award.** On a Total Taking all sums, including damages
and interest, awarded for the fee or leasehold or both shall be distributed and disbursed as finally
determined by the court with jurisdiction over the Condemnation proceedings in accordance with
applicable law. Notwithstanding anything herein to the contrary, Tenant shall be entitled to receive
compensation for the value of its leasehold estate under this Lease including its fee interest in all
Improvements, personal property and trade fixtures located on the Premises, its relocation and
removal expenses, its loss of business goodwill and any other items to which Tenant may be entitled
under applicable law.

9.4 **Partial Taking.**

9.4.1. **Effect on Rent.** On a Partial Taking this Lease shall remain in full force and
effect covering the remainder of the Premises and Improvements, and Tenant shall not be entitled to
any refund of the Base Rent.

9.4.2. **Restoration of Improvements.** Promptly after a Partial Taking, Tenant shall
repair, alter, modify or reconstruct the Improvements (“Restoring”) so as to make them reasonably
suitable for Tenant’s continued occupancy for the uses and purposes for which the Premises are
leased.

9.4.3. **Apportionment of Award.** On a Partial Taking, County shall be entitled to
receive the entire award for such Partial Taking, except that (i) the proceeds of such Partial Taking
shall first be applied towards the cost of Restoring the Premises pursuant to Section 9.4.2 and (ii)
Tenant shall be entitled to receive any portion of such award allocated to Tenant’s interest in any of
Tenant’s Improvements, Personal property and trade fixtures taken, and any part of the award
attributable to the low income housing tax credits.

9.5 **Waiver of Termination Rights.** Both Parties waive their rights under Section 1265.130
of the California Code of Civil Procedure (and any successor provision) and agree that the right to
terminate this Lease in the event of Condemnation shall be governed by the provisions of this Article
IX.

**ARTICLE X**

**ASSIGNMENT, SUBLETTING AND ENCUMBERING**

10.1 **General.** Except as provided in Sections 10.3 and 17.6.4, below, Tenant shall not
mortgage, pledge, hypothecate, encumber, transfer, sublease Tenant’s interest in this Lease or assign
(including an assignment by operation of law) Tenant’s interest in the Premises or Improvements or
any part or portion thereof (hereinafter referred to collectively as “Transfer”) without the written
consent of the County, which consent may not be unreasonably withheld, conditioned or delayed.
County’s consent may be subject to approval by its respective governing bodies (e.g. Board of
Supervisors). Tenant’s failure to obtain the County’s written consent to a Transfer shall render such
Transfer void. Occupancy of the Premises by a prospective transferee, sublessee, or assignee prior to
County’s written consent of a Transfer shall constitute an Event of Default, except as set forth in Section 10.3, below.

10.1.1. Except as provided in Section 10.3, below, if Tenant hereunder is a corporation, limited liability company, an unincorporated association or partnership, the sale or transfer of any stock or interest in said corporation, company, association and partnership in the aggregate exceeding 25% shall require the written consent of the County, as set forth in Section 10.3, above, which consent may not be unreasonably withheld, conditioned or delayed.

10.1.2. Should County consent to any Transfer, such consent and approval shall not constitute a waiver of any of the terms, conditions, covenants, restrictions or reservations of this Lease nor be construed as County’s consent to any further Transfer. Such terms conditions, covenants, restrictions and reservations shall apply to each and every Transfer hereunder and shall be severally binding upon each and every party thereto. Any document to regarding the Transfer of the Premises or any part thereof shall not be inconsistent with the provisions of this Lease and in the event of any such inconsistency, the provisions of this Lease shall control.

10.1.3. This Section shall not be interpreted to prohibit, disallow or require County’s consent to space leases (subleases of less than Tenant’s entire Lease interest), including leases of individual residential units in the Improvements, which are consistent with the approved uses under this Lease.

10.2 Leasehold Mortgage. Under no circumstances may Tenant mortgage, encumber or hypothecate County’s Fee Interest, other than as required by TCAC pursuant to its lease rider, if any, and previously approved by County prior to the Effective Date of this Lease, in connection with the award of low income housing tax credits to Tenant.

10.3 Excluded Transfers. County’s consent, as set forth in Section 10.1, above, shall not be required to for any Excluded Transfer (each party to whom an Excluded Transfer may be made is a “Permitted Transferee”), provided, however, that (1) Tenant shall notify County of such Excluded Transfer at least twenty (20) days prior to the consummation of such Excluded Transfer, and shall provide County with information regarding the transferee evidencing that the Transfer falls within the scope of this Section 10.3 and the definition of Excluded Transfer, set forth in Section 1.1.21, above, and (2) if such Transfer involves an assignment of Tenant’s rights under this Lease, Tenant or such transferee shall provide County with a written assumption of Tenant’s obligations and liabilities under this Lease executed by such transferee in a form approved by the County, which approval shall not be unreasonably withheld, conditioned or delayed in the event that the assignment is consistent with the terms of this Lease; provided, however, that the provisions of this Section 10.3 shall not apply to any Transfer to a Foreclosure Transferee.

10.4 Transfer Procedure. The provisions of this Section 10.4 shall not be applicable to an Excluded Transfer, which shall be governed by Sections 1.1.21 and 10.3, above. If Tenant desires at any time to enter into a Transfer for which County’s consent is required hereunder, Tenant shall provide County with written notice (“Transfer Notice”) at least ninety (90) days prior to the proposed effective date of the Transfer. The Transfer Notice shall include (i) the name and address of the proposed transferee, (ii) the nature of the Transfer (e.g., whether an assignment, sublease, etc.), (iii) the proposed effective date of the Transfer, (iv) income statements and “fair market” balance sheets of the proposed transferee for the two (2) most recently completed fiscal or calendar years (provided however, if the proposed transferee is a newly formed entity and has not been in existence
for such two (2) year period, the financial statements submitted shall be those of its principals), (v) a
detailed description of the proposed transferees qualifications and experience that demonstrates the
transferee meets the criteria for a Tenant as established by this Lease, and (vi) a bank or other credit
reference. Thereafter, Tenant shall furnish such supplemental information as County may reasonably
request concerning the proposed transferee. County shall, no later than ninety (90) days after
County’s receipt of the information specified above, deliver written notice to Tenant which shall (i)
indicate whether County give or withhold consent to the proposed Transfer, and (ii) if County
withhold consent to the proposed Transfer, setting forth a detailed explanation of County’s grounds
for doing so. If County consents to a proposed Transfer, then Tenant may thereafter effectuate such
Transfer to the proposed transferee based upon the specific terms of the County’s approval and after
execution of a consent to assignment by County in a form approved by the County, which approval
shall not be unreasonably withheld, conditioned or delayed in the event that the assignment is
consistent with the terms of this Lease; provided, however, that the provisions of this Section 10.4
shall not apply to any Transfer to a Foreclosure Transferee.

10.5 Liability of Transferors/Transferees For Lease Obligations. In the case of an
assignment, including an assignment pursuant to Section 17.6.5, each Permitted Transferee and any
other assignee or transferee of this Lease shall assume in writing all of Tenant’s obligations
thereafter arising under this Lease. All assignees or transferees of any interest in this Lease or the
Premises or Improvements (whether or not directly liable on this Lease) shall be subject to the terms,
conditions, covenants, restrictions and reservations of this Lease. Except as otherwise provided in
Section 17.6.5, the transferor may be released from all liability under this Lease only if the Permitted
Transferee or other transferee agrees in writing to assume all of transferor’s obligations and liabilities
and provides to County evidence of sufficient and adequate assets, including any required insurance
policies, subject to approval by County, which approval shall not
be unreasonably withheld, that

10.6 Conditions of Certain County Consent.

10.6.1. County may withhold consent to a Transfer (excluding Excluded Transfers
which shall not require County consent) at its and absolute sole discretion if any of the following
conditions exist:

(a) An Event of Default exists under this Lease.
(b) The prospective transferee has not agreed in writing to keep, perform, and be bound by all the terms conditions, covenants, restrictions and reservations of this Lease.

(c) In the case of an assignment, the prospective transferee has not agreed in writing to assume all of transferor’s obligations and liabilities.

(d) The Work has not been completed, subsequent to the Interim Use.

(e) Any construction required of Tenant as a condition of this Lease has not been completed.

(f) All the material terms, covenants, and conditions of the Transfer that are relevant to the County’s approval of the Transfer have not been disclosed in writing to the County.

10.7 Transfer of Mortgages of County’s Interest. Notwithstanding anything to the contrary set forth in this Ground Lease, unless required by statute, court order or operation of law, County shall not transfer, assign, pledge or hypothecate its fee interest in the Premises (other than to entities under common control with County or other governmental entities under applicable law) without the prior written consent of Tenant, Leasehold Mortgagee and the Limited Partner (provided, the Limited Partner’s consent shall be required only during the tax credit compliance period). Any and all mortgages or liens placed or suffered by the County encumbering the County’s fee interest in the Premises shall be expressly subject and subordinate to this Lease, to all obligations of County hereunder, to all of the rights, titles, interests, and estates of the Tenant created or arising hereunder, to each New Lease and to each Leasehold Mortgage. Furthermore, any Person succeeding to the County’s fee interest as a consequence of any conveyance, foreclosure or other transfer shall succeed to all of the obligations of the County hereunder.

ARTICLE XI
DEFAULT AND REMEDIES

11.1 Event of Default. Each of the following events shall constitute an “Event of Default” by Tenant:

11.1.1. Failure to Pay. Tenant’s failure or omission to pay any Rent or other sum payable hereunder on or before the date due where such failure shall continue for a period of thirty (30) days after the date such Rent or other sum is due.

11.1.2. Failure to Perform. The failure or inability by Tenant to observe or perform any of its obligations under this Lease (other than those specified in Sections 11.1.1, 11.1.3, 11.1.6, or 11.1.8 herein, which have their own notice and cure periods), where such failure shall continue for a period of thirty (30) days after written notice thereof from County to Tenant or past any such longer period as reasonably agreed upon by the Tenant, County in writing as may be necessary for completion of its cure; provided, however, that any such notice by County shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure Section 1161 et. seq.; provided, further, that if the nature of such failure is such that it can be cured by Tenant but that more than thirty (30) days are reasonably required for its cure (for any reason other than financial inability), then Tenant shall not be deemed to be in default if Tenant shall commence such cure within said thirty (30) days, and thereafter diligently pursues such cure to completion.
11.1.3. **Abandonment.** The abandonment (as defined in California Civil Code Section 1951.3) or vacation of the Premises by Tenant for a period of thirty (30) days or more.

11.1.4. **Assignments.**

(a) The making by Tenant of any assignment of its leasehold estate under this Lease without County’s consent, as set forth in Article X;

(b) A case is commenced by or against Tenant under Chapters 7, 11 or 13 of the Bankruptcy Code, Title 11 of the United States Code as now in force or hereafter amended and if so commenced against Tenant, the same is not dismissed within ninety (90) days of such commencement;

(c) the appointment of a trustee or receiver to take possession of substantially all of Tenant’s assets located at the Premises or of Tenant’s interest in this Lease, where such seizure is not discharged within sixty (60) days; or

(d) Tenant’s convening of a meeting of its creditors or any class thereof for the purpose of effecting a moratorium upon or composition of its debts. In the event of any such default, neither this Lease nor any interests of Tenant in and to the Premises shall become an asset in any of such proceedings.

11.1.5. **Failure to Reimburse County.** Tenant’s failure to reimburse the County pursuant to Section 3.6.4.

11.1.6. **Termination of and Failure to Reinastate Insurance Coverage.** Termination of Tenant’s insurance coverage and lack of reinstatement within ten (10) business days after notice from County of such termination.

11.1.7. **Failure to Provide Evidence of Insurance.** Tenant’s failure to provide County with a valid and adequate certificate of insurance and endorsements, or binder, at any time during the Term of the Lease, within the time period required under Section 8.1.3.

11.1.8. **County’s Consent and Approval of Transfer.** Occupancy of the Premises by a prospective transferee, sublessee, or assignee which requires County’s consent or approval, before County’s written consent and approval of a Transfer is obtained as required in Section 10.1.

11.1.9. Tenant’s failure to make Additional Rent payment(s) as set forth in Sections 11.3 and 11.10.

11.1.10 Tenant’s failure to convert the use of the Property to Permanent Supportive Housing as required pursuant to the Loan Agreement and the Regulatory Agreement and section 1.1.13 of this Lease by the Commencement Date.

11.2 **County’s Remedies.** If an Event of Default occurs, County shall have the following remedies in addition to all rights and remedies provided by law or equity to which County may resort cumulatively or in the alternative:

11.2.1. **Termination of Lease.** Subject to Article 17, as applicable, County shall have the right to terminate this Lease and all rights of Tenant hereunder including Tenant’s right to
possession of the Premises. In the event that County shall elect to so terminate this Lease then County may recover from Tenant:

(a) The worth at the time of award of the unpaid Rent and other charges, which had been earned as of the date of the termination hereof; plus

(b) The worth at the time of award of the amount by which the unpaid Rent and other charges which would have been earned after the date of the termination hereof until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(c) The worth at the time of award of the amount by which the unpaid Rent and other charges for the balance of the Term hereof after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus

(d) Any other amount necessary to compensate County for all the detriment proximately caused by Tenant’s failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, the cost of recovering possession of the Premises, expenses of reletting, including necessary repair, renovation and alteration of the Premises, reasonable attorneys' fees, expert witness costs; plus

(e) Subject to the rights of any Leasehold Mortgagees and TCAC, the funds in the Capital Improvement Fund; plus

(f) Any other amount which County may by law hereafter be permitted to recover from Tenant to compensate County for the detriment caused by Tenant’s default as permitted under applicable California law.

The term "Rent" as used herein shall mean as defined in Section 1.1.41. Additional Rent shall be computed on the basis of the average monthly amount thereof accruing during the 24-month period immediately prior to default, except that if it becomes necessary to compute such Additional Rent before such 24-month period has occurred, then it shall be computed on the basis of the average monthly amount during such shorter period. As used in Sections 11.2.1(a) and 11.2.1(b) above, the "worth at the time of award" shall be computed by allowing interest at the Interest Rate. As used in Sections 11.2.1 (c) above, the "worth at the time of award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%), but not in excess of the Interest Rate.

11.2.2. **Continue Lease in Effect.** County may continue this Lease in effect without terminating Tenant’s right to possession and to enforce all of County's rights and remedies under this Lease, at law or in equity, including the right to recover the Rent as it becomes due under this Lease; provided, however, that County may at any time thereafter elect to terminate this Lease for the underlying Event(s) of Default by notifying Tenant in writing that Tenant’s right to possession of the Premises has been terminated.

11.2.3. **Removal of Personal Property Following Termination of Lease.** County shall have the right, following a termination of this Lease and Tenant’s rights of possession of the Premises under Section 11.2.1 above, to re-enter the Premises and, subject to applicable law, to remove Tenant’s personal property from the Premises. Such property may be removed and stored in
a public warehouse or elsewhere at the cost of and for the account of Tenant, or disposed of without such storage, in accordance with applicable California law.

11.3 **County’s Right to Cure Tenant Defaults.** If Tenant shall have failed to cure, after expiration of the applicable time for curing, a particular default under this Lease, County may at its election, but is not obligated to, make any payment required of Tenant under this Lease or perform or comply with any term, agreement or condition imposed on Tenant hereunder, and the amount so paid plus the reasonable cost of any such performance or compliance, plus interest on such sum at the Interest Rate from the date of payment, performance or compliance until reimbursed shall be deemed to be Additional Rent payable by Tenant on County’s demand. Tenant’s failure to reimburse the County within 30 days of County’s demand shall constitute an Event of Default under this Lease. No such payment, performance or compliance shall constitute a waiver of default or of any remedy for default, or render County liable for any loss or damage resulting from the same.

11.4 **County’s Default.** County shall not be considered to be in default under this Lease unless Tenant has given County written notice specifying the default, and either (i) as to monetary defaults, County have failed to cure the same within ten (10) business days after written notice from Tenant, or (ii) as to nonmonetary defaults, County have failed to cure the same within thirty (30) days after written notice from Tenant, or if the nature of County’s nonmonetary default is such that more than thirty (30) days are reasonably required for its cure, then such thirty (30) day period shall be extended automatically so long as County commences a cure within such thirty (30) day period and thereafter diligently pursues such cure to completion. Tenant shall have no right to offset or abate alleged amounts owing by County under this Lease against any amounts owing by Tenant under this Lease. Additionally, Tenant’s sole remedy for any monetary default shall be towards the County’s interest in the property and not to any other assets. Any and all claims or actions accruing hereunder shall be absolutely barred unless such action is commenced within six (6) months of the event or action giving rise to the default.

11.5 **Remedies Cumulative.** All rights and remedies of County contained in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and County shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this Lease.

11.6 **Waiver by County.** No delay or omission of County to exercise any right or remedy shall be construed as a waiver of such right or remedy or any default by Tenant hereunder. The acceptance by County of Rent or any other sums hereunder shall not be (a) a waiver of any preceding breach or default by Tenant of any provision thereof, other than the failure of Tenant to pay the particular rent or sum accepted, regardless of County’s knowledge of such preceding breach or default at the time of acceptance of such rent or sum, or (b) waiver of County’s right to exercise any remedy available to County by virtue of such breach or default. No act or thing done by County agents during the term of this Lease shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender shall be valid unless in writing and signed by County.

11.7 **Interest.** Any installment or Rent due under this Lease or any other sums not paid to County when due (other than interest) shall bear interest at the Interest Rate from the date such payment is due until paid, provided, however, that the payment of such interest shall not excuse or cure the default.
11.8 **Conditions Deemed Reasonable.** Tenant acknowledges that each of the conditions to a Transfer, and the rights of County set forth in this Article X in the event of a Transfer is a reasonable restriction for the purposes of California Civil Code Section 1951.4.

11.9 **Waiver by Tenant.** Tenant’s waiver of any breach by County of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained.

11.10 **Tenant Covenants and Agreements.** All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be performed by Tenant at Tenant’s sole cost and expenses and without any abatement of Rent. If Tenant shall fail to pay any sum of money, other than Rent required to be paid by it hereunder, or shall fail to perform any other act on its part to be performed hereunder, or to provide any insurance or evidence of insurance to be provided by Tenant within the time period required under this Lease, then in addition to any other remedies provided herein, County may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such act on Tenant’s part to be made or performed as provided in this Lease or to provide such insurance. Any payment or performance of any act or the provision of any such insurance by County on Tenant’s behalf shall not give rise to any responsibility of County to continue making the same or similar payments or performing the same or similar acts. All costs, expenses, and other sums incurred or paid by County in connection therewith, together with interest at the Interest Rate from the date incurred or paid by County, shall be deemed to be Additional Rent hereunder and shall be paid by Tenant within thirty (30) days of receipt of a demand and invoice from County, and Tenant’s failure to pay the County, as stated herein, shall constitute an Event of Default under this Lease.

**ARTICLE XII**

**HOLDING OVER**

If Tenant holds over after the expiration or earlier termination of the Term hereof without the express written consent of County, Tenant shall become a Tenant at sufferance only, at a monthly rental rate of (a) Fifty Thousand Dollars ($50,000) to the extent the Premises are not subject to any tenant income or rent restrictions and all units may be rented at market-rate rents, or (b) Twenty Five Thousand Dollars ($25,000) to the extent the Premises are subject to any tenant income or rent restrictions ("Hold Over Rent"), increased annually commencing with commencement of the hold over period by an amount equal to the greater of (i) three percent (3%) for each year of the Term, or (ii) a percentage equal to the percentage increase from the Base Period of the Consumer Price Index ("CPI") for Los Angeles- Riverside-Orange County [All Urban Consumers-All Items, not seasonally adjusted (Base Period 1982-84=100)]. Said CPI for the month of December for the second year of the Term shall be considered the “Base Period.” Said adjustment shall be made by comparing the CPI for the Base Period to the CPI for the month of December immediately preceding each such adjustment. If at any time there shall not exist the CPI, County shall substitute any official index published by the Bureau of Labor Statistics, or successor or similar governmental agency, as may then be in existence, and shall be most nearly equivalent thereto. If Tenant fails to surrender the Premises and the Improvements as stated herein, and County shall take legal action to cause Tenant’s eviction from the Premises and is successful in such action, Tenant shall be responsible for all costs and expenses, including reasonable attorney’s fees and costs, incurred by County in connection with such eviction action; Tenant shall also indemnify and hold County harmless from all loss or liability or reasonable attorney’s fees and costs, including any claim made by any succeeding tenant, incurred by County founded on or resulting from such failure to surrender.
ARTICLE XIII
ESTOPPEL CERTIFICATES

At any time and from time to time, within ten (10) business days after written request by either County or Tenant (the “requesting party”), the other Party (the “responding party”) shall execute, acknowledge and deliver an estoppel certificate addressed to the requesting party, and/or to such other beneficiary (as described below) as the requesting party shall request, certifying (i) that this Lease is in full force and effect, (ii) that this Lease is unmodified, or, if there have been modifications, identifying the same, (iii) the dates to which Rent has been paid in advance, (iv) that, to the actual knowledge of the responding party, there are no then existing and uncured defaults under the Lease by either County or Tenant, or, if any such defaults are known, identifying the same, and (v) any other factual matters (which shall be limited to the actual knowledge of the responding party) as may be reasonably requested by the requesting party. Such certificate may designate as the beneficiary thereof the requesting party, and/or any third party having a reasonable need for such a certificate (such as, but not limited to, a prospective purchaser, transferee or lender) and any such certificate may be relied upon by the Parties.

ARTICLE XIV
FORCE MAJEURE

Unless otherwise specifically provided herein, the period for performance of any nonmonetary obligation by either Party shall be extended by the period of any delay in performance caused by Acts of God, strikes, boycotts, lock-outs, inability to procure materials not related to the price thereof, failure of electric power, riots, civil unrest, acts of terrorism, insurrection, war, declaration of a state or national emergency, weather that could not have reasonably been anticipated, changes in the Laws which would prevent the Premise from being operated in accordance with this Lease, or other reasons beyond the reasonable control of County, Tenant, or their respective agents or representatives (collectively, “Force Majeure Events”). In no event, however, shall Force Majeure Events include the financial inability of a Party to this Lease to pay or perform its obligations hereunder. Further, nothing herein shall extend the time for performance of any monetary obligation owing under this Lease (including Tenant’s obligation to pay Rent owing hereunder).

ARTICLE XV
RECORDS AND ACCOUNTS

15.1 Financial Statements. Within one hundred eighty (180) after the end of each accounting year, Tenant shall at his own expense submit to Auditor-Controller a balance sheet and income statement prepared by a Certified Public Accountant (“CPA”) who is a member of the American Institute of Certified Public Accountants (“AICPA”) and the California Society of CPAs, reflecting business transacted on or from the Premises during the preceding accounting year. The Certified Public Accountant must attest that the balance sheet and income statement submitted are an accurate representation of Tenant’s records as reported to the United States of America for income tax purposes. At the same time, Tenant shall submit to Auditor-Controller a statement certified as to accuracy by a Public Accountant who is a member of AICPA and the California Society of CPAs, wherein the total Gross Receipts for the accounting year are classified according to the categories of business established for percentage rent and listed in Section 3.4.1(d) and for any other business conducted on or from the Premises. Tenant shall provide County with copies of any CPA’s
management letters prepared in conjunction with their audits of Tenant's operations from the Premises. Copies of management letters shall be provided directly to County by the CPA at the same time Tenant’s copy is provided to Tenant. In the event that when such financial statements are submitted, the Tenant has a budget for the following accounting year, Tenant, at the same time, shall also provide County with such budget.

15.1.1. Tenant acknowledges its understanding that any and all of the Financial Statement submitted to the County pursuant to this Lease become Public Records and may be subject to public inspection and copying pursuant to §§ 6250 et. seq. of the California Government Code.

15.1.2. All Tenant’s books of account and records and supporting source documents related to this Lease or to business operations conducted within or from the Premises shall be kept and made available at one location within the limits of the County unless an alternative location is approved in writing by the County. County shall, through its duly authorized agents or representatives, have the right to examine and audit said books of account and records and supporting source documents at any and all reasonable times for the purpose of determining the accuracy thereof in connection with such Sections of this Lease as the Parties mutually and reasonably agree the audit is relevant thereto.

15.2 Reports. In the event that the Tenant commissions, requests or is required to produce any reports related to the physical condition of the Improvements or Premises, Tenant shall submit copies of such reports to County along with the financial statements required above in Section 15.1.

ARTICLE XVI
OPERATIONAL OBLIGATIONS OF TENANT

16.1 Standards of Operation.

16.1.1. Tenant shall operate the Premises in a manner reasonably comparable to other comparable facilities or businesses within the County of Orange. Tenant shall at all times during the Term provide adequate security measures to reasonably protect persons and property on the Premises.

16.1.2. The ultimate purpose of this Lease is to permit the construction and operation of a multifamily affordable residential rental development, including permanent supportive housing, in accordance with Section 4.1.1. Accordingly, Tenant covenants and agrees to operate said Premises fully and continuously to accomplish said purposes and not to abandon or vacate the Premises at any time.

16.1.3. The facilities on the Premises shall be operated during normal business hours, subject to any temporary interruptions in operations or closures due to ordinary maintenance and repair and any Force Majeure Event, defined in Article XIV above.

16.2 Protection of Environment. Tenant shall take all reasonable measures available to:

16.2.1. Avoid any pollution of the atmosphere or littering of land or water caused by or originating in, on, or about Tenant’s facilities.
16.2.2. Maintain a reasonable noise level on the Premises so that persons in the general neighborhood will be able to comfortably enjoy the other facilities and amenities in the area.

16.2.3. Prevent the light fixtures of the Premises from emitting light that could negatively affect the operation of cars, boats, or airplanes in the area.

16.2.4. Prevent all pollutants from Tenant’s operations on the Premises from being discharged, including petroleum products of any nature, except as may be permitted in accordance with any applicable permits or as permitted by applicable Law. Tenant and all of Tenant’s agents, employees and contractors shall conduct operations under this Lease so as to ensure that pollutants do not enter the municipal storm drain system (including but not limited to curbs and gutters that are part of the street systems), or directly impact receiving waters (including but not limited to rivers, creeks, streams, estuaries, lakes, harbors, bays and the ocean), except as may be permitted by any applicable permits or as permitted by applicable law.

16.2.5. The County may enter the Premises in accordance with Section 4.5 and/or review Tenant records at all reasonable times to assure that activities conducted on the Premises comply with the requirements of this Section.

16.3 On-Site Manager. Tenant shall employ a competent manager who shall be responsible for the day-to-day operation and level of maintenance, cleanliness, and general order for the Premises. Such person shall be vested with the authority of Tenant with respect to the supervision over the operation and maintenance of the Premises, including the authority to enforce compliance by Tenant’s agents, employees, concessionaires, or licensees with the terms and conditions of this Lease and any and all rules and regulations adopted hereunder. Tenant shall notify County in writing of the name of the Manager currently so employed as provided in Section 19.20 of this Lease.

16.4 Policies and Procedures to be Established by Tenant. Prior to the completion of construction, Tenant shall submit to County proposed policies and procedures pertinent to the operation of the multifamily affordable residential rental development and manner of providing the uses required by this Lease (“Policies and Procedures”).

ARTICLE XVII
LEASEHOLD MORTGAGES

17.1 Definitions. The following definitions are used in this Article (and in other Sections of this Lease):

17.1.1. “Leasehold Estate” shall mean Tenant’s leasehold estate in and to the Premises, including Tenant’s rights, title and interest in and to the Premises and the Improvements, or any applicable portion thereof or interest therein.

17.1.2. “Leasehold Foreclosure Transferee” shall mean any person (which may, but need not be, a Leasehold Mortgagee) which acquires the Leasehold Estate pursuant to a foreclosure, assignment in lieu of foreclosure or other enforcement of remedies under or in connection with a Leasehold Mortgage.

17.1.3. “Leasehold Mortgage” shall mean and includes a mortgage, deed of trust, security deed, conditional deed, deed to secure debt or any other security instrument (including any
assignment of leases and rents, security agreement and financing statements) held by a Lender by which Tenant’s Leasehold Estate is mortgaged to secure a debt or other obligation, including a purchase money obligation.

17.1.4. “Leasehold Mortgagor” shall mean a Lender which is the holder of a Leasehold Mortgage.

17.1.5. “Tenant” shall mean all of the following: (i) the Tenant under this Lease; (ii) an approved assignee, transferee or subtenant of the Tenant under this Lease who is or becomes directly and primarily liable to County; and (iii) any further assignee, transferee or subtenant of any of the parties listed in (ii) who is or becomes directly and primarily liable to County.

17.2 Tenant’s Right to Encumber Leasehold Estate; No Right to Encumber County’s Fee Interest. Provided that an Event of Default has not occurred and is continuing, Tenant may, at any time during the Term of this Lease (after providing prior written notice to County, no later than 30 days prior to the encumbrance, along with evidence that all requirements of this Lease have been complied with), encumber all or any portion of Tenant’s Leasehold Estate with one (1) or more Leasehold Mortgages; provided, however:

17.2.1. Such Leasehold Mortgage(s) (as of the date recorded) shall not exceed (a) if recorded before completion of the Work, One Hundred Percent (100%) of the costs of the Work, or (b) if recorded after completion of the Work, eighty percent (80%) of the Leasehold Estate value (including the value of all improvements) after completion;

17.2.2. That Tenant shall not have the power to encumber, and no Leasehold Mortgage shall encumber, County’s Fee Interest;

17.2.3. Except as expressly provided in this Lease, the Leasehold Mortgage and all rights acquired under it shall be subject to each and all of the covenants, conditions, and restrictions set forth in this Lease and to all rights and interests of County hereunder; and

17.2.4. Nothing in this Lease shall be construed so as to require or result in a subordination in whole or in part in any way of the County’s Fee Interest to any Leasehold Mortgage, and;

17.2.5. Except as otherwise expressly provided herein, in the event of any conflict between the provisions of this Lease and the provisions of any such Leasehold Mortgage, the provisions of this Lease shall control.

Tenant’s encumbrance of its Leasehold Estate with a Leasehold Mortgage, as provided in this Section 17.2, shall not constitute an assignment or other Transfer under Article X or otherwise, nor shall any Leasehold Mortgagor, as such, be deemed to be an assignee or transferee of this Lease or of the Leasehold Estate so as to require such Leasehold Mortgagor, as such, to assume the Tenant’s obligations and liabilities under this Lease.

Notwithstanding the foregoing, if any Leasehold Mortgagor (or its nominee) acquires title to the Premises by foreclosure or deed in lieu thereof, any required consent of the County under this Section 17.2 shall not be unreasonably withheld.
17.3 Notification to County of Leasehold Mortgage. Tenant or any Leasehold Mortgagee shall, prior to making any Leasehold Mortgage, provide County with written notice of such Leasehold Mortgage and the name and address of the Leasehold Mortgagee. At the time of notice, Tenant or such Leasehold Mortgagee shall furnish to County a complete copy of any trust deed and note to be secured thereby, together with the name and address of the holder thereof. Thereafter, Tenant or any Leasehold Mortgagee shall notify County of any change in the identity or address of such Leasehold Mortgagee. County shall be entitled to rely upon the addresses provided pursuant to this Section for purposes of giving any notices required by this Article XVII.

17.4 Notice and Cure Rights of Leasehold Mortgagees and Limited Partner With Respect to Tenant Defaults. County, upon delivery to Tenant of any notice of a default or demand for payment by Tenant under this Lease or a matter as to which County may predicate or claim a default, will promptly deliver a copy of such notice to each Leasehold Mortgagee and to the Limited Partner. Each notice or demand required to be given by County to a Leasehold Mortgagee and the Limited Partner under this Lease shall be in writing and shall be given by certified or registered mail, postage prepaid, return receipt requested, to such Leasehold Mortgagee and the Limited Partner at the address(es) provided by such Leasehold Mortgagee and the Limited Partner, as applicable, to County from time to time in writing and shall be effective upon receipt (or refusal to accept receipt). No notice or demand given by County to Tenant shall be effective until the duplicate copy of such notice or demand to the Tenant shall have been effectively given to each Leasehold Mortgagee and to the Limited Partner in accordance with this Lease. From and after the date such notice has been given to any Leasehold Mortgagee and to the Limited Partner, such Leasehold Mortgagee and the Limited Partner shall have the same cure period for such default (or act or omission which is the subject matter of such notice) that is provided to Tenant under this Lease or as otherwise agreed upon by County and the Tenant, to commence and/or complete a cure of such default (or act or omission which is the subject matter of such notice). County shall accept any and all performance by or on behalf of any Leasehold Mortgagee(s) and/or by the Limited Partner, including by any receiver obtained by any Leasehold Mortgagee(s), as if the same had been done by Tenant. Tenant authorizes each Leasehold Mortgagee and the Limited Partner to take any such action at such Leasehold Mortgagee’s or Limited Partner’s (as applicable) option, and hereby authorizes any Leasehold Mortgagee and Limited Partner (or any receiver or agent) to enter upon the Premises for such purpose.

17.5 Limitation on County’s Termination Right. If following the delivery of notice pursuant to Section 17.4, above, the default by Tenant continues and is not cured by Tenant (or any Leasehold Mortgagee or the Limited Partner as allowed under Section 17.4, above), and such failure entitles County to terminate this Lease, County shall have no right to terminate this Lease unless County shall notify in writing each and every Leasehold Mortgagee and the Limited Partner who has complied with Section 17.3 of County’s intent to so terminate at least ninety (90) days in advance of the proposed effective date of such termination. If any Leasehold Mortgagee or the Limited Partner, within such ninety (90) day period, (i) notifies County of such Leasehold Mortgagee’s or Limited Partner’s desire to cure such default and initiates such cure and (ii) pays or cause to be paid the amount that is necessary to cure any monetary default as stated in such notice, if any, then Section 17.6 shall apply. The County, at its sole discretion, may permit such additional time as necessary for any Leasehold Mortgagee and/or Limited Partner to commence the cure or make payment(s), as stated herein. If any Leasehold Mortgagee and Limited Partner fails to respond to said notice of termination within the allotted ninety (90) days as consistent with the conditions of this Section 17.5, County are entitled to immediately terminate this Lease.
17.6 **Leasehold Mortgagee Foreclosure Period.** If any Leasehold Mortgagee complies with Section 17.5 above, then the following provisions shall apply:

17.6.1. If County’s notice under Section 17.5 specifies only monetary Events of Default as the basis for County’s election to terminate this Lease, and Leasehold Mortgagee has fully paid the monetary amount designated by County in its notice, then such payment shall be deemed to have cured the Event of Default. If County’s notice under Section 17.5 specifies both monetary and non-monetary Events of Default or non-monetary Events of Default as the basis for County’s election to terminate this Lease, and Leasehold Mortgagee has fully paid the monetary amount designated by County in its notice, as applicable, then the date of termination specified in County’s notice shall be extended for a period of twelve (12) months, provided that such Leasehold Mortgagee shall, during such twelve (12) month period:

(a) pay or cause to be paid all Rent under this Lease as the same becomes due (subject to the notice and cure rights expressly set forth herein); and

(b) continue (subject to any stay as described in Section 17.6.2 below) its good faith efforts to perform (and complete performance of) all of Tenant’s nonmonetary obligations under this Lease that are capable of being performed by the Leasehold Mortgagee without having possession of the Premises, excepting nonmonetary obligations (whether or not a default exists with respect thereto) that are not then reasonably susceptible of being cured by Leasehold Mortgagee; and

(c) commence and pursue with reasonable diligence until completion (subject to any stay as described in Section 17.6.2 below) a judicial or nonjudicial foreclosure or other enforcement of remedies under its Leasehold Mortgage.

17.6.2. The twelve (12) month period described in Section 17.6.1, above shall automatically be extended as long as the Leasehold Mortgagee is diligently and in good faith prosecuting the judicial or nonjudicial foreclosure to completion, provided Tenant or the Leasehold Mortgagee has provided evidence reasonably acceptable to County of such good faith prosecution by the Leasehold Mortgagee. In the event of a judicial or non-judicial foreclosure, the twelve (12) month period described in Section 17.6.1, above, shall automatically be extended by the length of any delay caused by any stay (including any automatic stay arising from any bankruptcy or insolvency proceeding involving Tenant), injunction or other order arising under applicable Laws or issued by any court (which term as used herein includes any other governmental or quasi-governmental authority having such power) (the foregoing being collectively referred to as a “Stay”). Further, Leasehold Mortgagee’s obligations stated in Section 17.6.1(b) and (c) shall be automatically suspended during any period that any Stay prevents Leasehold Mortgagee from taking any such actions. Nothing herein, however, shall be construed to extend this Lease beyond the Term hereof nor to require a Leasehold Mortgagee to continue such foreclosure proceedings after the Event of Default has been cured. If the Event of Default has been cured and the Leasehold Mortgagee shall discontinue such foreclosure proceedings, this Lease shall continue in full force and effect as if Tenant had not defaulted under this Lease.

17.6.3. In the event the Leasehold Mortgage requires a new lease between the County and the Leasehold Mortgagee, County shall enter into such new lease with the Leasehold Mortgagee pursuant to Section 17.7, below, provided County are provided with the necessary and adequate documents related to the new lease requirements in the Leasehold Mortgage as described in Section 17.7.
17.6.4. So long as any Leasehold Mortgagee is complying with Sections 17.6.1 and 17.6.2 above, then upon the acquisition of Tenant’s Leasehold Estate by a Leasehold Foreclosure Transferee, this Lease shall continue in full force and effect as if Tenant had not defaulted under this Lease; provided that no Leasehold Foreclosure Transferee shall have any liability for the performance of any of the Tenant’s obligations under this Lease until the Leasehold Foreclosure Transferee has acquired the Tenant’s interest under the Lease, and then the Leasehold Foreclosure Transferee shall be liable for the performance of only those obligations of the Tenant arising from and after the effective date of the Leasehold Foreclosure Transferee’s acquisition of the Tenant’s Leasehold Estate. Any such Leasehold Foreclosure Transferee shall be deemed to be an assignee or transferee and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Tenant to be performed hereunder from and after the effective date on which such Leasehold Foreclosure Transferee acquires title to the Leasehold Estate, but only for so long as such purchaser or assignee is the owner of the leasehold estate.

17.6.5. Any Leasehold Mortgagee (or its designee) that becomes a Leasehold Foreclosure Transferee, upon acquiring title to Tenant’s Leasehold Estate without obtaining County’s consent and provided it is not in default of any of the provisions of this Lease, shall have a one-time right to assign the Leasehold Estate to an assignee (a) which is an Affiliate of the Leasehold Foreclosure Transferee, or (b) which has substantial experience, or will employ a property management company with substantial experience, managing, maintaining and operating affordable housing developments like that on the Premises. Upon such assignment, the Leasehold Foreclosure Transferee shall automatically be released of all obligations thereafter accruing under this Lease, provided that, substantially concurrently with such assignment, the assignee delivers to County a written agreement assuming Tenant’s obligations under the Lease thereafter accruing. Any subsequent Transfers occurring after the one-time assignment permitted under this Section shall be subject to Article X.

17.7 Leasehold Mortgagee’s Right to New Lease.

17.7.1. In the event of any termination of this Lease (including any termination because of an Event of Default, or because of any rejection or disaffirmance of this Lease pursuant to bankruptcy law or any other law affecting creditor’s rights, but other than by reason of a Total Taking), County shall give prompt written notice of such termination to each Leasehold Mortgagee and shall (subject to Section 17.8 below if more than one Leasehold Mortgagee then exists) enter into a new lease (”New Lease”) of the Premises with the Leasehold Mortgagee holding the Leasehold Mortgage that has the most senior lien priority, in accordance with Section 17.8 below, or its designee, upon notice to County by such Leasehold Mortgagee. The New Lease shall commence as of its effective date and shall continue for the remainder of the scheduled Term of this Lease, at the same Rent that is payable under this Lease, and on the same terms, conditions, covenants, restrictions and reservations that are contained in this Lease (including any extension options, purchase options and rights of first refusal, if any, provided for in this Lease), and subject to the rights of any tenants under residential subleases or other subtenants then in valid occupancy of the Premises and Improvements and further subject to any then existing senior Leasehold Mortgagees; provided that, substantially concurrently with the delivery of a notice by Leasehold Mortgagee requiring County to enter into a New Lease, Leasehold Mortgagee shall pay to County all Rent or any other amounts payable by Tenant hereunder which are then due and shall commence and proceed with diligence to cure all nonmonetary defaults under this Lease, other than those nonmonetary defaults which are personal to the foreclosed tenant and impossible for the Leasehold Mortgagee to remedy.
17.7.2. If such Leasehold Mortgagee elects to enter into a New Lease pursuant to Section 17.7.1 above, then County and the Leasehold Mortgagee (or its designee) shall promptly prepare and enter into a written New Lease; but until such written New Lease is mutually executed and delivered, this Lease shall govern, from and after the giving of notice pursuant to Section 17.7.1 but prior to the execution of the New Lease, the County’s and Leasehold Mortgagee’s relationship with respect to the Premises and the Improvements and the Leasehold Mortgagee shall (i) be entitled to possession of the Premises and to exercise all rights of Tenant hereunder, (ii) pay to County any Rent accruing under the New Lease as it becomes owing, and (iii) perform or cause to be performed all of the other covenants and agreements under this Lease. Further, at such time as the written New Lease is mutually executed and delivered, Leasehold Mortgagee (or its designee) shall pay to County its reasonable expenses, including reasonable attorneys’ fees and costs, incurred in connection with the preparation, execution and delivery of such written New Lease. In addition, upon execution of any such New Lease, County shall execute, acknowledge and deliver to such Leasehold Mortgagee (or its designee) a grant deed, in recordable form, conveying to such Leasehold Mortgagee (or its designee) fee title to all Improvements in the event that title to such Improvements have vested with the County.

17.7.3. In the event that County receives any net income (i.e., gross income less gross expenses on a cash basis), if any, from the Premises and Improvements during any period that County may control the same, then the Leasehold Mortgagee under the New Lease shall be entitled to such net income received by County except to the extent that it was applied to cure any default of Tenant.

17.7.4. All rights and claims of Tenant under this Lease shall be subject and subordinate to all right and claims of the tenant under the New Lease.

17.8 Multiple Leasehold Mortgages. If more than one Leasehold Mortgagee shall make a written request upon County for a New Lease in accordance with the provisions of Section 17.7, then such New Lease shall be entered into pursuant to the request of the Leasehold Mortgagee holding the Leasehold Mortgage that has the most senior lien priority.

Notwithstanding anything herein to the contrary, County shall have no duty or obligation to resolve any disputes or conflicting demands between Leasehold Mortgagees. In the event of any conflicting demands made upon County by multiple Leasehold Mortgagees, County may (subject to any applicable court orders to the contrary) rely on the direction of the Leasehold Mortgagee whose Leasehold Mortgage is recorded first in time in the Official Records of the County, as determined by any national title company.

17.9 Condemnation and Insurance Proceeds. Notwithstanding anything to the contrary contained herein, all condemnation proceeds (other than proceeds payable on account of the value of the County’s Fee Interest as encumbered by this Lease) or insurance proceeds shall be subject to and paid in accordance with the requirements of the most senior (in order of lien priority) Leasehold Mortgage, subject, however, to any requirement in this Lease that, to the extent not in conflict with the terms of the applicable Leasehold Mortgage, such proceeds must be used to repair and restore the Improvements to the Premises which were damaged or destroyed by such condemnation or casualty (including, without limitation, as required in Article VII following a casualty and in Section 9.4.3 following a condemnation). The handling and disbursement of any such proceeds used to repair or restore the Improvements to the Premises shall be subject to the requirements of such senior Leasehold Mortgage.
17.10 **Mortgagee Clauses.** A standard mortgagee clause naming each Leasehold Mortgagee may be added to any and all insurance policies required to be carried by Tenant hereunder, provided that any such Leasehold Mortgagee shall hold and apply such insurance proceeds subject to the provisions of this Lease.

17.11 **No Waiver.** No payment made to County by a Leasehold Mortgagee shall constitute agreement that such payment was, in fact, due under the terms of this Lease; and a Leasehold Mortgagee having made any payment to County pursuant to County’s wrongful, improper or mistaken notice or demand shall be entitled to the return of any such payment or portion thereof.

17.12 **Fees and Costs.** Tenant agrees to reimburse County for its reasonable attorneys’ fees and costs incurred in connection with County’s review and/or approval of any documentation which may be required in connection with any Leasehold Mortgage by Tenant as provided herein.

17.13 **No Termination, Cancellation, Surrender or Modification.** Without the prior written consent of each Leasehold Mortgagee, (a) this Lease may not be terminated or cancelled by mutual agreement of County and Tenant, (b) County may not accept the surrender this Lease or the Leasehold Estate created hereunder without the consent of each Leasehold Mortgagee, and (c) this Lease may not be amended, modified or supplemented (and any action taken in furtherance of any of the foregoing without the required consent of each Leasehold Mortgagee shall be void and of no effect). In addition, if any term or provision of this Lease gives Tenant the right to terminate or cancel this Lease, in whole or in part, no such termination or cancellation shall be or become effective unless Tenant has first received approval in writing by each Leasehold Mortgagee.

17.14 **Effect of Foreclosure upon Base Rent.** Notwithstanding anything to the contrary contained elsewhere in this Lease, (i) in no event shall any Leasehold Mortgagee (or its designee) be required to pay or cure, in order to prevent the termination of this Lease, to exercise its cure rights hereunder or to obtain a New Lease or otherwise, any Base Rent, and (ii) in no event shall any Leasehold Mortgagee (or its designee) or its (or their) successors and assigns be required to pay or cure any Base Rent which otherwise became due and payable prior to completion of any foreclosure under any Leasehold Mortgage (or acceptance of any assignment or deed in lieu thereof).

**ARTICLE XVIII**

**BEST MANAGEMENT PRACTICES**

18.1 Tenant and all of Tenant’s, subtenant, agents, employees and contractors shall conduct operations under this Lease so as to assure that pollutants do not enter municipal storm drain systems, in violation of applicable Laws, which systems are comprised of, but are not limited to curbs and gutters that are part of the street systems ("Stormwater Drainage System"), and to ensure that pollutants do not directly impact “Receiving Waters” (as used herein, Receiving Waters include, but are not limited to, rivers, creeks, streams, estuaries, lakes, harbors, bays and oceans).

18.2 The Santa Ana and San Diego Regional Water Quality Control Boards have issued National Pollutant Discharge Elimination System (“NPDES”) permits (“Stormwater Permits”) to the County of Orange, and to the Orange County Flood Control District (“District”) and cities within Orange County, as co-permittees (hereinafter collectively referred to as “NPDES Parties”) which regulate the discharge of urban runoff from areas within the County of Orange, including the Premises leased under this Lease. The NPDES Parties have enacted water quality ordinances that
prohibit conditions and activities that may result in polluted runoff being discharged into the Stormwater Drainage System.

18.3 To assure compliance with the Stormwater Permits and water quality ordinances, the NPDES Parties have developed a Drainage Area Management Plan (“DAMP”) which includes a Local Implementation Plan (“LIP”) for each jurisdiction that contains Best Management Practices (“BMPs”) that parties using properties within Orange County must adhere to. As used herein, a BMP is defined as a technique, measure, or structural control that is used for a given set of conditions to manage the quantity and improve the quality of stormwater runoff in a cost effective manner. These BMPs are found within the District and/or County’s LIP in the form of Model Maintenance Procedures and BMP Fact Sheets (the Model Maintenance Procedures and BMP Fact Sheets contained in the DAMP/LIP shall be referred to hereinafter collectively as “BMP Fact Sheets”) and contain pollution prevention and source control techniques to eliminate non-stormwater discharges and minimize the impact of pollutants on stormwater runoff.

18.4 BMP Fact Sheets that apply to uses authorized under this Lease include the BMP Fact Sheets that are attached hereto as Exhibit C. These BMP Fact Sheets may be modified during the term of the Lease; and the County shall provide Tenant with any such modified BMP Fact Sheets. Tenant, its agents, contractors, representatives and employees and all persons authorized by Tenant to conduct activities on the Premises shall, throughout the term of this Lease, comply with the BMP Fact Sheets as they exist now or are modified, and shall comply with all other requirements of the Stormwater Permits, as they exist at the time this Lease commences or as the Stormwater Permits may be modified. Tenant agrees to maintain current copies of the BMP Fact Sheets on the Premises throughout the term of this Lease. The BMPs applicable to uses authorized under this Lease must be performed as described within all applicable BMP Fact Sheets.

18.5 Tenant may propose alternative BMPs that meet or exceed the pollution prevention performance of the BMP Fact Sheets. Any such alternative BMPs shall be submitted to the County for review and approval prior to implementation.

18.6 County may enter the Premises and/or review Tenant’s records at any reasonable time during normal business hours to ensure that activities conducted on the Premises comply with the requirements of this Section. Tenant may be required to implement a self-evaluation program to demonstrate compliance with the requirements of this Section.

ARTICLE XIX
GENERAL CONDITIONS & MISCELLANEOUS PROVISIONS

19.1 Signs. Tenant agrees not to construct, maintain, or allow any signs, banners, flags, etc., upon the Premises except (a) as approved in writing in advance by County, which approval may be withheld in the sole and absolute discretion of the County, or (b) required by any of Tenant’s lenders, provided that any such signage is in compliance with all applicable Laws. Tenant further agrees not to construct, maintain, or allow billboards or outdoor advertising signs upon the Premises. Unapproved signs, banners, flags, etc., may be removed by County without prior notice to Tenant.
19.2 **Nondiscrimination.** Tenant agrees not to discriminate against any person or class of persons by reason of sex, age (except as permitted by law), race, color, creed, physical handicap, or national origin in employment practices and in the activities conducted pursuant to this Lease.

19.3 **Taxes and Assessments.** Pursuant to California Revenue and Taxation Code Section 107.6, Tenant is specifically informed that this Lease may create a possessory interest which is subject to the payment of taxes levied on such interest. It is understood and agreed that all taxes and assessments (including but not limited to said possessory interest tax) which become due and payable upon the Premises or upon fixtures, equipment, or other property installed or constructed thereon, shall be the full responsibility of Tenant, and Tenant shall cause said taxes and assessments to be paid promptly.

19.4 **Quitclaim of Interest upon Termination.** Upon termination of this Lease for any reason whatsoever in accordance with the terms of the Lease, Tenant shall execute, acknowledge, and deliver to County, within five (5) business days, a good and sufficient deed, in a form as approved by the County, whereby all right, title, and interest of Tenant in the Premises is quitclaimed back to County ("Quitclaim Deed"). The Quitclaim Deed shall then be recorded by County to remove any cloud on title created by this Lease. In the event that the Tenant fails to provide such Quitclaim Deed within five (5) additional business days after written demand by the County, the Parties agree that the County will be damaged and entitled to compensation for those damages. Such actual damages will, however, be extremely difficult to ascertain. Therefore, if the Tenant does not provide the required Quitclaim Deed after such notice and cure period, in addition to any other remedy provided by law or equity, the Tenant shall pay the County $2,000 per day for every day that passes until a Quitclaim Deed is delivered, which amount shall be deemed to constitute a reasonable estimate of County’s damages and not a penalty. Such amount shall become due and payable by Tenant to County for each calendar day that passes beyond the cure period. Notwithstanding the foregoing, if the Tenant has disputed the termination of the Lease by County, upon a final determination by a court of competent jurisdiction that the Lease has not been terminated, Tenant shall not be subject to payment of the foregoing damages.

19.5 **Public Records.** Tenant acknowledges that any written information submitted to and/or obtained by County from Tenant or any other person or entity having to do with or related to this Lease and/or the Premises, either pursuant to this Lease or otherwise, is a “public record” open to inspection and copying by the public pursuant to the California Public Records Act (Government Code §6250, et seq.) ("CPRA") as now in force or hereafter amended, or any Law in substitution thereof, or otherwise made available to the public, unless such information is exempt from disclosure pursuant to the applicable sections of CPRA. In the event that a CPRA request is made for any financial statements and records (not including Gross Receipts Statements) and the County determines that the records must be turned over, the County will give Tenant fifteen (15) days’ written notice prior to turning over such records so that Tenant can take any necessary action, including, but not limited to, injunctive relief, to prevent County from turning over such financial statements and records.

19.6 **Attorney’s Fees.** In any action or proceeding brought to enforce or interpret any provision of this Lease, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorneys’ fees and costs.

19.7 **Payment Card Compliance.** Should Tenant conduct credit/debit card transactions in conjunction with Tenant’s business with the County, on behalf of the County, or as part of the
business that Tenant conducts on the Premises, Tenant covenants and warrants that it will during the course of such activities be Payment Card Industry Data Security Standard (“PCI/DSS”) and Payment Application Data Security Standard (“PA/DSS”) compliant and will remain compliant during the entire duration of its conduct of such activities. Tenant agrees to immediately notify County in the event Tenant should ever become non-compliant at a time when compliance is required hereunder, and will take all necessary steps to return to compliance and shall be compliant within ten (10) days of the commencement of any such interruption. Upon demand by County, Tenant shall provide to County written certification of Tenant’s PCI/DSS and/or PA/DSS compliance.


19.8.1. In accordance with the United States Immigration Reform and Control Act of 1986, Tenant shall require its employees that directly or indirectly service the Premises, pursuant to the terms and conditions of this Lease, in any manner whatsoever, to verify their identity and eligibility for employment in the United States. Tenant shall also require and verify that its contractors or any other persons servicing the Premises, pursuant to the terms and conditions of this Lease, in any manner whatsoever, verify the identity of their employees and their eligibility for employment in the United States.

19.8.2. Pursuant to the United States of America Fair Labor Standard Act of 1938, as amended, and State of California Labor Code, Section 1178.5, Tenant shall pay no less than the greater of the Federal or California Minimum Wage to all its employees that directly or indirectly service the Premises, in any manner whatsoever. Tenant shall require and verify that all its contractors or other persons servicing the Premises on behalf of the Tenant also pay their employees no less than the greater of the Federal or California Minimum Wage.

19.8.3. Tenant shall comply and verify that its general contractor complies with all other Federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant to the servicing of the Premises or terms and conditions of this Lease.

19.9 Declaration of Knowledge by Tenant. Tenant warrants that Tenant has carefully examined this Lease and by investigation of the site and of all matters relating to the Lease arrangements has fully informed itself as to all existing conditions and limitations affecting the construction of the Lease improvements and business practices required in the operation and management of the uses contemplated hereunder.

19.10 Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California and the City. Tenants understands and agrees that funding for this project has been provided pursuant to the State of California under the Homekey Program and that Tenant must comply with the California Department of Housing and Community Development’s Notice of Funding Availability for this program and Assembly Bill No. 83 (2019-2020 Reg. Sess.) which created the statutory basis for the Homekey Program.

19.11 Venue. The Parties hereto agree that this Lease has been negotiated and executed in the State of California and shall be governed by and construed under the laws of California. In the event of any legal action to enforce or interpret this Lease, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure
Section 394. Furthermore, the Parties hereto specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

19.12 **Headings and Titles.** The captions of the Articles or Sections of this Lease are only to assist the Parties in reading this Lease and shall have no effect upon the construction or interpretation of any part hereof.

19.13 **Interpretation.** Whenever required by the context of this Lease, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other. In any provision relating to the conduct, acts or omissions of Tenant, the term “Tenant” shall include Tenant’s agents, employees, contractors, invitees, successors or others using the Premises with Tenant’s expressed or implied permission. In any provision relating to the conduct, acts or omissions of County, the term “County” shall include County’s agents, employees, contractors, invitees, successors or others using the Premises with County’s expressed or implied permission.

19.14 **Ambiguities.** Each Party hereto has reviewed this Lease with legal counsel, and has revised (or requested revisions of) this Lease based on the advice of counsel, and therefore any rules of construction requiring that ambiguities are to be resolved against a particular Party shall not be applicable in the construction and interpretation of this Lease or any exhibits hereto.

19.15 **Successors and Assigns.** Except as otherwise specifically provided in this Lease, all of the covenants, conditions and provisions of this Lease shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors and assigns.

19.16 **Time is of the Essence.** Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

19.17 **Severability.** If any term or provision of this Lease is held invalid or unenforceable to any extent under any applicable law by a court of competent jurisdiction, the remainder of this Lease shall not be affected thereby, and each remaining term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

19.18 **Integration.** This Lease, along with any exhibits, attachments or other documents affixed hereto or referred to herein and related permits, constitute the entire agreement between County, and Tenant relative to the leasing of the Premises. This Lease and such exhibits, attachments and other documents may be amended or revoked only by an instrument in writing signed by County and Tenant. County and Tenant hereby agree that no prior agreement, understanding or representation pertaining to any matter covered or mentioned in this Lease shall be effective for any purpose.

19.19 **Notices.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or electronic mail, shall be deemed received upon the earlier of (a) if personally delivered, the date of delivery to the address of the person to receive such notice, (b) if mailed, three (3) business days after the date of posting by the United States post office, (c) if given by electronic mail, when sent if before 5:00 p.m., otherwise on the next business day, or (d) if delivered by overnight delivery, one (1) business day after mailing. Any notice, request, demand,
direction or other communication sent by electronic mail must be confirmed within by letter mailed or delivered within two business days in accordance with the foregoing.

Either Party may change the address for notices by giving the other Party at least ten (10) calendar days’ prior written notice of the new address.

If to County: County of Orange
c/o CEO Real Estate
333 W. Santa Ana Blvd, 3rd Floor
Santa Ana, CA 92702
Attn: Chief Real Estate Officer

With a copy to: Office of County Counsel
Hall of Administration
333 W. Santa Ana Blvd., 4th Floor
Santa Ana, California 92701
Attn: Michael Haubert, Senior Deputy
Fax: (714) 834-2359

If to Tenant: JHC-KATELLA LLC
c/o Jamboree Housing Corporation
17701 Cowan Avenue, Suite 200
Irvine, CA 92614
Attention: Michael Massie

With a copy to: Rutan & Tucker, LLP
611 Anton Blvd., 14th Floor
Costa Mesa, CA 92626
Attention: Patrick D. McCalla

19.20 **Amendments.** This Lease is the sole and only agreement between the Parties regarding the subject matter hereof; other agreements, either oral or written, are void. Any changes to this Lease shall be in writing and shall be properly executed by all Parties.

19.21 **Limited Partner Cure Rights.** In the event the Tenant is a partnership, the County agrees to accept a cure of any Event of Default by Tenant made by any one or more of the Tenant’s limited partners as if such cure had been made by Tenant, provided such cure is made in accordance with the applicable provisions of this Lease.

19.22 **Dispositions of Abandoned Property.** If Tenant abandons or quits the Premises or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to and
left on the Premises thirty (30) days after such event shall, at County’s option, be deemed to have been transferred to County. County shall have the right to remove and to dispose of such property at Tenant’s cost, including the cost of labor, materials, equipment and an administrative fee equal to fifteen percent (15%) of the sum of such costs without liability therefor to Tenant or to any person claiming under Tenant, and shall have no need to account therefor. At County’s option, County may provide Tenant with an invoice for such costs, which invoice Tenant agrees to pay within fifteen (15) days of receipt.

19.23 Brokers. If Tenant has engaged a broker in this transaction pursuant to a separate agreement, Tenant shall be solely responsible for the payment of any broker commission or similar fee payable pursuant to such separate agreement. Tenant each hereby agree to indemnify and hold the County harmless from and against all costs, expenses or liabilities (including attorney fees and court costs, whether or not taxable and whether or not any action is prosecuted to judgment) incurred by the County in connection with any claim or demand by a person or entity for any broker’s, finder’s or other commission or fee from the County in connection with the Tenant’s entry into this Lease and the transactions contemplated hereby based upon any alleged statement or representation or agreement of the Tenant. No broker, finder or other agent of any Party hereto shall be a third-party beneficiary of this Lease.

19.24 No Partnership. This Lease shall not be construed to constitute any form of partnership or joint venture between County and Tenant. County and Tenant mutually acknowledge that no business or financial relationship exists between them other than as County and Tenant, and that County is not responsible in any way for the debts of Tenant or any other Party.

19.25 Authorization. County and Tenant (each, a “signing party”) each represents and warrants to the other that the person or persons signing this Lease on behalf of the signing party has full authority to do so and that this Lease binds the signing party. Concurrently with the execution of this Lease, the Tenant shall deliver to the County a certified copy of a resolution of the signing party’s board of directors or other governing board authorizing the execution of this Lease by the signing party.

19.26 Recording. This Lease itself, and the Regulatory Agreement, shall not be recorded, but in the event that the Tenant encumbers the leasehold as set forth in Article XVII, a memorandum hereof may be recorded in the form of Exhibit D attached hereto (the “Memorandum”). The Memorandum may be executed concurrently with this Lease and thereafter recorded in the Official Records of the County Recorder on the Effective Date of this Lease has occurred. Tenant shall be responsible for the payment of all charges imposed in connection with the recordation of the Memorandum, including, without limitation, any documentary transfer tax imposed in connection with this transaction and all recording fees and charges.

19.27 Exhibits. This Lease contains the following exhibits, schedules and addenda, each of which is attached to this Lease and incorporated herein in its entirety by this reference:

Exhibit A: Legal Description of the Premises
Exhibit A-1: Rendering of the Premises
Exhibit B: Project Description and Work to be Completed
Exhibit C: Best Management Practices Fact Sheets
Exhibit D: Form of Memorandum of Lease

Exhibit E: Bill of Sale for Improvements as of Effective Date

Exhibit F: Quitclaim Deed as of Effective Date

19.28 Consent/Duty to Act Reasonably. Except as otherwise expressly provided herein, whenever this Lease grants County and/or Tenant the right to take any action, grant any approval or consent, or exercise any discretion, County and/or Tenant shall act reasonably and in good faith and take no action which might result in the frustration of the other Party’s reasonable expectations concerning the benefits to be enjoyed under this Lease.

19.29 Counterparts. For the convenience of the Parties to this Lease, this Lease may be executed in several original counterparts, each of which shall together constitute but one and the same agreement. Original executed pages may be assembled together into one fully executed document.

19.30 No Merger. The interests created by this Lease shall not be extinguished by merger of any or all of the ownership interests the Premises or the Improvements in one person or entity.

19.31 Cooperation of County. County hereby agrees to work cooperatively and expeditiously to provide written consent (or written refusal to provide consent) to Tenant, the Leasehold Mortgagees and Limited Partner hereunder.

[Signatures On Following Pages]

IN WITNESS WHEREOF, the Parties have executed this Lease on the date first written above.

<table>
<thead>
<tr>
<th>TENANT</th>
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<tbody>
<tr>
<td>JHC-KATELLA LLCJAMBOREE, a California limited liability company</td>
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<tr>
<td>By:</td>
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<tr>
<td>By: ____________________________</td>
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[Signatures On Following Pages]
<table>
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<th>APPROVED AS TO FORM:</th>
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<tr>
<td>COUNTY COUNSEL</td>
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<tr>
<td>By: Michael A. Haubert</td>
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<tr>
<td>Deputy</td>
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<td>Date 10/15/20</td>
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<td>COUNTY OF ORANGE, a political subdivision of the State of California</td>
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<tr>
<td>Thomas A. Miller, Chief Real Estate Officer</td>
</tr>
<tr>
<td>Orange County, California</td>
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</table>
EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

The land referred to is situated in the County of Orange, City of Stanton, State of California, and is described as follows:

The land referred to herein is situated in the State of California, County of Orange, City of Stanton and described as follows:

That portion of Section 23, Township 4 South, Range 11 West, in the City of Station, County of Orange, State of California, in the Ranchos Los Coyotes and Los Alamitos, as shown in Book 51, Page 12 of Miscellaneous Maps, in the Office of Orange County, described as follows:

Commencing at the intersection of the compromise boundary line between said Ranchos with the Northerly boundary line of Katella Avenue, as shown on a Map of Survey recorded in Book 13, Page 14, records of Surveys, in the Office of the County Recorder of said County; thence North 88° 45' West along said Northerly line 525.09 feet to the true point of beginning; thence North 0° 48' 30" West 333.58 feet; thence North 89° 02' 30" East 153.22 feet; thence South 0° 48' 30" West 339.44 feet to said North line of Katella Avenue; thence North 88° 46' West 153.28 feet to the true point of beginning.

Except therefrom that portion of the Southwest quarter of fractional Section 23, Township 4 South, Range 11 West, in the Rancho Los Alamitos, shown on map no, attached to the final decree of partition of said Rancho, a certified copy of which was recorded February 2, 1891, in Book 14, Page 31 of Deeds, in the Office of the County Recorder of said County, as described in the deed to Tony Fiamengo, recorded June 19, 1958, in Book 4322, Page 284, Official Records, in the Office of the County Recorder of said County, that lies Southerly of a line that is parallel and concentric with and 60.00 feet Northerly from the center line of Katella Avenue as shown on the Map of said Tract No. 7294, recorded in Book 272, Page(s) 17 through 20 of Miscellaneous Maps, in the Office of the County Recorder of said County.

APN: 079-762-61 and 079-762-26

(End of Legal Description)
EXHIBIT A-1
RENDERING OF THE PROPERTY
EXHIBIT B
PROJECT DESCRIPTION AND WORK TO BE PERFORMED

The Premises are developed with an existing two-story hotel (Stanton Inn) building with 72 units with approximately 46,884 sf. The Project includes the redevelopment of the Stanton Inn to include immediate necessary repairs to the two buildings that comprise the motel so they can be rapidly occupied (within 30-days of acquisition) and operated as interim housing (for a maximum of a five-year period) until tax credits and project-based voucher can be secured to further improve the property and convert it into permanent supportive housing.

The Project will be 100% affordable to households earning no more than 30 percent of Area Median Income (AMI) for Orange County of which, following the subsequent comprehensive rehabilitation, all 72 units will be set-aside for Permanent Supportive Housing (PSH). The unit mix and rent restrictions are as follows, provided, however, the rent and income restrictions applicable to the Project shall be set forth in and subject to the terms of the Loan Agreement and Regulatory Agreement:

<table>
<thead>
<tr>
<th>Bedroom Size</th>
<th>30% AMI (PSH)</th>
<th>30% AMI</th>
<th>Manager’s Unit</th>
<th>Total Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studios</td>
<td>70</td>
<td>2</td>
<td></td>
<td>72</td>
</tr>
<tr>
<td>One-Bedroom</td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Two-Bedroom</td>
<td></td>
<td>0</td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Three-Bedroom</td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Four-Bedroom</td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>70</td>
<td>2</td>
<td></td>
<td>72</td>
</tr>
</tbody>
</table>
EXHIBIT C
Best Management Practices
(“BMPs” Fact Sheets)

Best Management Practices can be found at: http://www.ocwatersheds.com/documents/bmp which website may change from time to time.

BMPs apply to the TENANT's defined Premises and BMPs also apply to the TENANT’s Contractor therefore TENANT shall cause Contractor to be responsible for implementing and complying with all BMP Fact Sheet requirements that apply to construction activity with respect to the Improvements, and also including, without limiting the generality of the foregoing, site preparation, landscaping, installation of utilities, street construction or improvement and grading or filling in or on the Premises. TENANT is to be aware that the BMP clause within this Lease, along with all related BMP Exhibits, may be revised, and may incorporate more than what is initially being presented in this Lease. Suggested BMPs Fact Sheets may include, but may not be limited to, the following list shown below and can be found at:
http://www.ocwatersheds.com/documents/bmp/industrialcommercialbusinessesactivities (which website may change from time to time):
IC3 Building Maintenance
IC4 Carpet Cleaning
IC6 Contaminated or Erodible Surface Areas
IC7 Landscape Maintenance
IC9 Outdoor Drainage from Indoor Areas
IC10 Outdoor Loading/Unloading of Materials
IC12 Outdoor Storage of Raw Materials, Products, and Containers
IC14 Painting, Finishing, and Coatings of Vehicles, Boats, Buildings, and Equipment
IC15 Parking & Storage Area Maintenance
IC17 Spill Prevention and Cleanup
IC21 Waste Handling and Disposal
IC22 Eating and Drinking Establishments
IC23 Fire Sprinkler Testing/Maintenance
IC24 Wastewater Disposal Guidelines
EXHIBIT D
FORM OF MEMORANDUM OF LEASE
MEMORANDUM OF LEASE

This is a Memorandum of Lease (“Memorandum”) made and entered into as of this ______________ day of __________, 20___, by and between the County of Orange, a political subdivision of the State of California, the Housing Authority of the City of Santa Ana, a public body, corporate and politic (collectively, the “County”) and __________, (“Tenant”), residing at __________, upon the following terms:

1. Lease. The provisions set forth in a written lease between the parties hereto dated __________ (“Lease”), are hereby incorporated by reference into this Memorandum.

2. Subject Premises. The Premises which are the subject of the Lease are more particularly described as on Exhibit A, attached hereto

3. Effective Date of Lease. The Lease shall be deemed to have commenced on __________ (the “Effective Date”) as set forth within the terms of the Lease.

4. Term. The Term of the Lease shall commence on the Effective Date as stated in the written Lease and terminate Fifty-Five (55) years from the Commencement Date, provided, however the Term shall be no longer than Sixty (60) years from the Effective Date.

5. Duplicate Copies of the originals of the Lease are in the possession of the County and Tenant and reference should be made thereto for a more detailed description thereof and for resolution of any questions pertaining thereto. The addresses for County and Tenant are as follows:

If to County:  
County of Orange  
c/o CEO/Corporate Real Estate  
333 W. Santa Ana Blvd, 3rd Floor  
Santa, Ana, CA 92702  
Attn: Chief Real Estate Officer

With a copy to:  
Office of County Counsel  
Hall of Administration  
333 W. Santa Ana Blvd., 4th Floor  
Santa Ana, California 92701  
Attn: Michael Haubert, Senior Deputy  
Fax: (714) 834-2359

If to Tenant:  
JHC-Katella LLC  
c/o Jamboree Housing Corporation  
17701 Cowan Avenue, Suite 200  
Irvine, CA 92614  
Attention: Michael Massie
With a copy to: Rutan & Tucker, LLP
611 Anton Blvd., 14th Floor
Costa Mesa, CA 92626
Attention: Patrick D. McCalla

6. **Purpose.** It is expressly understood and agreed by all Parties that the sole purpose of this Memorandum is to give record notice of the Lease; it being distinctly understood and agreed that said Lease constitutes the entire lease and agreement between County and Tenant with respect to the Premises and is hereby incorporated by reference. The Lease contains and sets forth additional rights, terms, conditions, duties, and obligations not enumerated within this instrument which govern the Lease. This Memorandum is for informational purposes only and nothing contained herein may be deemed in any way to modify or vary any of the terms or conditions of the Lease. In the event of any inconsistency between the terms of the Lease and this instrument, the terms of the Lease shall control. The rights and obligations set forth herein shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, representatives, successors, and assigns.
IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum pursuant to due authorization on the dates herein acknowledged.

COUNTY:

By: _______________________

Name: ______________________
Title: ______________________

TENANT:

By: _______________________

Name: ______________________
Title: ______________________

By: _______________________

Name: ______________________
Title: ______________________
EXHIBIT E

BILL OF SALE
FOR PERSONAL PROPERTY

This Bill of Sale for Personal Property ("Bill of Sale") is made by and between the COUNTY OF ORANGE, a political subdivision of the State of California ("County") and GLOBAL STUDENT HOUSING, LLC, DBA STANTON INN & SUITES, a California limited liability company ("Seller").

For good and valuable consideration as more fully set forth in that certain “Purchase and Sale Agreement and Joint Escrow Instructions” dated as of August 31, 2020, between the County and the Seller, the receipt and sufficiency of which is hereby acknowledged, the Seller hereby grants, releases, quitclaims and transfers title and ownership of the Personal Property, as described below.

The Seller agrees that County may take any action whatsoever with respect to the Personal Property, including disposing of it and Seller hereby waives any and all rights to such Personal Property.

The Seller’s signature below signifies that the Seller is the lawful owner of the Personal Property listed herein and the Seller has the right to transfer such Personal Property as the Seller chooses. Upon full execution of this Bill of Sale, the County shall acquire full rights and ownership to the Personal Property.

Personal Property transferred by Seller:

<table>
<thead>
<tr>
<th>Room assets</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Queen bed mattress</td>
<td>112</td>
</tr>
<tr>
<td>Queen bed box spring</td>
<td>112</td>
</tr>
<tr>
<td>Queen bed headboard</td>
<td>112</td>
</tr>
<tr>
<td>Queen bed frame</td>
<td>112</td>
</tr>
<tr>
<td>King bed mattress</td>
<td>16</td>
</tr>
<tr>
<td>King bed box spring</td>
<td>16</td>
</tr>
<tr>
<td>King bed frame</td>
<td>16</td>
</tr>
<tr>
<td>Writing desk</td>
<td>72</td>
</tr>
<tr>
<td>Chairs</td>
<td>72</td>
</tr>
<tr>
<td>Nightstands</td>
<td>88</td>
</tr>
<tr>
<td>Sofa bed</td>
<td>20</td>
</tr>
<tr>
<td>Coffee table</td>
<td>20</td>
</tr>
<tr>
<td>Lamps</td>
<td>88</td>
</tr>
<tr>
<td>PTAC AC</td>
<td>86</td>
</tr>
<tr>
<td>Microwave</td>
<td>72</td>
</tr>
<tr>
<td>Mini Refrigerator</td>
<td>72</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-----</td>
</tr>
<tr>
<td>Coffer marker</td>
<td>72</td>
</tr>
<tr>
<td>Hair dryer</td>
<td>72</td>
</tr>
<tr>
<td>TV</td>
<td>84</td>
</tr>
<tr>
<td>Alarm clock radio</td>
<td>72</td>
</tr>
<tr>
<td>Coffee maker</td>
<td>72</td>
</tr>
</tbody>
</table>

**Laundry room**

| Washer Machine           | 2   |
| Dryer Machine            | 2   |

**Ice machine**

| Hot water boiler         | 1   |
| Central AC               | 4   |
| Door electronic lock system | 2   |
| Electronic lock          | 87  |
| Front desk computer      | 2   |

**Kitchen equipment**

| Refrigerator             | 3   |

Seller Signature: _____________________________  Date: ________________

County Signature: _____________________________  Date: ________________
EXHIBIT F

Recording Requested By And When Recorded Mail To:

JHC-Katella LLC
c/o Jamboree Housing Corporation
17701 Cowan Avenue, Suite 200
Irvine, CA 92614

(Space Above for Recorder’s Use)
Exempt from Recordation Fee per Gov. Code § 6103 and 27383

QUITCLAIM DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, COUNTY OF ORANGE, a political subdivision of the State of California (the “Grantor”), do(es) hereby remise, release and forever quitclaim to JHC-KATELLA, LLC, a California limited liability company (the “Grantee”), all of the Grantor’s interests in and to the buildings and improvements located on that certain real property described in Exhibit A attached hereto.

“Grantor”

COUNTY OF ORANGE, a political subdivision of the State of California

Dated _____________ ___

By: _______________________________
Name: ____________________________
Its: ______________________________

APPROVED AS TO FORM:
COUNTY COUNSEL

By: Michael A. Haubert
Deputy

Date: 10/15/20
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 Orange  

On _________________________, before me, _________________________ (insert name and title of the officer), Notary Public, personally appeared _________________________, 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"

LEGAL DESCRIPTION

The land referred to is situated in the County of Orange, City of Stanton, State of California, and is described as follows:

The land referred to herein is situated in the State of California, County of Orange, City of Stanton and described as follows:

That portion of Section 23, Township 4 South, Range 11 West, in the City of Stanton, County of Orange, State of California, in the Ranchos Los Coyotes and Los Alamitos, as shown in Book 51, Page 12 of Miscellaneous Maps, in the Office of Orange County, described as follows:

Commencing at the intersection of the compromise boundary line between said Ranchos with the Northerly boundary line of Katella Avenue, as shown on a Map of Survey recorded in Book 13, Page 14, records of Surveys, in the Office of the County Recorder of said County; thence North 88° 45' West along said Northerly line 525.09 feet to the true point of beginning; thence North 0° 48' 30" West 333.58 feet; thence North 89° 02' 30" East 153.22 feet; thence South 0° 48' 30" West 339.44 feet to said North line of Katella Avenue; thence North 88° 46' West 153.28 feet to the true point of beginning.

Except therefrom that portion of the Southwest quarter of fractional Section 23, Township 4 South, Range 11 West, in the Rancho Los Alamitos, shown on map no, attached to the final decree of partition of said Rancho, a certified copy of which was recorded February 2, 1891, in Book 14, Page 31 of Deeds, in the Office of the County Recorder of said County, as described in the deed to Tony Fiamengo, recorded June 19, 1958, in Book 4322, Page 284, Official Records, in the Office of the County Recorder of said County Recorder of said County, that lies Southerly of a line that is parallel and concentric with and 60.00 feet Northerly from the center line of Katella Avenue as shown on the Map of said Tract No. 7294, recorded in Book 272, Page(s) 17 through 20 of Miscellaneous Maps, in the Office of the County Recorder of said County.

APN: 079-762-61 and 079-762-26

(End of Legal Description)
EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

1. Authority

Assembly Bill No. 83 (2019-2020 Reg. Sess.) added section 50675.1.1 and 50675.1.2 to the Multifamily Housing Program ("MHP") (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code). Health and Safety Code section 50675.1.1 is the statutory basis for the Homekey Program ("Homekey" or "Program"). Health and Safety Code section 50675.1, subdivision (d) authorizes the Department of Housing and Community Development ("Department" or "HCD") to administer MHP.

The Department issued a Notice of Funding Availability ("NOFA") for the Homekey Program on July 16, 2020. The NOFA incorporates by reference the MHP, as well as the MHP Final Guidelines ("MHP Guidelines"), dated June 19, 2019, both as amended and in effect from time to time. In addition, the NOFA states that Homekey grant funds are derived primarily from Coronavirus Relief Fund ("CRF") money received from the U.S. Department of the Treasury. The CRF was established by the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law No. 116-136).

This STD 213, Standard Agreement ("Agreement") is entered under the authority and in furtherance of the Program. This Agreement is the result of an Application by the Sponsor, as defined below, for funding under the Program (the "Grant"). As such, this Agreement shall be executed by the Sponsor. Where the Sponsor comprises a Local Public Entity (as defined below) and a private entity, both entities shall execute the Standard Agreement.

This Agreement hereby incorporates by reference the Application in its entirety. This Agreement is governed by the following (collectively, the "Program Requirements"), and each of the following is incorporated hereto as if set forth in full herein:

A. The above-referenced MHP statutory scheme;
B. The NOFA issued on July 16, 2020, and as may be subsequently amended;
C. The MHP Guidelines;
D. The CARES Act and related federal guidance;
E. The award letter issued by the Department to the Sponsor; and
F. Any and all other applicable law.

2. Purpose

The Homekey Program is intended to provide housing for individuals and families who are experiencing homelessness or who are at risk of homelessness, as defined in Part 578.3 of Title 24 of the Code of Federal Regulations, and who are impacted by the COVID-19 pandemic ("Target Population").
EXHIBIT A

Sponsor applied to the Department for the Grant in order to conduct one or more of the activities outlined in Paragraph 4 below. By entering into this Agreement and thereby accepting the award of Program Grant funds, the Sponsor agrees to comply with the Program Requirements and the terms and conditions of this Agreement.

3. Definitions

Any capitalized terms that are not defined below shall have the definitions set forth in the NOFA, the MHP statutes, and the MHP Guidelines. In the event of any conflict, the definitions in this Agreement and the NOFA are controlling.

A. "Application" means the application for Grant funds that was submitted in response to the Department's Homekey Program 2020 Notice of Funding Availability, issued on July 16, 2020.

B. "CRF Covered Period" means the time period running from March 1, 2020 through December 30, 2020. All Grant expenses for CRF-funded Eligible Uses must be incurred during this time period, or they will not be reimbursed. CRF-funded Eligible Uses are those listed at Paragraph 4.A – F, below.

C. "CRF Expenditure Deadline" means December 30, 2020. All Grant expenses for CRF-funded Eligible Uses must be incurred on or before this date, or they will not be reimbursed. CRF-funded Eligible Uses are those listed at Paragraph 4.A – F, below.

D. "Designated Payee" means the Co-Sponsor that will serve as the payee of the Program Grant funds. If applicable, the Designated Payee is identified at Exhibit E of this Agreement.

E. "Development Sponsor" has the same meaning as "Sponsor" below.

F. "Eligible Uses" means the activities that may be funded by the Homekey Program Grant. Those activities are listed at Paragraph 4 of this Agreement, and at Health and Safety Code section 50675.1.1, subdivision (a).

G. "Interim Housing" means any facility that is primarily intended to provide temporary shelter or lodging for the Target Population, and which does require occupants to sign leases or occupancy agreements.

H. "Local Public Entity" is defined at Health and Safety Code section 50079, and means any county, city, city and county, the duly constituted governing body of an Indian reservation or rancheria, tribally designated housing entity as defined in Section 4103 of Title 25 of the United States Code and Section 50104.6.5, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24, and also includes any state agency, public district, or other political subdivision of the state, and any instrumentality thereof, that is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income. In addition, and in

Homekey Program (Homekey)
NOFA Date: July 16, 2020
Approved Date: 8-03-2020
Prep. Date: [To maintain version control, insert the date of each draft version and the finalized document]
EXHIBIT A

accord with this Health and Safety Code definition, the term “Local Public Entity” also includes two or more local public entities acting jointly.

I. “Performance Milestones” means the indicators and metrics of progress and performance that are identified as such at Exhibit E of this Agreement. Sponsor’s failure to satisfy any one of the Performance Milestones will constitute a breach of this Agreement and will entitle the Department to exercise any and all available remedies, including the recapture of disbursed Grant funds and the cancellation of this Agreement.

J. “Permanent Housing” means housing, dwellings, or other living accommodations where the landlord does not limit the tenant’s length of stay or restrict the tenant’s movements, and where the tenant has a lease and is subject to the rights and responsibilities of tenancy.

K. “Program Requirements” means the legal authority and Program materials listed at Paragraph 1.A – F, above.

L. “Project” means a structure or set of structures with common financing, ownership, and management, and which provides Permanent Housing or Interim Housing for the Target Population.

M. “Scope of Work” or “Work” means the work to be performed by the Sponsor to accomplish the Program purpose.

N. “Sponsor” is defined by the Multifamily Housing Program at Health and Safety Code section 50675.2, subdivision (g). (See also Health & Saf. Code, § 50669, subd. (c).) “Sponsor” refers, both individually and collectively, to the private entity and/or the Local Public Entity that received a Homekey Grant after submitting an Application or a joint Application to the Department. When the Sponsor comprises two entities, each entity may be referred to as a “Co-Sponsor.” On the STD 213 portion of this Agreement, the Sponsor is identified as the Contractor.

O. “State General Fund Expenditure Deadline” means June 30, 2022. Grant expenses for capitalized 24-month operating subsidies (which are funded by the State General Fund) must be incurred on or before this date, or they will not be reimbursed.

P. “Target Population” means individuals and families who are experiencing homelessness or who are at risk of homelessness, as defined in Part 578.3 of Title 24 of the Code of Federal Regulations, and who are impacted by the COVID-19 pandemic.

4. Eligible Uses

Sponsor shall apply the Program Grant funds to one or more of the following uses. Sponsor’s use of the funds and scope of work (“Scope of Work” or “Work”) are specified at Exhibit E of this Agreement.

A. Acquisition or rehabilitation of motels, hotels, or hostels.

B. Master leasing of properties.
C. Acquisition of other sites and assets, including purchase of apartments or homes, adult residential facilities, residential care facilities for the elderly, manufactured housing, and other buildings with existing residential uses that could be converted to permanent or interim housing.

D. Conversion of units from nonresidential to residential in a structure with a certificate of occupancy as a motel, hotel, or hostel.

E. The purchase of affordability covenants and restrictions for units.

F. Relocation costs for individuals who are being displaced as a result of rehabilitation of existing units.

G. Capitalized operating subsidies for units purchased, converted, or altered with funds provided under the Program.

5. Performance Milestones

Sponsor shall complete each of the Performance Milestones set forth at Exhibit E of this Agreement by the date designated for such completion therein (each a "Milestone Completion Date"). Sponsor may apply to the Department for an extension of any such Milestone Completion Date. Approval of any such extension request shall be in the Department's sole and absolute discretion. In no event will the Department approve an extension request in the absence of Sponsor's demonstration of good cause for said extension, along with Sponsor's reasonable assurances that the extension will not result in Sponsor's failure to meet other Performance Milestones or any Expenditure Deadline under this Agreement.

6. Reporting Requirements

Sponsor shall comply with all reporting requirements set forth at Section 402 of the NOFA or in this Agreement, all in accordance with, without limitation, the deadline(s) set forth under Performance Milestones at Exhibit E of this Agreement.

7. Department Contract Coordinator

The Department's Contract Coordinator for this Agreement is the [Assistant Deputy Director] of the Division of Financial Assistance, or the [Assistant Deputy Director's] designee. Unless otherwise informed, Sponsor shall mail any notice, report, or other communication required under this Agreement by First-Class Mail to the Department Contract Coordinator at the following address:

California Department of Housing and Community Development
Attention: Homekey Program (Homekey)
Grant Management Section
2020 West El Camino Avenue, Suite 400, 95833
P. O. Box 952050
Sacramento, CA 94252-2050
8. **Sponsor Contract Coordinator**

The Sponsor Contract Coordinator for this Agreement may coordinate with the [ ] for the Homekey Program. Unless otherwise informed, the Department shall mail any notice, report, or other communication required under this Agreement by First-Class Mail, or through a commercial courier, to the Sponsor Contract Coordinator at the address specified at Exhibit E of this Agreement.
EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. **Budget Detail**

Applicant has been awarded the Grant amount set forth in this Agreement.

2. **Conditions of Disbursement**

The Department will disburse the full amount of the Grant award to the Sponsor after this Agreement has been fully executed, and after the Department receives the Sponsor’s request for funds, with all required supporting documents appended thereto. The Sponsor shall append the following supporting documents to the request for funds, all in form and substance acceptable to the Department:

A. Payee Data Record (STD 204) or Government Agency Taxpayer ID Form, as applicable;

B. An authorizing resolution or set of authorizing resolutions that, in the Department’s reasonable determination, materially comport with the Program’s requirements (if the Sponsor has not already submitted same);

C. Certification of compliance with California’s prevailing wage law;

D. Evidence of the insurance coverages required under the Program and/or a written acknowledgment of self-insured status;

E. Documentary evidence of capacity to provide operating funds for the Project for at least five (5) years;

F. A current title report (dated within 15 days of the request for funds);

G. Any forms, certifications, or documentation required pursuant to Paragraph 5 – Conditions Precedent to Disbursement of Exhibit E of this Agreement; and

H. Any other forms, certifications, or documentation deemed necessary by the Department prior to disbursement of Grant funds.

3. **Performance**

After disbursement of the funds, the Sponsor shall meet each Performance Milestone set forth at Exhibit E by the designated deadline. After satisfaction of each Performance Milestone, the Sponsor shall promptly report its progress, in writing, to the Department. Sponsor may apply to the Department for an extension of the Performance Milestone deadlines based on good cause shown and best efforts and assurances from the Recipient for timely completion of the remaining Milestones.
EXHIBIT B

FAILURE TO SATISFY ANY ONE OF THE PERFORMANCE MILESTONES WILL CONSTITUTE A BREACH OF THIS AGREEMENT, AND ENTITES THE DEPARTMENT TO MANDATE THE SPONSOR TO RETURN TO THE DEPARTMENT ANY FUNDS DISBURSED; IN ANY SUCH INSTANCE, THE DEPARTMENT MAY ALSO CANCEL THIS AGREEMENT WITHOUT OWING ANY DAMAGES OR OTHER PAYMENT TO SPONSOR.

4. Fiscal Administration

A. Sponsor shall either deposit the Grant funds with an escrow company licensed to do business in the State of California and in good standing, or deposit Grant funds in an interest-bearing checking or savings account insured by the federal or state government. All interest earned from the deposit of Grant funds shall be used for eligible Program activities.

B. Any CRF Grant funds that have not been expended by the CRF Expenditure Deadline must be returned to the Department with accrued interest. Any State General Fund moneys that have not been expended by the State General Fund Expenditure Deadline must be returned to the Department with accrued interest. Checks shall be made payable to the Department of Housing and Community Development and shall be mailed to the Department at the address below, no later than thirty (30) calendar days after the applicable Expenditure Deadline.

   Department of Housing and Community Development
   Accounting Division, Suite 300
   2020 W. El Camino Avenue
   Sacramento, California 95833

5. Duplication of Benefit

Homekey funding is not required to be used as funding of last resort. However, Sponsor may not use Homekey funding to cover expenditures that have already been funded through other sources. Expenses that have been or will be reimbursed under any federal program are not eligible uses of Homekey funding.
EXHIBIT D

HOMEKEY GENERAL TERMS AND CONDITIONS

1. Effective Date, Term of Agreement, Timing, and Deadlines

A. This Agreement is effective upon the date of the Department representative’s signature on the STD 213, Standard Agreement (such date, the “Effective Date”).

B. This Agreement shall terminate five (5) years after the Effective Date, as stated in Paragraph 2 of the STD 213, Standard Agreement (such date, the “Expiration Date”).

C. Sponsor will receive the disbursement of Program funds after satisfying all conditions precedent to such disbursement, as set forth under Paragraph 2 of Exhibit B. All Program funds must be disbursed by December 30, 2020.

D. Grant expenses for CRF-funded Eligible Uses must be incurred from March 1, 2020 through December 30, 2020 (the “CRF Covered Period”). December 30, 2020 is the deadline for all such expenditures (the “CRF Expenditure Deadline” or “Expenditure Deadline”). CRF-funded Eligible Uses are those listed at Paragraph 4.A – F of Exhibit A.

E. Grant expenses for capitalized 24-month operating subsidies (which are funded by the State General Fund) must be incurred by June 30, 2022 (the “State General Fund Expenditure Deadline” or “Expenditure Deadline”).

F. Any expenses incurred prior to the CRF Covered Period, after the CRF Expenditure Deadline, or after the State General Fund Expenditure Deadline, respectively and as applicable, are not eligible for payment under the Program. Grant funds that have not been expended by the applicable Expenditure Deadlines shall revert to the Department.

2. Termination

The Department may terminate this Agreement for cause at any time by giving at least 14 days’ advance written notice to the Sponsor. Upon such termination, Sponsor shall return any unexpended funds to the Department within thirty (30) calendar days of the date on the Department’s written notice of termination, unless the Department has approved an alternate arrangement in advance and in writing, as provided below. Such termination will not limit any other remedies that may be available to the Department under this Agreement, at law, or in equity.

Cause shall consist of Sponsor’s breach of, or failure to satisfy, any of the terms or conditions of this Agreement. Cause includes but is not limited to the following:
EXHIBIT D

A. Sponsor’s failure to satisfy the conditions precedent to disbursement or to expend Program Grant funds, as specified, by December 30, 2020.

B. Sponsor’s failure to timely satisfy each or any of the conditions set forth in these Homekey General Terms and Conditions, the Special Conditions set forth at Exhibit E of this Agreement (including any one of the Performance Milestones), or the award letter.

C. Sponsor’s violation of any of the Program Requirements.

D. The Department’s determination of the following:

1) Any material fact or representation, made or furnished to the Department by the Sponsor in connection with the Application or the award letter, shall have been untrue or misleading at the time that such fact or representation was made known to the Department, or subsequently becomes untrue or misleading; or

2) Sponsor has concealed any material fact from the Department related to the Application or the Project.

E. The Department’s determination that the objectives and requirements of the Homekey Program cannot be met in accordance with applicable timeframes, as memorialized by this Agreement.

Sponsor’s failure to meet any applicable Expenditure Deadline shall result in the automatic termination of this Agreement, and Sponsor shall return all disbursed Grant funds to the Department within thirty (30) calendar days of the applicable Expenditure Deadline.

In the event of any other breach, violation, or default by the Sponsor, the Department may give written notice to the Sponsor to cure the breach, violation, or default. If the breach, violation, or default is not cured to the Department’s satisfaction within a reasonable time, as determined by the Department at its sole and absolute discretion, then the Department may declare a default under this Agreement and seek any and all remedies that are available under this Agreement, at law, or in equity.

3. **Eligible Activities**

Grant funds awarded to the Sponsor shall be applied to the eligible uses set forth at Exhibit A and described in greater detail at Exhibit E. Payment for any cost which is not authorized by this Agreement or which cannot be adequately documented shall be disallowed and must be reimbursed to the Department or its designee.

4. **Performance Milestones**

Sponsor shall timely satisfy and complete all Performance Milestones, as identified at Exhibit E of this Agreement.

Homekey Program (Homekey)
NOFA Date: July 16, 2020
Approved Date: 8-03-2020
Prep. Date: [To maintain version control, insert the date of each draft version and the finalized document]
5. **Article XXXIV**

Article XXXIV, section 1 of the California Constitution ("Article XXXIV") is not applicable to development involving the acquisition, rehabilitation, reconstruction, alterations work, or any combination thereof, of lodging facilities or dwelling units using moneys receiving from the CRF established by the federal CARES Act (Public Law 116-136), pursuant to Health and Safety Code section 37001, subdivision (h).

6. **Appraisals**

Sponsor shall, at the request of the Department, provide an appraisal of any real property or any interest in real property that is acquired with the Grant funds. Any such appraisal shall be prepared in a form, and by a qualified appraiser, acceptable to the Department.

7. **Compliance with California’s Prevailing Wage Law**

Sponsor’s Project may be subject to California’s prevailing wage law (Lab. Code, § 1720 et seq.). Sponsor is urged to seek professional legal advice about the law’s requirements. Prior to disbursing the Grant funds, the Department will require a certification of compliance with California’s prevailing wage law. The certification must verify that prevailing wages have been or will be paid if such payment is required by law, and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by Sponsor and its general contractor.

8. **Environmental Conditions**

Sponsor shall provide a Phase I Environmental Site Assessment ("ESA") for the Project, in conformance with ASTM Standard Practice E 1527, evaluating whether the Project is affected by any recognized environmental conditions. If the Phase I ESA discloses evidence of recognized environmental conditions and Sponsor desires to proceed with the Project, the Sponsor shall provide the Department with a Phase II report and any additional reports as required by the Department and in a form acceptable to the Department. Any remediation work shall be subject to Department approval. Sponsor shall also provide an asbestos assessment and a lead-based paint report for the Department’s approval if the Project involves rehabilitation or demolition of existing improvements.

9. **Insurance**

Sponsor shall obtain the insurance coverages identified at Article VI of the NOFA; Sponsor shall maintain such insurance coverages for either the term of this Agreement or the term of any required use restriction or affordability covenant, whichever applicable term is longer. Sponsor shall name the State of California and the Department, as well as their respective appointees, officers, agents, and employees, as additional insureds on all such policies. Such policies shall provide for notice to the Department in the event of any lapse of coverage or insurance claim thereunder. Prior to disbursement of any Grant funds, Sponsor
EXHIBIT D

shall provide evidence satisfactory to the Department of its compliance with these insurance requirements.

If Sponsor is a Local Public Entity and is self-insured, in whole or in part, as to any of the required types and levels of coverage, the Local Public Entity shall provide the Department with a written acknowledgment of its self-insured status prior to disbursement of any Grant funds. If the Local Public Entity abandons its self-insured status at any time after execution of this Agreement, the Local Public Entity shall immediately notify the Department, and shall promptly comply with the insurance coverage requirements under the Program.

10. Operating Funds

Sponsor shall demonstrate its capacity to provide five (5) years of operating funds for the Project. As set forth at Exhibit B of this Agreement, Sponsor shall provide documentary evidence of such capacity prior to disbursement of any Grant funds.

11. Relocation

If there is or will be any residential or commercial displacement directly or indirectly caused by the Project, the Sponsor shall provide a relocation plan to the Department for review. The relocation plan must comply with the requirements of state law (Gov. Code, § 7260 et seq.) and the regulations adopted by the Department (Cal. Code Regs., tit. 25, § 6000 et seq.). The Project budget shall include enough funds to pay all costs of relocation benefits and assistance, as identified in the relocation plan accepted by the Department. If the Project will not cause any displacement, the Sponsor must provide corroborating documentation to the Department for approval. If there is separate federal funding of the Project, the Sponsor shall comply with federal Uniform Relocation Act requirements to the extent applicable.

12. Site Control

Unless and except as otherwise expressly approved in writing by the Department or provided at Exhibit E to this Agreement, the Sponsor shall at all times have control of the property and such control shall not be contingent on the approval of any other party. The status and nature of the Sponsor’s title and interest in the property must be acceptable to the Department. Site control may be evidenced by one of the following:

A. Fee title.

B. A leasehold interest on the property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance with, and satisfaction of, all program objectives and requirements, including, without limitation, those set forth in this Agreement. If the Sponsor’s interest in the property is a leasehold, and the lessee and the lessor are affiliated or related parties, then the Department may require that both the lessee and the lessor must execute this Agreement.
EXHIBIT D

C. An executed disposition and development agreement, or irrevocable offer of dedication to a public agency.

D. A sales contract, or other enforceable agreement for the acquisition of the property. If this form of evidence was relied upon at the time of Application, the Department may impose additional Performance Milestones (e.g., presentation of additional or supplemental evidence of eventual site control closer to any projected close of escrow).

E. A letter of intent, executed by a sufficiently authorized signatory of the Sponsor, that expressly represents to the Department, without condition or reservation, that, upon successful application, the Sponsor shall purchase or otherwise acquire a sufficient legal interest in the property to accomplish the purpose of the award. The letter of intent must also be duly acknowledged by the party selling or otherwise conveying an interest in the subject property to the Sponsor. If this form of evidence was relied upon at the time of Application, the Department may impose additional Performance Milestones (e.g., presentation of additional or supplemental evidence of eventual site control closer to any projected close of escrow).

F. Other forms of site control that give the Department assurance (equivalent to A-E above) that the Sponsor will be able to complete the Project in a timely manner and in accordance with the Program’s objectives and requirements, including, without limitation, those set forth or referenced in this Agreement.

13. **Adaptability and Accessibility**

The Project shall comply with all applicable federal, state and local laws regarding adaptability and accessibility in the design, construction and rehabilitation of residential projects for persons with disabilities.

14. **Title Report**

Sponsor shall provide a current title report for the real property on which the Project is located. If Sponsor’s interest in the property is leasehold, then Sponsor shall provide a current title report for the leasehold interest and the fee interest.

15. **Title Insurance**

Sponsor shall provide evidence of title insurance and an ALTA As-Built Survey that are acceptable to the Department. The condition of title, the insurer, the liability amount, the form of policy, and the endorsements shall be subject to Department approval. The policy shall insure that Sponsor holds good and marketable title (fee simple or leasehold).
16. **Supportive Services Plan**

Where a project features on-site supportive services, Sponsor shall submit a supportive services plan to the Department for its review and approval. Such plan shall meet the Program Requirements.

17. **Non-Discrimination**

During Sponsor’s performance under this Agreement, Sponsor shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, gender identity, gender expression, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), genetic information, marital status, military and veteran status, and denial of medical and family care leave or pregnancy disability leave. Sponsor shall ensure that the evaluation and treatment of employees and applicants for employment are free from such discrimination and harassment. Sponsor shall comply with California’s laws against discriminatory practices relating to specific groups: the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.); the regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 11000 et seq.); and the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code, §§ 11135 - 11139.5). Sponsor shall give written notice of its obligations under this provision to labor organizations with which it has a collective bargaining or other agreement.

18. **Affirmative Fair Housing Marketing Plan and Fair Housing Compliance**

Sponsor shall develop and implement an affirmative fair housing marketing plan that is satisfactory to the Department. Appropriate aspects of the initial plan shall be incorporated into the ongoing management plan to ensure positive outreach and informational efforts to those who are least likely to know about and apply for Interim Housing or Permanent Housing. Sponsor is encouraged to refer to the guidelines for Affirmative Fair Housing Marketing Plans issued by the U.S. Department of Housing and Urban Development (“HUD”). Sponsor shall comply with all state and federal fair housing laws.

19. **Sponsor Acknowledgment of the Pet Friendly Housing Act of 2017**

By executing this Agreement, Sponsor acknowledges that the Pet Friendly Housing Act of 2017 (Health & Saf. Code, § 50466) requires each housing development, if it is financed on or after January 1, 2018 pursuant to Division 31 of the Health and Safety Code, to authorize a resident of the housing development to own or otherwise maintain one or more common household pets within the resident's dwelling unit, subject to applicable state laws and local governmental ordinances related to public health, animal control, and animal anticruelty.
20. **Final Certificate of Occupancy**

Sponsor shall provide a final certificate of occupancy (or an equivalent form of occupancy certification or approval) issued by the local agency having jurisdiction over such certificates.

21. **Occupancy**

The units shall be in decent, safe, and sanitary condition at the time of their occupancy. In addition, the Sponsor shall certify, upon occupancy, that it will employ the core components of Housing First (set forth at Health and Safety Code section 8255) as part of its property management and tenant selection practices.

22. **Reporting Requirements**

Sponsor shall submit expenditure and program reporting to the Department by February 1, 2021. Such reporting shall include the data outlined at Section 402 of the NOFA.

If Sponsor has received State General Fund moneys to fund a 24-month operating subsidy, Sponsor shall submit relevant expenditure reporting to the Department on January 31, 2021; July 31, 2021; January 31, 2022; and July 31, 2022. Such reporting shall include the data set forth at Section 402.i. – vi. of the NOFA.

23. **Use Restrictions and Affordability Covenants**

Either a use restriction or an affordability covenant shall be recorded against the Project real property, depending on the Project type. For Interim Housing Projects that will not result in permanent housing, the Department shall cause a 10-year use restriction to be recorded against the Project real property. For Interim Housing Projects that will ultimately result in permanent housing, the Local Public Entity shall cause a 10-year use restriction to be recorded against the Project real property. For Permanent Housing Projects, the Local Public Entity shall cause a 55-year affordability covenant to be recorded against the Project real property.

All use restrictions and affordability covenants shall require integration of the Target Population within all entrances, common areas, and buildings that comprise the Project.

All use restrictions and affordability covenants are subject to the advance written approval of the Department, and shall be acceptable to the Department in form, substance, and priority. Project-specific requirements and deadlines are set forth at Exhibit E of this Agreement.

24. **Restrictions on Sales, Transfers, and Encumbrances**

Sponsor shall not, for the duration of this Agreement, sell, assign, transfer, or convey the Project, or any interest therein or portion thereof, without the express prior written approval of the Department.

Homekey Program (Homekey)
NOFA Date: July 16, 2020
Approved Date: 8-03-2020
Prep. Date: [To maintain version control, insert the date of each draft version and the finalized document]
25. **Retention, Inspection, and Audit of Records**

Sponsor is responsible for maintaining records which fully disclose the activities funded by the Grant. Sponsor shall retain all records for a period of five (5) years after the expiration of this Agreement, unless a longer retention period is stipulated. If any litigation, claim, negotiation, audit, monitoring, inspection or other action commences during this required retention period, all records must be retained until a full and final resolution of the action.

The Department, as well as its appointees, employees, agents, and delegates, shall have the right to review, obtain, and copy all records pertaining to performance under this Agreement. Sponsor shall provide any relevant information requested, and shall permit access to its premises, upon reasonable notice and during normal business hours, for the purpose of interviewing employees and inspecting and copying books, records, accounts, and other relevant material.

At any time during the term of this Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the Project. At the Department’s request, the Sponsor shall provide, at its own expense, a financial audit prepared by a certified public accountant. The audit shall be performed by a qualified state, local, independent, or Department auditor. Where an independent auditor is engaged, the audit services agreement shall include a clause which permits the Department to have access to the independent auditor’s relevant papers, records, and work product.

If there are audit findings, the Sponsor shall submit a detailed response to the Department for each audit finding. The Department will review the response. If the Department determines, in its sole and absolute discretion, that the response is satisfactory, the Department will conclude the audit process and notify the Sponsor in writing. If the Department determines, in its sole and absolute discretion, that the response is not satisfactory, the Department will contact the Sponsor, in writing, and explain the action required to cure any audit deficiencies. Such action could include the repayment of ineligible costs or other remediation.

If so directed by the Department upon the termination or expiration of this Agreement, the Sponsor shall deliver all records, accounts, documentation, and other materials that are relevant to this Agreement to the Department as depository.

26. **Site Inspection**

The Department reserves the right, upon reasonable notice, to inspect the Project to determine whether it meets the Program Requirements. If the Department reasonably determines that the site is not acceptable for the Project in accordance with the Program Requirements, the Department reserves the right to rescind the award and the Grant. Nothing in this paragraph is intended to create or imply any obligation of the Department to inspect the Project.
27. **Compliance with State and Federal Laws, Rules, Guidelines, and Regulations**

Sponsor agrees to comply with all state and federal laws, rules, guidelines, and regulations that are applicable to the Project, including those that pertain to construction, health and safety, labor, fair employment practices, and equal opportunity.

28. **Updated Information**

If there is any change in the information that has been provided to the Department, Sponsor shall promptly provide the Department with updated documentation (e.g., updated sources and uses). All changes shall be subject to Department approval.

29. **Survival of Obligations**

The obligations of the Sponsor, as set forth in this Agreement, shall survive the termination or expiration of this Agreement.

30. **Litigation**

Sponsor shall notify the Department immediately of any claim or action undertaken by or against it which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement, the Program Requirements, the interests of the Department, and the objectives of the Homekey Program.

31. **Severability**

This Agreement constitutes the entire agreement between the Sponsor and the Department. All prior representations, statements, negotiations and undertakings with regard to the subject matter hereof are superseded hereby. 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 remaining terms and provisions of this Agreement, or the application of such terms or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

32. **Waivers**

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The Department's failure, at any time, to enforce the provisions of this Agreement or to require the Sponsor's performance under this Agreement shall in no way be construed as a waiver of such provisions or performance, and it shall not affect the validity of this Agreement or the Department's right to enforce this Agreement.
EXHIBIT D

33. Disputes

In the event of any conflict between this Agreement and any Sponsor documents or side agreements, this Agreement and the Program Requirements shall prevail, are applicable, and shall be enforceable by the Department even if the Department provided review or approval of such documents and side agreements.

34. Consent

The parties agree that wherever the consent or approval of the Department or Sponsor is required under this Agreement, such consent or approval shall not be unreasonably withheld, conditioned, or delayed, unless the same is specified as being in that party's sole and absolute discretion, or other words of similar import.

35. Sponsor Liability

Sponsor shall remain liable to the Department for performance under this Standard Agreement and compliance with all Program Requirements regardless of any Department-approved transfer or assignment of interest, or of any designation of a third party for the undertaking of all or any part of the Scope of Work. Likewise, each Co-Sponsor shall remain jointly and severally liable to the Department for performance under this Standard Agreement and compliance with all Program Requirements regardless of any Department-approved transfer or assignment of interest; any designation of a third party for the undertaking of all or any part of the Scope of Work; or the Co-Sponsors' identification of a Designated Payee.

36. Defense and Indemnification

Sponsor agrees to defend, indemnify, and hold harmless the Department, and its appointees, agents, employees, and officers, from any losses, damages, liabilities, claims, actions, judgments, court costs and legal or other expenses (including attorneys' fees), which may arise in connection with Sponsor's use of the Grant funds and performance under this Agreement. If any attorney, including the California Attorney General, is engaged by the Department to enforce, construe, or defend any provision of this paragraph, with or without the filing of any legal action or proceeding, Sponsor shall, individually or jointly, pay to the Department, immediately upon demand, the amount of all attorneys' fees and costs incurred by the Department in connection therewith.

37. Time Is of the Essence

Time is of the essence under this Agreement, and in the performance of every term, covenant, and obligation contained herein.
EXHIBIT E

PROJECT-SPECIFIC PROVISIONS AND SPECIAL TERMS AND CONDITIONS

A. PROJECT-SPECIFIC PROVISIONS

1. Project Description
   i. Identify the Grant Amount.
   ii. Identify the payee or the Designated Payee.
   iii. Identify the Eligible Use of the Grant funds.
   iv. Identify the street address and assessor’s parcel number (APN) of the Project site(s).
   v. Include additional information about the Project. Examples include, but are not limited to, the following:
      a) Unit mix chart.
      b) A description of how the Project will address racial equity and inequities for the Target Population (if Sponsor received points for this showing under Section 204, Table 7, Item 3 of the NOFA).
      c) A description of the Project’s proximity to transit (if Sponsor received points for this feature under Section 204, Table 7, Item 4 of the NOFA).
      d) A description of the alternative transportation service available at the Project site (if Sponsor received points for this feature under Section 204, Table 7, Item 4 of the NOFA).
      e) A description of the Project’s proximity to essential services (if Sponsor received points for this feature under Section 204, Table 7, Item 4 of the NOFA).

2. Scope of Work
   i. Include a clear, precise description of the work to be performed; the services to be provided; and the goals and objectives to be met.

3. Sponsor Contract Coordinator

<table>
<thead>
<tr>
<th>Authorized Representative Name:</th>
<th>Insert Name Here</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorized Representative Title:</td>
<td>Insert Title Here</td>
</tr>
<tr>
<td>Entity Name:</td>
<td>Insert Name Here</td>
</tr>
<tr>
<td>Address:</td>
<td>Insert Contact Info Here</td>
</tr>
<tr>
<td>Phone No.:</td>
<td>Insert Contact Info Here</td>
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</tbody>
</table>

Homekey Program (Homekey)
NOFA Date: July 16, 2020
Approved Date: 8-03-2020
Prep. Date: [To maintain version control, insert the date of each draft version and the finalized document]
4. **Budget Detail**  
   i. DFA: Insert specific budget detail (e.g., sources and uses, other funding sources).

5. **Conditions Precedent to Disbursement**  
   i. Insert conditions precedent to disbursement that are specific to this Project.

6. **Performance Milestones**  
   i. Please insert a customized list of Performance Milestones that are critical to the Project. A sample list is set forth below for informational guidance only.

<table>
<thead>
<tr>
<th>Performance Milestones</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site control of Project site.</td>
<td></td>
</tr>
<tr>
<td>Completion of all necessary environmental clearances.</td>
<td></td>
</tr>
<tr>
<td>Obtaining all discretionary public land use approvals that are required, notwithstanding Health and Safety Code section 50675.1.1, subdivision (g).</td>
<td></td>
</tr>
<tr>
<td>Obtaining all enforceable funding commitments.</td>
<td></td>
</tr>
<tr>
<td>Satisfaction of all conditions of disbursement set forth at Exhibit B.</td>
<td></td>
</tr>
<tr>
<td>Program funds fully disbursed.</td>
<td></td>
</tr>
<tr>
<td>Satisfaction of occupancy timeline.</td>
<td></td>
</tr>
<tr>
<td>Sponsor's submission of certification that it will employ the core components of Housing First (set forth at Health and Safety Code section 8255) as part of its property management and tenant selection practices.</td>
<td></td>
</tr>
<tr>
<td>Recordation of a 10-year use restriction by the Local Public Entity [for Interim Housing Projects that will convert to permanent housing]</td>
<td></td>
</tr>
<tr>
<td>Recordation of a 55-year affordability covenant by the Local Public Entity [for Permanent Housing Projects]</td>
<td></td>
</tr>
<tr>
<td>Submission of expenditure and program reporting</td>
<td>Feb. 1, 2021</td>
</tr>
<tr>
<td>Performance Milestones</td>
<td>Date</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Submission of expenditure reporting in connection with 24-month operating subsidy</td>
<td>Jan. 31, 2021</td>
</tr>
<tr>
<td></td>
<td>July 31, 2021</td>
</tr>
<tr>
<td></td>
<td>Jan. 31, 2022</td>
</tr>
<tr>
<td></td>
<td>July 31, 2022</td>
</tr>
</tbody>
</table>

**B. SPECIAL TERMS AND CONDITIONS**

The following Special Terms and Conditions are applicable to this Project and shall control notwithstanding anything to the contrary herein:
50675.1.2.  

(a) Notwithstanding any other law, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to any project, including a phased project, funded pursuant to Section 50675.1.1 if all of the following requirements, if applicable, are satisfied:

(1) No units were acquired by eminent domain.
(2) The units will be in decent, safe, and sanitary condition at the time of their occupancy.
(3) The project proponent shall require all contractors and subcontractors performing work on the project to pay prevailing wages for any rehabilitation, construction, or alterations in accordance with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.
(4) The project proponent obtains an enforceable commitment that all contractors and subcontractor performing work on the project will use a skilled and trained workforce for any rehabilitation, construction, or alterations in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.
(5) The project proponent submits to the lead agency a letter of support from a county, city, or other local public entity for any rehabilitation, construction, or alteration work.
(6) Any acquisition is paid for exclusively by public funds.
(7) The project provides housing units for individuals and families who are experiencing homelessness or who are at risk of homelessness.
(8) Long-term covenants and restrictions require the units to be restricted to persons experiencing homelessness or who are at risk of homelessness, which may include lower income, and very low income households, as defined by Section 50079.5, for no fewer than 55 years.
(9) The project does not increase the original footprint of the project structure or structures by more than 10 percent. Any increase to the footprint of the original project structure or structures shall be exclusively to support the conversion to housing for the designated population, including, but not limited to, both of the following:
   (A) Achieving compliance with local, state, and federal requirements.
   (B) Providing sufficient space for the provision of services and amenities.

(b) If the lead agency determines that a project is not subject to the California Environmental Quality Act pursuant to this section, and the lead agency determines to approve or to carry out that project, the lead agency shall file a notice of exemption with the Office of Planning and Research and the county clerk of the county in which the project is located in the manner specified in subdivisions (b) and (c) of Section 21152 of the Public Resources Code.

(c) This section shall only apply to a project for which the initial application to the city, county, or city and county where the project is located was submitted on or before April 30, 2021.

(d) This section shall be repealed on July 1, 2021.

(Added by Stats. 2020, Ch. 15, Sec. 22. (AB 83) Effective June 29, 2020. Repealed as of July 1, 2021, by its own provisions.)
26227.

The board of supervisors of any county may appropriate and expend money from the general fund of the county to establish county programs or to fund other programs deemed by the board of supervisors to be necessary to meet the social needs of the population of the county, including but not limited to, the areas of health, law enforcement, public safety, rehabilitation, welfare, education, and legal services, and the needs of physically, mentally and financially handicapped persons and aged persons.

The board of supervisors may contract with other public agencies or private agencies or individuals to operate those programs which the board of supervisors determines will serve public purposes. In the furtherance of those programs, the board of supervisors may make available to a public agency, nonprofit corporation, or nonprofit association any real property of the county which is not and, during the time of possession, will not be needed for county purposes, to be used to carry out the programs, upon terms and conditions determined by the board of supervisors to be in the best interests of the county and the general public, and the board of supervisors may finance or assist in the financing of the acquisition or improvement of real property and furnishings to be owned or operated by any public agency, nonprofit corporation, or nonprofit association to carry out the programs, through a lease, installment sale, or other transaction, in either case without complying with any other provisions of this code relating to acquiring, improving, leasing, or granting the use of or otherwise disposing of county property.

A program may consist of a community support program including a charitable fund drive conducted in cooperation with one or more nonprofit charitable organizations if the board of supervisors deems a program will assist in meeting the social needs of the population of the county. If the board establishes a program, the officers and employees of the county shall have the authority to carry out the program, using county funds and property if authorized by the board. During working hours, a program may include direct solicitation by county officers and employees and the assignment of officers and employees to attend or assist in the administration of program activities if authorized by the board.

(Amended by Stats. 1991, Ch. 452, Sec. 1. Effective September 27, 1991.)
Property Number 1

7161 Katella Avenue, Stanton. Parcel Numbers 079-762-61 and 079-762-26
Property No. 2
11850 Beach Boulevard, Stanton
Parcel number 131-241-12
AFFIDAVIT OF PUBLICATION

I am a citizen of the U.S., over the age of 18, resident of Orange County and not a party to the action upon which publication is being made. My business address is 333 W. Santa Ana Blvd., Suite 465, Santa Ana, CA 92701. I ordered publication of the attached notices. Said notice has been order to publish in the OC Reporter a newspaper of general circulation in the County of Orange, to publish on the following dates: 9/29/20, 10/5/20 & 10/12/20.

I declare under penalty of perjury that the foregoing is true and correct.
Executed at Santa Ana, California on 9/24/20 (date).

By: Dora Guillen
Senior Board Services Specialist
Clerk of the Board of Supervisors

(Signature)
NOTICE OF INTENT TO ACQUIRE REAL PROPERTY
(Cal. Gov't Code Sec. 6063)
The Orange County Board of Supervisors intends to acquire real property located at 7161 Katella Avenue, Stanton, CA consisting of a motel building. Purchase price: $7,300,000.00.
Seller: GLOBAL STUDENT HOUSING, LLC, DBA STANTON INN & SUITES.
The Board of Supervisors will meet on 10/20/2020, 9:30 a.m. at 10 Civic Center Plaza, Santa Ana, CA to consider the acquisition.
09/28/2020; 10/05/2020; 10/12/2020
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AFFIDAVIT OF PUBLICATION

I am a citizen of the U.S., over the age of 18, resident of Orange County and not a party to the action upon which publication is being made. My business address is 333 W. Santa Ana Blvd., Suite 465, Santa Ana, CA 92701. I ordered publication of the attached notices. Said notice has been order to publish in the OC Reporter, a newspaper of general circulation in the County of Orange, to publish on the following dates: 9/29/20, 10/5/20 & 10/12/20.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Santa Ana, California on 9/24/20 (date).

By: Dora Guillen
Senior Board Services Specialist
Clerk of the Board of Supervisors

(Signature)
NOTICE OF INTENT TO ACQUIRE REAL PROPERTY
(Cal. Gov't Code Sec. 6063)
The Orange County Board of Supervisors intends to acquire real property located at 11850 Beach Blvd., Stanton, CA consisting of a motel building. Purchase price: $9,500,000.00. Seller: BALUBHAI GOPAL PATEL, as trustee of the BALUBHAI PATEL REVOCABLE TRUST, dated March 14, 2007. The Board of Supervisors will meet on 10/20/2020, 9:30 a.m. at 10 Civic Center Plaza, Santa Ana, CA to consider the acquisition.
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CERTIFICATION
I HEREBY CERTIFY THAT A BRIEF GENERAL DESCRIPTION OF Notice of Intent WAS POSTED FOR PUBLIC REVIEW ON 9/28/2020 AT 10AM

CLERK OF THE BOARD OF SUPERVISORS COUNTY OF ORANGE

[Signature]

[Title]
MEMORANDUM FOR:        All Potential Applicants

FROM:                    Jennifer Seeger, Acting Deputy Director
                        Division of Financial Assistance

SUBJECT:                 NOTICE OF FUNDING AVAILABILITY
                        HOMEKEY PROGRAM

July 16, 2020

The California Department of Housing and Community Development (Department) is pleased to announce the availability of approximately $600 million of Homekey Program (Homekey) grant funding through this Notice of Funding Availability (NOFA). Building on the success of Project Roomkey, Homekey is a statewide effort to rapidly sustain and expand housing for persons experiencing homelessness and impacted by COVID-19.

Of the $600 million in Homekey funding, $550 million is derived from the state's direct allocation of the federal Coronavirus Relief Fund (CRF) and $50 million is state General Fund. The $50 million in state General Fund money is intended to supplement the acquisition of, and provide initial operating subsidies for, Homekey sites to promote Project feasibility. Accordingly, the Department will use these moneys to fund 24-month operating subsidies. Projects receiving an award from the state's direct allocation of the federal CRF must expend the funds by December 30, 2020. The portion of a Project's award associated with state General Fund must be expended by June 30, 2022. Depending on the funding award, the successful applicant must close escrow by the expenditure deadline.

Due to the Homekey expenditure deadline, and the potential for program oversubscription, eligible applicants are encouraged to submit their completed application as soon as possible. The Department will begin accepting applications on an over-the-counter basis on or about July 22, 2020. Review will be prioritized based on tiered criteria and date of submission. Applicants must submit a complete online application available at https://www.hcd.ca.gov/grants-funding/active-funding/homekey.shtml.

On July 24, 2020, the Department will hold a webinar to review the Homekey NOFA and application process. To register, please go to the Department's Homekey webpage. To receive information on the workshop and other updates, please subscribe to the Department’s Homelessness Prevention Programs listserv at http://www.hcd.ca.gov/HCD_SSI/subscribe-form.html.

If you have any questions, please submit them to Homekey@hcd.ca.gov.
Homekey Program

2020 Notice of Funding Availability

State of California

Governor Gavin Newsom

Lourdes M. Castro Ramirez, Secretary

Business, Consumer Services and Housing Agency

Gustavo Velasquez, Director

Department of Housing and Community Development

2020 West El Camino Avenue, Sacramento, CA 95833 Telephone: (916) 263-2771

Website: https://www.hcd.ca.gov/grants-funding/active-funding/homekey.shtml

Homekey Program Email: Homekey@hcd.ca.gov

July 16, 2020
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Article I – Program Overview

Section 100. Notice of Funding Availability (NOFA)

The California Department of Housing and Community Development (Department) is announcing the availability of approximately $600 million in Homekey funding to rapidly sustain and expand the inventory of housing for people experiencing homelessness or at risk of homelessness and impacted by COVID-19. The COVID-19 pandemic has exacerbated existing community needs and inequalities. In many communities, homelessness was already experienced disproportionately by race and other protected classes and persons experiencing homelessness are at increased risk of infection and death due to COVID-19. The Centers for Disease Control and Prevention is also reporting that evidence points to disproportionate impacts by race and ethnicity for COVID-19 hospitalization and death. As of June 12, age-adjusted hospitalization rates are highest among non-Hispanic American Indian or Alaska Native (5 times white persons) and non-Hispanic Black persons (5 times white persons), followed by Hispanic or Latino persons (4 times white persons).

Homekey is an opportunity for local public agencies to purchase motels and a broad range of other housing types in order to increase their community's capacity to respond to homelessness and the current COVID-19 pandemic. While Homekey builds off the success of Project Roomkey, applications are not limited to Project Roomkey sites.

Of the $600 million in Homekey grant funds, $550 million is derived from the state’s direct allocation of the federal Coronavirus Aid Relief Funds (CRF) and $50 million is derived from the state’s General Fund to supplement the acquisition of and to provide initial operating subsidies for, Homekey sites.

Each Homekey allocation has the following expenditure deadlines:

- **The $550 million in CRF must be expended by December 30, 2020.** The Department recognizes this expenditure deadline is challenging; however, the deadline is a requirement of federal CRF funding. The Department will provide ongoing support to assist Grantees in meeting the expenditure deadline and has already developed an accelerated application and award process.

  NOTE: For Projects that involve an acquisition and are receiving CRF awards, Grantees must expend the funds by the expenditure deadline and the Project escrow must be closed by December 30, 2020.

- **The $50 million in state General Funds must be expended by June 30, 2022.**

Section 101. Purpose and Program Objectives

The purpose of the Homekey program is to provide grant funding to Eligible Applicants and facilitate a partnership with the state to quickly acquire or rehabilitate or master lease a
variety of housing types. Once developed, these projects will provide interim or permanent housing options for persons experiencing homelessness and who are also at risk of COVID-19. For this NOFA, people experiencing homelessness or who are at risk of experiencing homelessness are considered inherently “impacted by COVID-19,” as they are most likely to have a lower life expectancy, be at a higher risk of infectious and chronic illness, and suffer from substance abuse and poor health. The Target Population may also have the same underlying medical conditions that result in increased risk for severe illness from COVID-19. Additionally, Homekey recognizes the disproportionate racial impacts of homelessness and COVID-19 and encourages Eligible Applicants to examine disproportionate impact in their own communities and to develop strategies to address these impacts.

Section 102. Authorizing Legislation and Applicable Law

Assembly Bill No. 83 (2019-2020 Reg. Sess.) created the statutory basis for Homekey by adding section 50675.1.1 to the Health and Safety Code and exempted certain Homekey Projects from the California Environmental Quality Act (CEQA) by adding section 50675.1.2 to the Health and Safety Code.

Health and Safety Code section 50675.1.1, subdivision (d) states, “The Department of Housing and Community Development may adopt guidelines for the expenditure of the funds appropriated to the Department [for Homekey]. The guidelines shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.”

The Multifamily Housing Program (MHP) (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code), and as subsequently amended, is hereby incorporated by reference. In accordance with Health and Safety Code section 50675.1.1, subdivision (c), in the event of a conflict between this NOFA and the Multifamily Housing Program, the provisions of this NOFA are controlling.

The MHP Final Guidelines (MHP Guidelines), effective June 19, 2019, and as subsequently amended, are hereby incorporated by reference. In the event of a conflict between any of the MHP Guidelines and this NOFA, the provisions of this NOFA are controlling.

This NOFA establishes the terms, conditions, forms, procedures, and other mechanisms that the Department deems necessary to exercise its powers and to perform its duties pursuant to MHP in relation to Homekey.

The Department reserves the limited right to amend this NOFA after the close of the application period. Such right does not extend to material provisions of the application submission, review, and award process (e.g., scoring and tiering criteria). Post-NOFA amendments will take immediate effect and will govern the Standard Agreement process. After Standard Agreements have been executed, the Department will only amend this NOFA as necessary to provide clarification or to avoid a conflict of law.

The matters set forth herein are regulatory mandates and are adopted as regulations that have the dignity of statutes (Ramirez v. Yosemite Water Company, Inc. (1999) 20 Cal.4th 785, 799 [85 Cal.Rptr.2d 844]).
Section 103. Program Timeline

Homekey funds will be initially available to Eligible Applicants on an over-the-counter basis. Applications will be accepted from the release of this NOFA until September 29, 2020. The Department is also reserving a priority application period to allow for geographic equity in the disbursement of funds. The following table summarizes the Homekey program anticipated timeline.

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOFA release</td>
<td>July 16, 2020</td>
</tr>
<tr>
<td>Stakeholder Call</td>
<td>July 16, 2020</td>
</tr>
<tr>
<td>Stakeholder Webinar</td>
<td>July 24, 2020</td>
</tr>
<tr>
<td>Pre-application consultations and the priority application period</td>
<td>July 16 – August 13, 2020</td>
</tr>
<tr>
<td>Final application due date</td>
<td>September 29, 2020</td>
</tr>
<tr>
<td>Award announcements</td>
<td>Rolling (Starting August 2020)</td>
</tr>
<tr>
<td>Final awards issued</td>
<td>October 2020</td>
</tr>
<tr>
<td>Standard agreements mailed</td>
<td>Upon submittal of required information and documentation</td>
</tr>
<tr>
<td>The Department redeploy unutilized funds</td>
<td>November 2020</td>
</tr>
<tr>
<td>CRF expenditure deadline</td>
<td>December 30, 2020</td>
</tr>
<tr>
<td>Grantee Expenditure and Program Report</td>
<td>Feb 1, 2021</td>
</tr>
<tr>
<td>State General Funds expenditure deadline</td>
<td>June 30, 2022</td>
</tr>
</tbody>
</table>

The Department reserves the right to make adjustments to the projected timeline at any time.

Article II. Application Submission, Review, and Award Process

Section 200. Application Process Overview

The Homekey application is available electronically on the Homekey webpage. The Department anticipates releasing the Homekey application on or about July 22, 2020.

i. Applications for this NOFA will be received and reviewed on a rolling, over-the-counter basis until the CRF and the state General Fund moneys are committed.

ii. Applications will be prioritized as described in Section 202.

iii. The Department will evaluate applications for compliance with the minimum program requirements set forth in Section 304 and depending on the proposed Project Applicants should review requirements in Sections 304, 305, and 306. See the Homekey Application Process Flowchart at the end of this Section.
iv. After each Applicant has been certified to meet the minimum program requirements, to be considered for a funding award, each Project must receive a minimum overall score of 110 points, as outlined in Section 204.

v. The Department reserves the right to do the following:

a. Score an application as submitted even if information is missing from the application; and/or

b. Request clarification of unclear or ambiguous statements made in an application or request additional clarifying documentation or information.

Chart 1: Homekey Application Process Flowchart

Section 201. Pre-Application Consultation and Technical Assistance

The Department requires all Applicants to engage in a pre-application consultation with the Department and/or the Department of General Services (DGS) prior to submitting an application. The consultation will allow the prospective Applicant to discuss the proposed Project, along with other applicable programmatic considerations, including those related to site acquisition, CEQA, land use and land entitlements, and long-term financing approaches. Application consultations will be available upon the release of this NOFA and may be requested by emailing Homekey@hcd.ca.gov.
Section 202. Geographic Distribution and Project Prioritization

COVID-19 impacts people who are experiencing or who are at risk of homelessness throughout California. As such, the Department would like to ensure jurisdictions throughout the state have an equitable opportunity to apply for Homekey funds to protect the health and safety of their most vulnerable residents.

To this end, the Department has divided the state into eight regions, as outlined in Table 2, below. The regions are largely aligned with the various Councils of Government (COGs). As detailed in Table 2, 3, and 4 below, each region has funding reserved on a time-limited basis during the priority application period. Each region’s share of the Homekey allocation is calculated based on its proportionate share of the persons experiencing homelessness of both the sheltered and unsheltered 2019 Homeless Point-in-Time counts and extremely low-income (ELI) renter households that are paying more than 50 percent of their income for rent.

Table 2: Homekey Counties by Region

<table>
<thead>
<tr>
<th>Counties by Geographic Distribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Los Angeles County</td>
</tr>
<tr>
<td>Bay Area</td>
</tr>
<tr>
<td>Alameda</td>
</tr>
<tr>
<td>Contra Costa</td>
</tr>
<tr>
<td>Marin</td>
</tr>
<tr>
<td>Napa</td>
</tr>
<tr>
<td>San Francisco</td>
</tr>
<tr>
<td>San Mateo</td>
</tr>
<tr>
<td>Santa Clara</td>
</tr>
<tr>
<td>Solano</td>
</tr>
<tr>
<td>Sonoma</td>
</tr>
<tr>
<td>San Joaquin Valley</td>
</tr>
<tr>
<td>Fresno</td>
</tr>
<tr>
<td>Kern</td>
</tr>
<tr>
<td>Kings</td>
</tr>
<tr>
<td>Madera</td>
</tr>
<tr>
<td>Merced</td>
</tr>
<tr>
<td>San Joaquin</td>
</tr>
<tr>
<td>Stanislaus</td>
</tr>
<tr>
<td>Tulare</td>
</tr>
<tr>
<td>Central Coast</td>
</tr>
<tr>
<td>Monterey</td>
</tr>
<tr>
<td>San Benito</td>
</tr>
<tr>
<td>San Luis Obispo</td>
</tr>
<tr>
<td>Santa Barbara</td>
</tr>
<tr>
<td>Santa Cruz</td>
</tr>
<tr>
<td>Balance of State (Cont.)</td>
</tr>
<tr>
<td>Mendocino</td>
</tr>
<tr>
<td>Modoc</td>
</tr>
<tr>
<td>Mono</td>
</tr>
<tr>
<td>Nevada</td>
</tr>
<tr>
<td>Plumas</td>
</tr>
<tr>
<td>Shasta</td>
</tr>
<tr>
<td>Sierra</td>
</tr>
<tr>
<td>Siskiyou</td>
</tr>
<tr>
<td>Tehama</td>
</tr>
<tr>
<td>Trinity</td>
</tr>
<tr>
<td>Tuolumne</td>
</tr>
<tr>
<td>Southern California (w/o LA)</td>
</tr>
<tr>
<td>Imperial</td>
</tr>
<tr>
<td>Orange</td>
</tr>
<tr>
<td>Riverside</td>
</tr>
<tr>
<td>San Bernardino</td>
</tr>
<tr>
<td>Ventura</td>
</tr>
<tr>
<td>Sacramento Area</td>
</tr>
<tr>
<td>Amador</td>
</tr>
<tr>
<td>El Dorado</td>
</tr>
<tr>
<td>Placer</td>
</tr>
<tr>
<td>Sacramento</td>
</tr>
<tr>
<td>Sutter</td>
</tr>
<tr>
<td>Yolo</td>
</tr>
<tr>
<td>Yuba</td>
</tr>
</tbody>
</table>

Table 3: Estimated Homekey Allocations by Region

<table>
<thead>
<tr>
<th>Geographic Regions</th>
<th>PIT Count</th>
<th>Severely Rent-burdened ELI</th>
<th>CRF Allocation</th>
<th>GF Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Los Angeles County</td>
<td>58,936</td>
<td>415,970</td>
<td>$161,572,217</td>
<td>$14,688,383</td>
</tr>
<tr>
<td>SF Bay Area</td>
<td>35,028</td>
<td>213,910</td>
<td>$91,134,470</td>
<td>$8,284,952</td>
</tr>
<tr>
<td>Southern California (w/o LA)</td>
<td>15,360</td>
<td>200,095</td>
<td>$55,577,540</td>
<td>$5,052,504</td>
</tr>
<tr>
<td>San Joaquin Valley</td>
<td>10,271</td>
<td>105,370</td>
<td>$32,987,450</td>
<td>$2,998,859</td>
</tr>
<tr>
<td>Central Coast</td>
<td>8,439</td>
<td>38,395</td>
<td>$20,025,927</td>
<td>$1,820,539</td>
</tr>
<tr>
<td>Sacramento Area</td>
<td>8,381</td>
<td>73,780</td>
<td>$25,125,077</td>
<td>$2,284,098</td>
</tr>
<tr>
<td>San Diego County</td>
<td>8,102</td>
<td>94,480</td>
<td>$27,690,283</td>
<td>$2,517,298</td>
</tr>
<tr>
<td>Balance of State</td>
<td>7,254</td>
<td>32,140</td>
<td>$17,087,036</td>
<td>$1,553,367</td>
</tr>
</tbody>
</table>
Two percent (2%) of the $550 million in Homekey funds is for Department administrative costs. Twenty percent (20%) of the remaining $550 million in Homekey funds is being held back by the Department to ensure there is adequate flexibility to issue awards expediently.

<table>
<thead>
<tr>
<th>Funding Categories</th>
<th>CRF</th>
<th>General Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Homekey Allocation</td>
<td>$550,000,000</td>
<td>$50,000,000</td>
</tr>
<tr>
<td>Administrative at 2%</td>
<td>$11,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Discretionary Set Aside at 20%</td>
<td>$107,800,000</td>
<td>$9,800,000</td>
</tr>
<tr>
<td>Total Geographic Regional Allocation</td>
<td>$431,200,000</td>
<td>$39,200,000</td>
</tr>
</tbody>
</table>

Eligible Applicants who apply within the 30-day priority application period will be grouped into one of the eight geographic regions. The Department will further sort the applications into one of two tiers.

**Tier One:**
1. Tier One applications will be those Projects that: (1) can be occupied within 90 days from the date of acquisition; and (2) are permanent housing or will result in permanent housing as indicated on the application; or

2. Tier One projects include Projects that can be occupied within 90 days and used for Interim Housing, provided the project is expected to be developed into permanent housing at a later date **OR** Interim Housing with a coordinated exit strategy adopted by the Continuum of Care to support transitions into other permanent housing. Interim Housing projects shall submit a letter of support from the local Continuum of Care that demonstrates the coordinated exit strategy of the Target Population.

**Tier Two:**

Tier Two projects are all other Projects and uses, including housing that will be used for interim only and with no expectation of development into permanent housing.

For Projects received within the priority application period, the Department will award Tier One projects meeting the program requirements on a rolling basis, up to the regional cap, on a first-come, first-served basis. Tier Two projects meeting the program requirements will be waitlisted and awarded funding if funds are available, after the priority application period, according to the date stamp. Applications that were received after the priority application period, and that met the specified program requirements, will be awarded according to date stamp, as funds are available.

The Department can reimburse eligible Homekey expenditures that occurred prior to the release of this NOFA. Applicants are encouraged to discuss their options at the required pre-application consultation described in Section 201.

The following table summarizes the Homekey application prioritization process and timeline.
Table 5: Anticipated Homekey Application Prioritization Timeline

<table>
<thead>
<tr>
<th>Applications</th>
<th>Priority Application Review Period</th>
<th>Review Period 2 August 14 - September 29</th>
<th>September 30 – December 30, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sorted by:</td>
<td>Sorted by date stamp only</td>
<td>No applications submitted during this period will be accepted.</td>
</tr>
<tr>
<td></td>
<td>a. Regions</td>
<td>(not by region or tier)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>b. Within Regions, by Tier One or Two</td>
<td>Note: These applications will be put on a waitlist, and not sorted by Region or Tier.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>c. Within Tiers, by a date stamp</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Awards</td>
<td>Pre-application consultations and application review period.</td>
<td>For applications received through August 13, the Department will continue awarding Tier One projects meeting the Homekey program requirements on a rolling basis, up to the cap for the region. If these Tier One projects are undersubscribed, the Department will award qualified Tier Two projects. If the Tier Two projects are oversubscribed, the Department will award according to date stamp. If Tier Two projects are undersubscribed, The Department will proceed with awards in the following order: a. Any waitlisted applications from other regions received up to August 13, by tier and date stamp. b. Any waitlisted applications received on August 14 or later, by date stamp. For any tiebreaker needed (e.g., applications received on the same date), the Department will use ability to spend quickly, followed by PIT count, then leverage.</td>
<td></td>
</tr>
</tbody>
</table>

**Section 203. Maximum Grant Amounts**

For acquisition projects, Homekey will generally fund up to $100,000 per door, as supported by an appraisal. "Door" refers to the number of units at the time of the acquisition, which may differ from the number of units after a future conversion. For those projects that undergo a future conversion, the number of units may need to be reduced to accommodate kitchenettes and other amenities.

The Department recognizes that some acquisitions may have a higher per-door appraised value in certain high-cost areas. Some properties may also have a higher per-door value because they need less upfront work and already have the necessary amenities to support permanent housing solutions—for example, units with kitchenettes.

To support these efforts, the Department will accept requests from Tier One projects up to $200,000 per door. However, for this $200,000 per door maximum, the following applies:

i. The Department will contribute the first $100,000 per door of the Homekey proposed Project. This contribution does not require a local match.
ii. The Eligible Applicant will be required to contribute an identical match of $50,000 or a 1:1 local match to receive an additional $50,000 contribution from the Homekey program.

iii. The Eligible Applicants will be required to contribute $100,000 or a 2:1 local match to receive an additional $50,000 contribution from the Homekey program.

<table>
<thead>
<tr>
<th>Homekey</th>
<th>Eligible Applicant Contribution</th>
<th>Total Per Door</th>
</tr>
</thead>
<tbody>
<tr>
<td>FIRST $ 100,000</td>
<td>No Match Required</td>
<td>$100,000</td>
</tr>
<tr>
<td>NEXT $ 50,000 (TIER ONE PROJECTS)</td>
<td>1:1, Up to $50,000</td>
<td>$200,000</td>
</tr>
<tr>
<td>NEXT $ 50,000 (TIER ONE PROJECTS)</td>
<td>2:1, Up to $100,000</td>
<td>$350,000</td>
</tr>
</tbody>
</table>

Eligible Applicants can request the highest state contribution of Homekey funds if they meet the following criteria:

i. The proposed Project meets the Tier One category specified in Section 202.

ii. The proposed Project is close to permanent occupancy, or there is a clear demonstration of occupying the units with tenants from the Target Population within 90 days of acquisition, e.g., higher purchase price with minimal rehabilitation needed.

iii. The Department may consider additional criteria unique to the proposed Project that reduce the overall cost of a project when future rehabilitation needs are considered, support catalytic investments in disadvantaged communities without causing displacement, and affirmatively further fair housing.
**Section 204. Application Scoring Criteria**

Applications meeting the minimum program requirements outlined in Article III will require a **minimum score of 110 points to be eligible for funding**. Scores will be based on the following:

**Table 7: Homekey Application Scoring Criteria**

<table>
<thead>
<tr>
<th>Homekey Application Scoring Categories and Max Point Scores</th>
<th>Evaluation Criteria</th>
</tr>
</thead>
</table>
| 1. Ability to expend funds by December 30, 2020. (Up to 50 points) | a. Identification of the site suitable for development and evidence of site control, or a plan and timeline for obtaining site control along with other supporting evidence (e.g., letter of intent, an exclusive negotiating agreement, ground lease, etc.). *(Up to 20 points)*  
   b. A proposed development vision that identifies the financial and regulatory mechanisms to be used to maintain the ongoing affordability of the Project. *(Up to 20 points)*  
   c. An overview of the planned and timeline for any required entitlements, permits, environmental clearances. *(Up to 10 points)* |
| 2. Demonstration of the development team’s experience and capacity to acquire and operate the Project. (Up to 40 points) | a. Demonstration of the development’s team experience to acquire and/or rehabilitate and operate the project. *(Up to 10 points)*  
   b. A map of how the development team is connected and a description of how the team will work together, e.g., MOU, etc. *(Up to 10 points)*  
   c. Development, ownership, or operation of a project similar in scope and size to the proposed Project. *(Up to 10 points)*  
   d. The extent to which the Project can demonstrate the range of on-site and off-site supportive services that will be provided to the target population, e.g., mental health services, substance use disorder services, primary health, employment, and other tenancy support services. *(Up to 10 points)* |
| 3. A demonstration of how the Project will address racial equity, other systemic inequities, state and federal accessibility requirements, and serve members of the Target Population. (Up to 25 points) | a. Eligible Applicant shall provide non-discrimination statement per Section 311, which references the Fair Employment and Housing Act. The Fair Employment and Housing Act is supported by accompanying regulations, 2 CCR Section 12005 et seq, covering tenant screening and affirmative marketing requirements. Eligible Applicant will also include a description of how the Project will address racial equity and inequities for the target population, including any local disproportionate impact of COVID-19 and homelessness by race and other protected classes. The description should include supporting evidence of the strategies’ effectiveness if available. *(Up to 15 points)*  
   b. The extent to which the Project exceeds the state and federal accessibility requirements set forth Section 311, specifically providing a minimum of 10 percent of units with features accessible to persons with mobility disabilities, as defined in 24 C.F.R. Section 8.22 and the parallel ADAAG 2010 and CBC provisions, and a minimum of 4 percent of units with features accessible to persons with hearing or vision disabilities, as defined in 24 C.F.R. Section 8.22 and the parallel ADAAG 2010 and CBC Chapter 11B provisions. *(Up to 5 points)* |
<table>
<thead>
<tr>
<th>Homekey Application Scoring Categories and Max Point Scores</th>
<th>Evaluation Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>c. The Applicant or development team has three or more years of experience serving persons of the target population.</td>
</tr>
<tr>
<td></td>
<td>a. The extent to which the Eligible Applicant can demonstrate the Project's impact on the community as demonstrated by a reduction of at least 5 percent of the local 2019 Point-in-Time Count.</td>
</tr>
<tr>
<td></td>
<td>b. The proposed Project is a Tier One project and requires no rehabilitation, or the rehabilitation and the occupancy can be completed within 30 days after acquisition.</td>
</tr>
<tr>
<td></td>
<td>c. The Project is expected to acquire and maintain 100 or more units for the target population.</td>
</tr>
<tr>
<td></td>
<td>d. For any Project below $350,000 per door, if the Eligible Applicant contributes more than a minimum match outlined in Table 5, above, the application will receive one (1) extra point for every additional 5% per door contributed to the Project. For example, for an acquisition that costs $100,000 per door, the Applicant will receive 1 extra point for every $5,000 per door in match contributed.</td>
</tr>
<tr>
<td></td>
<td>e. Site Selection</td>
</tr>
<tr>
<td></td>
<td>The project site is located within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop. Commuter rail station, ferry terminal, bus station, or public bus stop OR the project includes an alternative transportation service for residents (e.g., van or dial-a-ride service), if costs of obtaining and maintaining the van and its service are included in the budget and the operating schedule is either on demand by tenants or a regular schedule is provided</td>
</tr>
<tr>
<td></td>
<td>The project site is in proximity to essential services:</td>
</tr>
<tr>
<td></td>
<td>i. Grocery store – within 1/2 mile of a full-scale grocery store/supermarket of at least 25,000 gross interior square feet where staples, fresh meat, and fresh produce are sold (1 mile for projects in rural areas);</td>
</tr>
<tr>
<td></td>
<td>ii. Health facility – within 1/2 mile (1 mile for projects in rural areas) of a qualifying medical clinic with a physician, physician’s assistant, or nurse practitioner on-site for a minimum of 40 hours each week, or hospital (not merely a private doctor’s office). A qualifying medical clinic must accept Medi-Cal payments, or Medicare payments, or Health Care for the Homeless, or have an equally comprehensive subsidy program for low-income patients;</td>
</tr>
<tr>
<td></td>
<td>iii. Library – within 1/2 mile of a book-lending public library (1 mile for projects in rural areas);</td>
</tr>
<tr>
<td></td>
<td>iv. Pharmacy: within 1/2 mile of a pharmacy (1 mile for projects in rural areas).</td>
</tr>
</tbody>
</table>
In the event of program oversubscription, where Applicants have the same score and the same date stamp, the following tiebreaker system will be applied to determine the Project funding:

i. The Department will take into consideration the highest score for each project received in the expenditure category (e.g. immediate ability to expend funds by December 30, 2020).

ii. If a funding determination cannot be made from (i) above, the Department will provide the grant funding to the project with the highest 2019 Homeless Point-in-Time count.

iii. If the funding determination cannot be made from (i) or (ii) above, the Department will provide funding to project that leverages the most non-Homekey funds (government, private, or philanthropic).

iv. The Department may consider additional criteria, including but not limited to the cost-effectiveness; community impact; affirmative furtherance of fair housing; innovative housing type; tenant stability; and proximity to transit, services and amenities.

Section 205. Application Submission

The Department will be accepting over-the-counter applications beginning on or about July 22, 2020. Instructions for submittal of an application can be found on the website. The Department will set aside a priority application period to immediately begin reviewing and awarding qualified Projects from July 16, 2020 to August 13, 2020. All other applications received after the priority application period must be received by the Department no later than 5:00 p.m. PDT on September 29, 2020.

Applicants must submit the Homekey application and required attachments provided by the Department. The Department will not accept modified application forms. It is the Applicant’s responsibility to ensure that the submitted application is accurate. Department staff may request additional clarifying information.

The application is a public record, which is available for public review pursuant to the California Public Records Act (CPRA) (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). After final Homekey awards have been issued, the Department may disclose any materials provided by the Applicant to any person making a request under the CPRA. The Department cautions Applicants to use discretion in providing information not specifically requested, including but not limited to, bank account numbers, personal phone numbers, and home addresses. By providing this information to the Department, the Applicant is waiving any claim of confidentiality and consents to the disclosure of submitted material upon request.

Section 206. Application Award Process

The Department will send both an award letter and a Standard Agreement to the successful Applicant. When the Standard Agreement is signed and returned by the Applicant, the Applicant will simultaneously submit a request for funds. Funds will be disbursed after the Department has received a request for funds and a fully executed Standard Agreement.
The Department is committed to disbursing Homekey funds in a timely manner. To avoid any expenditure delays, funds may be issued directly to the Applicant that is listed on the application, to the designated payee identified by successful co-Applicants, or to an escrow company that has been approved by the Department. For the latter option, the Applicant shall identify the name and address of the escrow company, the name of the escrow officer, the escrow number, and any other information requested by the Department.

Section 207. Appeals

Federal CRF money is the primary source of funding for the Homekey program, and it is subject to a short expenditure deadline. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, provides that the U.S. Department of the Treasury will recoup CRF money that have not been used to cover expenses incurred by December 30, 2020. In view of this abbreviated timeframe for award and expenditure, as well as the specific needs and objectives of the Homekey program, the Department, in accordance with its authority under Health and Safety Code section 50675.7, subdivision (d), will not accept appeals of its award determinations. The Department encourages aggrieved Applicants to resubmit their applications within the specified timeframe.

Article III Program Requirements

Section 300. Eligible Applicants

i. Cities, counties, or any other Local Public Entity as that term is defined by Health and Safety Code section 50079; or

ii. Cities, counties, or any other Local Public Entity as that term is defined by Health and Safety Code section 50079, in partnership with nonprofit or for-profit corporations.

Cities, counties, or other Local Public Entities, including housing authorities or federally recognized tribal governments within California, may apply independently as a Development Sponsor. Alternatively, a Local Public Entity may apply jointly with a for-profit or nonprofit corporation.

Section 301. Eligible Uses

Awarded funds must be used to provide housing for individuals and families experiencing homelessness or at risk of experiencing homelessness and who are impacted by the COVID-19 pandemic. With respect to the list of eligible uses below, an Eligible Applicant may choose to target Project Roomkey properties, or other, non-Project Roomkey properties. The list of eligible uses for the CRF $550 million allocation and the $50 million state General Fund allocation is as follows:

i. Acquisition or rehabilitation of motels, hotels, or hostels.

ii. Master leasing of properties.
iii. Acquisition of other sites and assets, including purchase of apartments or homes, adult residential facilities, residential care facilities for the elderly, manufactured housing, and other buildings with existing residential uses that could be converted to permanent or interim housing.

iv. Conversion of units from nonresidential to residential in a structure with a certificate of occupancy as a motel, hotel, or hostel.

v. The purchase of affordability covenants and restrictions for units.

vi. Relocation costs for individuals who are being displaced as a result of rehabilitation of existing units.

vii. Capitalized operating subsidies for units purchased, converted, or altered with funds provided pursuant to Health and Safety Code section 50675.1.1.*

*Projects seeking capitalized operating subsidies for units purchased, converted, or altered will be awarded with funds from the $50 million state General Fund allocation. The $550 million in Homekey derived from the CRF is not permitted to be used for this purpose.

Section 302. Eligible Projects

i. Nonresidential structures with a certificate of occupancy as a motel, hotel, or hostel.

ii. Adult residential facilities, residential care facilities for the elderly, manufactured housing, and other buildings with existing residential uses.

iii. Multifamily rental housing projects with five or more housing units.

iv. Shared housing or scattered site housing is permitted as long as the housing has common ownership, financing, and property management, and each household signs a lease. For example, A single-family home is one unit, a duplex is two units, a triplex is three units, et cetera.

The above list of eligible projects is not exhaustive. The Department welcomes and will consider a variety of other forms of housing as eligible projects. Interested Applicants should discuss other projects types with the Department during the pre-application consultation.

Section 303. Match

Eligible Applicants are required to demonstrate a five-year commitment to provide operating funds for the proposed project. The first two years of operating funds may include an award from the $50 million in state General Fund. Matching contributions may be obtained from any source, including any federal source as well as state, local, and private sources. Eligible Applicants will have an opportunity to discuss the match requirements and potential match sources during the pre-application consultation described in Section 201.
Additionally, the following requirements apply to match contributions:

i. The Eligible Applicant must ensure the laws governing any funds to be used as matching contributions do not prohibit those funds from being used to match Homekey funds; and

ii. If the state General Funds are used to satisfy the matching requirements of another program, then funding from that program may not be used to fulfill the matching requirements of the Homekey program.

Section 304. General Program Requirements

To be eligible to receive funding, projects must meet the following requirements as they relate to the Eligible Applicant and the project types:

i. Applications must be submitted independently by a single County, City, Public Housing Authority, or federally recognized tribal government as the Development Sponsor. Alternatively, applications must be submitted by a single County, City, Public Housing Authority, federally recognized tribal government and jointly with another entity as the Development Sponsor.

ii. Projects must serve persons qualifying as members of the Target Population.

iii. Developer experience

a. If the Eligible Applicant is acquiring, rehabilitating, and operating an eligible project type as outlined in Section 305 below, the Eligible Applicant shall demonstrate the following minimum experience requirements:

1) Development, ownership, or operation of a project similar in scope and size to the proposed Project, or at least two affordable rental housing projects in the last ten years, with at least one of those projects containing at least one unit housing a tenant who qualifies as a member of the Target Population.

2) The property manager shall have three or more years of experience serving persons of the Target Population. If a property manager is not yet selected for the proposed Project, the selected property manager shall have three or more years of experience serving persons of the Target Population, OR the Grantee shall certify that this requirement will be reflected in any future solicitation or Memorandum of Understanding.

b. If the Eligible Applicant is acquiring, rehabilitating, and operating an Interim Housing project, the Eligible Applicant shall demonstrate the following minimum experience requirements:

1) Development or ownership of an Interim Housing project in the last ten years for members who qualify as the Target Population.

2) The Eligible Applicant has successfully operated an emergency shelter or Transitional Housing or other Interim Housing for at least three years or more for members of the Target Population.
3) Demonstrated experience in linking Interim Housing program participants to permanent housing to ensure long-term housing stability.

4) Experience administering a Housing First program including principles of harm reduction and low barriers to entry.

c. The Eligible Applicant applying for the Homekey funding is the entity that the Department relies upon for experience and capacity, and will control the Project during acquisition, development, and occupancy. In a project with multiple layers of ownership, the Development Sponsor cannot have more than two corporate entities between itself and the borrowing entity.

iv. Evidence of strong organizational and financial capacity to develop the project, including but not limited to:

a. The urgency to acquire a site to provide affordable housing to the Target Population;

b. A development plan to meet the expenditure period;

c. If the project will leverage other funding sources.

v. Assisted units and other units of the Project must meet all applicable state and local requirements pertaining to rental housing, manufactured housing, including but not limited to requirements for minimum square footage, and requirements related to maintaining the project in a safe and sanitary condition.

vi. The Department encourages Eligible Applicants to consider the CEQA exemption set forth at Health and Safety Code section 50675.1.2, the provision for land use consistency and conformity at Health and Safety Code section 50675.1.1, subdivision (g), as well as the additional streamlining pathways described in the appended CEQA guidance.

vii. The Department will require Eligible Applicants to submit the following documents:

a. Overview of project vision;

b. Description of project team, including partnerships with any other entities;

c. Demonstration of the development's team experience to acquire and/or rehabilitate and operate the project;

d. Identification of the site suitable for development and evidence of site control or a plan and timeline for obtaining site control along with other supporting evidence (e.g., letter of intent, exclusive negotiating agreement, ground lease, etc.);

e. A proposed development vision that identifies the financial and regulatory mechanisms to be used to maintain the ongoing affordability of the project;
f. A summary of the committed and intended sources, and uses, of the project awarded with Homekey funds;

g. A proposed timeline for the entire project, including major milestones, any required entitlements, permits, environmental clearances, board or governing body approvals, etc., and completion of the project;

h. A proposed financing plan for any eventual development of the project;

i. Preliminary commitment for title insurance. If no title report is available, the Applicant shall identify any known encumbrances on the property;

j. Environmental site assessment (i.e., Phase 1 Environmental Assessment), or evidence that the assessment is in process and timeline to complete;

k. Appraisal or evidence that the appraisal is in process and timeline to complete;

l. Physical Needs Assessment or evidence that the physical needs assessment is in process and timeline to complete. This assessment must include consideration of accessibility requirements (Section 311);

m. Non-Discrimination Statement and descriptions of tenant selection and/or coordinated entry system practices that meet non-discrimination requirements (Section 311);

n. Documented ability to obtain the insurance coverages outlined in Article VI of this NOFA; and

o. Authorizing Resolution (AR) approved by the Applicant's governing body.

The Department reserves the right to request clarification of unclear or ambiguous statements made in an application and other supporting documents.

Section 305. Permanent Housing Requirements

Permanent housing projects will be evaluated on the following requirements:

i. The Sponsor shall have control of the property, and such control shall not be contingent on the approval of any other party. The status and nature of the Sponsor's title and interest in the property shall be subject to the Department's approval. Site control may be evidenced by one of the following:

a. Fee title;

b. A leasehold interest on the property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance with all program requirements;

c. An executed disposition and development agreement, or irrevocable offer of dedication to a public agency;
d. A sales contract, or other enforceable agreement for the acquisition of the property;

e. A letter of intent, executed by a sufficiently authorized signatory of the Eligible Applicant, that expressly represents to the Department, without condition or reservation, that, upon successful application, the Eligible Applicant shall purchase or otherwise acquire a sufficient legal interest in the property to accomplish the purpose of the award. The letter of intent must also be acknowledged by the party selling or otherwise conveying an interest in the subject property to the Eligible Applicant. If this form of evidence is relied upon at the time of application, the Department may impose additional milestones, in the Standard Agreement, regarding increased evidence of eventual site control closer to the likely close of escrow; or

f. Other forms of site control that give the Department assurance (equivalent to items a. through e. above) that the Applicant will be able to complete the project in a timely manner and in accordance with all the program’s objectives and requirements.

ii. The Eligible Applicant's plan to extend a local covenant restricting the use and Target Population for 55 years.

iii. A plan to cover operations and service costs with specific funding sources (government/philanthropic/private) for the proposed Project for five years and must demonstrate a path to ultimate use of the site for ten years.

iv. To the extent possible, the project shall provide a description of the services that will be available at the housing site including but not limited to case management, behavioral health services, physical health services, assistance obtaining benefits and essential documentation, and education and employment services. Please describe the on-site staffing plan proposed to deliver these services. Also describe the approach to securing off-site services including primary care and other needed physical health and behavioral health services as well as other tenancy supports.

v. One-for-one replacement of assisted housing

a. If the acquired housing or site is to be redeveloped/repositioned as part of the locality’s overall goal to address the needs of the Target Population and the community, the Applicant shall provide as part of the application a commitment to ensure one-for-one replacement of units.

b. If the target site is going to be demolished before it is occupied as part of the Project being proposed by the Applicant, no one-for-one replacement commitment needs to be provided. The unit mix will be evaluated based on the project proposal.

c. The application shall include a site map indicating the original target housing location and all proposed housing location(s). If all proposed housing will be located within the neighborhood, no additional documentation is necessary. If replacement housing is proposed outside the target neighborhood, the application must also include a justification explaining why it is necessary to locate this
replacement housing outside the target neighborhood (i.e., offsite) and how doing so supports and enables the Target Population to maintain housing.

vi. If the development of any Project results in the displacement of tenants, regardless of whether the tenant meets the definition of the Target Population, the Applicant must describe the assistance and benefits to be provided in compliance with local, state, and federal law.

Section 306. Interim Housing Requirements

Interim Housing projects with no plan for conversion to permanent housing will be evaluated on the following requirements:

i. The Sponsor shall have control of the property, and such control shall not be contingent on the approval of any other party. The status and nature of the Sponsor's title and interest in the property shall be subject to the Department's approval. Site control may be evidenced by one of the following:

a. Fee title;

b. A leasehold interest on the property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance with all program requirements;

c. An executed disposition and development agreement, or irrevocable offer of dedication to a public agency;

d. A sales contract, or other enforceable agreement for the acquisition of the property;

e. A letter of intent, executed by a sufficiently authorized signatory of the Applicant, that expressly represents to the Department, without condition or reservation, that, upon successful application, the Applicant shall purchase or otherwise acquire a sufficient legal interest in the property to accomplish the purpose of the award. The letter of intent must also be acknowledged by the party selling or otherwise conveying an interest in the subject property to the Applicant. If this form of evidence is relied upon at the time of application, the Department may impose additional milestones, in the Standard Agreement, regarding increased evidence of eventual site control closer to the likely close of escrow; or

f. Other forms of site control that give the Department assurance (equivalent to a-e above) that the Applicant will be able to complete the project in a timely manner and in accordance with all the program's objectives and requirements.

ii. A plan to cover operations and service costs with specific funding sources (government/philanthropic/private) for the proposed Project for five years and must demonstrate a path to the ultimate use of the site for ten years.

iii. To the extent possible, the project shall provide a description of the services that will be available at the housing site including but not limited to case management, behavioral health services, physical health services, assistance obtaining benefits...
and essential documentation, and education and employment services. Please describe the on-site staffing plan proposed to deliver these services. Also describe the approach to securing off-site services including primary care and other needed physical health and behavioral health services as well as other tenancy supports.

Section 307. Other Requirements

i. The purchase of existing residential units, or affordability covenants and restrictions require the units to be restricted to individuals and families who are experiencing homelessness or who are at risk of homelessness defined in Section 578.3 of Title 24 of the Code of Federal Regulation, for no fewer than 20 years. Additionally, the Sponsor shall provide a plan to cover operations and service costs with specific funding sources (government/philanthropic) for the proposed Project for five years and must demonstrate a path to the ultimate use of the site for ten years.

ii. Master leasing projects will be evaluated on the following requirements:

a. The Sponsor shall have adequate site control of the property, and such control shall not be contingent on the approval of any other party. Site control may be evidenced by one of the following:

1) Fee title;

2) A leasehold interest on the property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance with all program requirements;

3) An executed disposition and development agreement, or irrevocable offer of dedication to a public agency;

4) A sales contract, or other enforceable agreement for the acquisition of the property;

5) A letter of intent, executed by a sufficiently authorized signatory of the Eligible Applicant, that expressly represents to the Department, without condition or reservation, that, upon successful application, the Eligible Applicant shall purchase or otherwise acquire a sufficient legal interest in the property to accomplish the purpose of the award. The letter of intent must also be acknowledged by the party selling or otherwise conveying an interest in the subject property to the Eligible Applicant. If this form of evidence is relied upon at the time of application, the Department may impose additional milestones, in the Standard Agreement, regarding increased evidence of eventual site control closer to the likely close of escrow.

6) Other forms of site control that give the Department assurance (equivalent to 1-5 above) that the Applicant will be able to complete the project in a timely manner and in accordance with all the program's objectives and requirements.

b. The Sponsor shall provide a plan to cover operations and service costs with specific funding sources (government/philanthropic) for the proposed Project for five years.
c. To the extent possible, the Eligible Applicant shall demonstrate the range of on-site and off-site supportive services to participants, e.g., mental health services; substance use disorder services; and primary health, employment, and other tenancy support services.

Section 308. 24-Month Operating Subsidy

i. The total amount for each project requesting the 24-month operating subsidy shall not exceed $1,000 per month per unit to address project operating deficits attributable to the Assisted Units.

ii. The 24-month operating subsidy must be expended by June 30, 2022.

Section 309. Article XXXIV

Per Health and Safety Code section 37001, subdivision (h), Article XXXIV, section 1 of the California Constitution ("Article XXXIV") is not applicable to development involving the acquisition, rehabilitation, reconstruction, alterations work, or any combination thereof, of lodging facilities or dwelling units using moneys received from the CRF established by the federal CARES Act (Public Law 116-136).

Section 310. Housing First

Upon occupancy, the Eligible Applicant shall certify to employ the core components of Housing First (set forth in the Welfare and Institutions Code Section 8255) in the property management and tenant selection practices.

Section 311. Accessibility and Non-Discrimination

All developments shall adhere to the accessibility requirements set forth in California Building Code Chapter 11A and 11B and the Americans with Disabilities Act, Title II. In addition, developments shall adhere to either the Uniform Federal Accessibility Standards (UFAS) standards, 24 C.F.R. Part 8, or HUD's modified version of the 2010 ADA Standards for Accessible Design (Alternative 2010 ADAS), HUD-2014-0042-0001, 79 F.R. 29671 (5/27/14) (commonly referred to as "the Alternative Standards" or "HUD Deeming Memo"). Accessibly units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project and be available in a sufficient range of sizes and amenities consistent with 24 CFR Section 8.26.

All Sponsors shall adopt a written non-discrimination policy requiring that no person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly prohibited by federal law), arbitrary characteristics, and all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with program funds made available pursuant to this NOFA.
All recipients shall comply with the requirements contained in the Americans with Disabilities Act, the Fair Housing Amendments Act, the California Fair Employment and Housing Act, the Unruh Act, Government Code Section 11135, Section 504 of the Rehabilitation Act, and regulations promulgated pursuant to those statutes, including 24 C.F.R. Part 100, 24 C.F.R. Part 8, and 28 C.F.R. Part 35, in all of the Sponsor's activities.

Section 312 State Prevailing Wage

Applicant's contemplated use of Homekey funds may be subject to California's prevailing wage law (Lab. Code, § 1720 et seq.). Applicants are urged to seek professional legal advice about the law's requirements. Prior to disbursing the Homekey funds, the Department will require a certification of compliance with California's prevailing wage law. The certification must verify that prevailing wages have been or will be paid (if such payment is required by law), and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by the general contractor(s) and the Sponsor.

Article IV Program Operations

Section 401. Program Oversight

As requested by the Department, Grantees will be required to provide progress reports of the development plan and any updates to the timeline of the completion of the project. The development plan should include the project's completion milestones and any updates or substantial changes.

Section 402. Reporting

Grantees shall submit the following data:

i. The amount of funds expended for the project.

ii. The location of any properties for which the funds are used.

iii. The number of useable housing units produced, or planned to be produced, using the funds.

iv. The number of individuals housed, or likely to be housed, using the funds.

v. The number of units, and the location of those units, for which operating subsidies have been, or are planned to be, capitalized using the funds.

vi. Any lessons learned from the use of the funds.

vii. The proposed development vision that identifies the financial and regulatory mechanisms to be used to maintain the long-term affordability of the project.

viii. The progress and status in securing any required entitlements, permits, environmental clearances.

ix. The proposed timeline for the completion of the project.
If a project received an award for a 24-month operating subsidy, Grantees shall submit the use of the expenditures bi-annually 30 days after the reporting periods of January 1 to June 30 and July 1 to December 31. The first report will be due to the Department on January 31, 2021, and the final bi-annual report is due on July 31, 2022.

The Grantee that receives funds under the Homekey Program is responsible for ensuring that the expenditure of those funds is consistent with the requirements of the Program and for eligible activities described in Section 302. The Department shall monitor the expenditures to ensure that those expenditures comply with this NOFA.

The Department may request the repayment of funds or pursue any other remedies available to it by law for failure to comply with program requirements. After the contract has expired, any funds not expended for eligible uses shall revert and must be remitted to the Department. The deadline for expenditures under the contract is June 31, 2022.

The requested data shall be submitted in electronic format on a form provided by the Department.

Section 403. Disbursement of Grant Funds

The Department will disburse funds to cover Homekey-critical expenditures that were incurred during the period of March 1, 2020 through December 30, 2020. Homekey program funds shall be disbursed to the Sponsor after the Department has received a request for funds from the Sponsor and a Standard Agreement between the Sponsor and the Department is fully executed. The Standard Agreement will set forth the general conditions of disbursement, any conditions precedent to disbursements (e.g., documentation requirements for pre-Standard Agreement expenditures), and the Department’s remedies upon an event of default. The Standard Agreement will also identify the payee. Where Co-Sponsors wish to receive the grant award outside of escrow, they must identify, and memorialize in the Standard Agreement, which Sponsor will serve as the designated payee for all award amounts.

Section 404. Legal documents

Upon the award of Homekey funds to a Project, the Department shall enter into one or more agreements with the Sponsor(s), including a Standard Agreement, which shall commit funds from the Homekey program, subject to specified conditions. The agreement or agreements shall include, but not be limited to, the following provisions:

i. A description of the approved project and the permitted uses of funds;

ii. The amount and terms of the program grant;

iii. The use, occupancy, and rent restrictions, if any, to be imposed on the project through a use restriction (e.g., covenant, regulatory agreement) recorded against the property of the project;

iv. Performance milestones, and other progress metrics, governing the completion of the project, along with the remedies available to the Department in the event of a failure to meet such milestones or metrics;
v. Provisions governing the manner, timing, and conditions of the disbursement of the program grant;

vi. Special conditions imposed as part of the Department's approval of the project;

vii. Terms and conditions required by federal and state law;

viii. Requirements for reporting to the Department;

ix. Remedies available to the Department in the event of a violation, breach, or default of the agreement; and

x. Provisions regarding Sponsor liability. Specifically, the Sponsor will remain liable to the Department for the performance of all program requirements regardless of any Department-approved transfer or assignment of interest. Likewise, each co-Sponsor will remain jointly and severally liable to the Department for the performance of all program requirements regardless of any Department-approved transfer or assignment of interest, and notwithstanding the co-Sponsors' identification of a designated payee.

The agreement will also include such other provisions as are necessary to ensure adherence to the objectives and requirements of the program.

Section 405. Sales, Transfers, and Encumbrances

An Applicant(s) shall not sell, assign, transfer, or convey the awarded project, or any interest therein or portion thereof, without the express prior written approval of the Department.

Section 406. Defaults and Grant Cancellations

Funding commitments may be canceled by the Department under any of the following conditions:

i. The objectives and requirements of the Homekey program cannot be met and the implementation of the project cannot proceed in a timely fashion in accordance with the timeframes established in the regulatory agreement/contract.

ii. In the event of a breach or violation by the Grantee, the Department may give written notice to the Development Sponsor to cure the breach or violation. If the breach or violation is not cured to the satisfaction of the Department within a reasonable time period, the Department, at its option, may declare a default under

the relevant document and may seek legal remedies for the default including the following:

a. The Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to complete the project in accordance with Homekey program requirements; and

b. The Department may seek such other remedies as may be available under the relevant agreement or any law.
Article V. Definitions

Below are the definitions for purposes of the Homekey program:

i. "Applicant" or "Eligible Applicant" means a city, county, or other "local public entity," as that term is defined at the Health and Safety Code section 50079, applying to be a Development Sponsor either on its own or with another entity (such as a for-profit or nonprofit corporation, or another local public entity).

ii. "Area Median Income" or "AMI" means the most recent applicable county median family income published by the California Tax Credit Allocation Committee (TCAC) or the Department.

iii. "Assisted Unit" means a residential housing unit that is subject to rent, occupancy or other restrictions associated with a Homekey site.

iv. "At Risk of Homelessness" has the same meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulations.

v. "City" means a city or city and county that is legally incorporated to provide local government services to its population. A city can be organized either under the general laws of this state or under a charter adopted by the local voters.

vi. "Chronic Homelessness" means a person who is chronically homeless, as defined in 578.3 of Title 24 of the Code of Federal Regulations.

vii. "Continuum of Care" means the same as defined by the United States Department of Housing and Urban Development at Section 578.3 of Title 24 of the Code of Federal Regulations.

viii. "Department" means the Department of Housing and Community Development.

ix. "Development Sponsor" or "Sponsor", as defined in Section 50675.2 of the Health and Safety Code and subdivision (c) of Section 50669 of the Health and Safety Code, means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the Department as qualified to own, manage, and rehabilitate a rental housing development. A Development Sponsor may be organized for profit, limited profit or be nonprofit, and includes a limited partnership in which the Development Sponsor or an affiliate of the Development Sponsor is a general partner.

x. "Environment Assessment – Phase 1" is a report that demonstrates whether the property is free from severe adverse environmental conditions.

xi. "Grantee" means an Eligible Applicant that has been awarded funds under the program.

xii. "Homeless" has the same meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulations.
xiii. "Housing First" has the same meaning as in Welfare and Institutions Code Section 8255, including all of the core components listed therein.

xiv. "HUD" means the U.S. Department of Housing and Urban Development.

xv. "Interim Housing" Transitional Housing" or "Congregate Shelter" means any facility whose primary purpose is to provide a temporary shelter for the Homeless in general or for specific populations of the Homeless, and which does not require occupants to sign leases or occupancy agreements.

xvi. “Local Public Entity” means any county, city, city and county, the duly constituted governing body of an Indian reservation or rancheria, tribally designated housing entity as defined in Section 4103 of Title 25 of the United States Code and Section 50104.6.5, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24, and also includes any state agency, public district, or other political subdivision of the state, and any instrumentality thereof, that is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income. “Local public entity” also includes two or more local public entities acting jointly.

xvii. "NOFA" means a Notice of Funding Availability.

xviii. "Permanent Supportive Housing" has the same meaning as "supportive housing," as defined in Section 50675.14 of the Health and Safety Code, except that "Permanent Supportive Housing" shall include associated facilities if used to provide services to housing residents.

xix. "Permanent Housing" means a housing unit where the landlord does not limit length of stay in the housing unit, the landlord does not restrict the movements of the tenant, and the tenant has a lease and is subject to the rights and responsibilities of tenancy.

xx. "Project" means a multifamily structure or set of structures providing housing with common financing, ownership, and management.

xxi. "Program Award" means the portion of program funds available for a Grantee to expend toward eligible program uses.

xxii. "Point-in-Time Count" means a count of sheltered and unsheltered Homeless persons on a single night conducted by Continuums of Care as prescribed by HUD.


xxiv. "Target Population" means members of the target population identified in Health and Safety Code section 50675.1.1(a) are individuals and families who are experiencing homelessness or who are at risk of homelessness defined in Section 578.3 of Title 24 of the Code of Federal Regulation and who are impacted by the COVID-19 pandemic.

xxv. "Unit" means a residential unit that is used as a primary residence by its occupants, including individual units within the Project.
Article VI Insurance Requirements
Section 600. Insurance Requirements

i. Commercial general liability

Local public entities shall maintain general liability on an occurrence form with limits not less than $1,000,000 per occurrence and $2,000,000 aggregate for bodily injury and property damage liability. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured agreement. This insurance shall apply separately to each insured against which claim is made, or suit is brought subject to the local public entity's limit of liability. The policy must name the State of California and the Department of Housing and Community Development, as well as the respective appointees, officers, agents, and employees of each, as additional insureds, but only with respect to work performed under the contract.

If available in the open market at a reasonable cost, the policy shall also include an endorsement for physical abuse and child/sexual molestation coverage. Coverage shall include actual or threatened physical abuse, mental injury, sexual molestation, negligent hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the local public entity is responsible. This insurance shall apply separately to each insured against which claim is made, or suit is brought subject to the local public entity's limit of liability. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.

If available in the open market at a reasonable cost, the policy shall also include an endorsement for assault and battery.

ii. Automobile liability

Local public entity shall maintain motor vehicle liability with limits not less than $1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired, and non-owned motor vehicles. The policy must name the State of California and the Department of Housing and Community Development, as well as the respective appointees, officers, agents, and employees of each, as additional insureds, but only with respect to work performed under the contract.

If local public entity will not have any commercially owned vehicles used during the life of the Standard Agreement, by signing the Standard Agreement, the local public entity certifies that the local public entity and any employees, subcontractors or servants possess valid automobile coverage in accordance with California Vehicle Code sections 16450 to 16457, inclusive. The Department reserves the right to request proof at any time.
iii. Workers’ Compensation and Employer’s Liability

Local public entity shall maintain statutory worker’s compensation and employer’s liability coverage for all its employees who will be engaged in the performance of the contract. In addition, employer’s liability limits of $1,000,000 are required. By signing the Standard Agreement, local public entity acknowledges compliance with these regulations. **A Waiver of Subrogation or Right to Recover endorsement in favor of the State of California and the Department of Housing and Community Development must be attached to the certificate.**

iv. Builder’s risk/installation floater

If there is installation or construction of property/materials on or within the facility at any time during the life of the Standard Agreement, the local public entity shall maintain in force, at its own expense, Builders Risk/Installation Floater covering the local government entity’s labor, materials, and equipment to be used for completion of the Work performed under this contract against all risks of direct physical loss, excluding earthquake and flood, for an amount not less than the full amount of the property and/or materials being installed and/or constructed on or within the facility. The Eligible Applicant agrees as a provision of the contract to waive all rights of recovery against the state.

v. Property insurance

The local public entity shall maintain fire, lightning and extended coverage insurance on the facility which shall be in a form of a commercial property policy, in an amount equal to one hundred percent (100%) of the then current replacement cost of the facility, excluding the replacement cost of the unimproved real property constituting the site. The extended coverage endorsement shall, as nearly as practicable, include but not be limited to loss or damage by an explosion, windstorm, riot, aircraft, vehicle damage, smoke, vandalism, and malicious mischief and such other hazards as are normally covered by such endorsement.

vi. Self-insured

If the local public entity is self-insured in whole or in part as to any of the above-described types and levels of coverage, the local government entity shall provide the Department with a written acknowledgment of this fact at the time of the execution of this Permit. If, at any time after the execution of the Standard Agreement, local public entity abandons its self-insured status, the local public entity shall immediately notify the Department of this fact and shall comply with all of the terms and conditions of this Section pertaining to insurance requirements.
Tahiti Motel Project

RELOCATION PLAN

Prepared for:

Jamboree Housing Corporation
17701 Cowan Avenue, Suite 200
Irvine, CA 92614
(949) 263-8676

Prepared by:

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1 Jenner, Suite 200
Irvine, CA 92618
(949) 951-5263

October 2, 2020
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Introduction

Jamboree Housing Corporation (“Developer”) has proposed the Tahiti Motel Project (“Project”), an affordable housing project consisting of the substantial rehabilitation of an existing motel property. The proposed project site is located at 11850 Beach Boulevard, Stanton, CA 90680 (“Project site”). The Developer is in escrow to acquire the Project site, which is a commercial property currently occupied by the Tahiti Motel, with residential tenants residing in motel units on-site.

The motel has 60 rooms (all furnished with kitchenettes), a one-bedroom manager’s unit and an office. Rehabilitation plans, for a five-year interim period that will provide transitional housing for homeless individuals affected by COVID-19, will include addressing any life safety issues for the property and ensuring that the units fixtures/appliances/systems are in operable condition. The 60 studio units will be offered to individuals whose incomes are at no more than 30% of area median income (AMI), and the one-bedroom unit will be a manager’s unit.

After the interim period, the units will be fully rehabbed and converted to permanent supportive housing. The proposed plans are in conformance with the local housing element.

Existing tenants who occupy the motel as their “permanent and primary place of residence” will need to be permanently relocated to facilitate rehabilitation activities and comply with the target population restrictions (homeless individuals impacted by COVID-19) of the proposed funding sources.

Potential funding sources to fund the interim rehab and interim operations include Homeless Housing, Assistance and Prevention (HHAP) funds, State Emergency Solutions Grants (ESG-CV), CalOptima funds, and MHSA funds from the County of Orange; Project Homekey funds from the State of California Housing and Community Development Department (HCD) and Low-Mod Housing Asset funds from the City of Stanton.

An Affordable Housing Agreement will be executed between the City of Stanton and the Developer, and 9% Federal Tax Credits and Project Based Section 8 assistance are expected for the permanent supportive housing period.

Due to the inclusion of federally derived financing and other non-federal public funds, acquisition and relocation will be conducted under the requirements of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (URA), HUD Handbook 1378 of the Department of Housing and Urban Development (HUD), California Relocation Assistance Law, Government Code Section 7260, et seq. (Law), and the Relocation Assistance and Real Property Acquisition Guidelines adopted by the Department of Housing and Community Development, and Title 25, California Code of Regulations Section 6000, et seq. (Guidelines).

Overland, Pacific & Cutler, LLC (OPC), an experienced relocation consulting firm, has been selected to prepare this updated Relocation Plan (“Plan”). In compliance with statutory requirements, this Plan has been prepared to evaluate the present circumstances and replacement housing requirements of the displacees. OPC will also provide all required relocation assistance to the households, who will be displaced.
As of the date of this Plan, the Project would cause the permanent displacement of 39 households that may be eligible for relocation assistance. The needs and characteristics of the permanent displacees and the Developer’s program to provide assistance to each affected person are general subjects of this Plan.

The Plan is organized in five sections:

1. Project description (SECTION I);
2. Assessment of the relocation needs of persons subject to permanent displacement (SECTION II);
3. Assessment of available, comparable replacement housing units within the City of Stanton and surrounding communities (SECTION III);
4. Description of the Developer’s relocation program (SECTION IV);
5. Description of the Developer’s outreach efforts, Project timeline and budget (SECTION V).
I. PROJECT DESCRIPTION

A. REGIONAL LOCATION

The Project site is located in the City of Stanton within Orange County. Stanton is located approximately 35 miles southwest of the City of Los Angeles and is easily accessible by Interstates 5 and 405 and State Routes 22, 91 and 57. Adjacent communities include Los Alamitos, Westminster, Anaheim, Garden Grove and Cypress (Figure 1: Regional Project Location).

Figure 1: Regional Project Location
B. PROJECT SITE LOCATION AND DESCRIPTION

The Project site is located at 11850 Beach Boulevard, Stanton, CA 90680 and is generally bordered by Chapman Avenue to the south, Beach Boulevard to the west, Bever Place to the north and Nearing Drive to the east (Figure 2: Project Site Location.)

![Figure 2: Project Site Location](image)

The Project site includes one property consisting of approximately 1.45 acres and is improved with a 60-unit motel (Figure 3: Tahiti Motel). As of the date of this Plan, 39 of the motel units are occupied by households (two units are being used as storage, one unit is used for laundry, three units are being used by the temporary managers, and 15 units are vacant. There is also a one-bedroom unit adjacent to the office being used by a temporary manager.

![Figure 3: Tahiti Motel](image)
A. GENERAL DEMOGRAPHIC AND HOUSING CHARACTERISTICS

According to the 2010 U.S. Census, the population of the City of Stanton is 38,186, and the population of the impacted Census Tract (Tract 879.02) is 6,039 (see Table 1). Corresponding Census data concerning the housing mix is shown in Table 2.

<table>
<thead>
<tr>
<th>TABLE 1: 2010 Census Population – City of Stanton &amp; Impacted Tract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
</tr>
<tr>
<td>Total Population</td>
</tr>
<tr>
<td>White</td>
</tr>
<tr>
<td>Black or African American</td>
</tr>
<tr>
<td>American Indian or Alaska Native</td>
</tr>
<tr>
<td>Asian</td>
</tr>
<tr>
<td>Native Hawaiian or Other Pacific Islander</td>
</tr>
<tr>
<td>Some Other Race</td>
</tr>
<tr>
<td>Two or More Races</td>
</tr>
<tr>
<td>Hispanic or Latino (of Any Race)</td>
</tr>
</tbody>
</table>

Source: U.S. Census Bureau, QT-PL. Race, Hispanic or Latino, and Age: 2010

<table>
<thead>
<tr>
<th>TABLE 2: 2010 Census Housing Units – City of Stanton &amp; Impacted Tract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type</td>
</tr>
<tr>
<td>Total Units</td>
</tr>
<tr>
<td>Owner-Occupied</td>
</tr>
<tr>
<td>Renter-Occupied</td>
</tr>
<tr>
<td>Vacant Housing Units</td>
</tr>
<tr>
<td>Available for Sale Only</td>
</tr>
<tr>
<td>Available for Rent – Full Time Occupancy</td>
</tr>
<tr>
<td>Sold or Rented – Not Occupied</td>
</tr>
<tr>
<td>Otherwise Not Available (e.g. seasonal, recreational, migratory, occasional use)</td>
</tr>
<tr>
<td>Other Vacant</td>
</tr>
</tbody>
</table>

II. ASSESSMENT OF RELOCATION NEEDS

A. SURVEY METHOD

To obtain information necessary for the preparation of a Relocation Plan in November and December 2018, OPC staff went on-site on multiple occasions to attempt to interview all motel unit occupants to ascertain whether the occupants were “guests” on a nightly/weekly basis, or if the occupants actually live in the motel unit as their primary place of residence. Personal interviews were conducted with households, who claimed to utilize Project motel units as their primary place of residence and the motel operator, who lived in units and the office on-site.

In July and August 2020, OPC re-interviewed residents of the motel who were living there in 2018 and conducted new interviews of long-term residents who moved in after December 2018. Although the tenants living at the motel were given General Information Notices with proof of service in November 2018, some originally interviewed residents left the Project site between December 2018 and July 2020. Despite multiple attempts via telephone, in-person visits and letters, 10 of the existing 39 households refused to provide information about their household or were non-responsive.

In addition, the motel operator originally on the site in late 2018 also moved from the site earlier in 2020. The current property owner brought in temporary managers on August 1, 2020 to assist with managing the motel during the escrow period with the Developer. The managers were advised the employment and the managers’ units provided would be temporary and that the arrangement would end upon close of escrow.

The data in this section of the Plan are based on the responses of those individuals, who claim to permanently live at the motel site and who provided verbal information about their households, although at this time, the information is unconfirmed and in some cases incomplete.

Inquiries made of the residential occupants concerned household size and composition, income, monthly rent and estimated utility costs, length of occupancy, ethnicity, home language, physical disabilities, legal presence status, relocation needs, and replacement housing preferences.

The property/motel owner is not eligible as a displaced non-residential tenant. Owner-occupants are not eligible for relocation assistance, if the property is purchased through a voluntary acquisition. The Developer provided a Voluntary Acquisition Letter to the property owner.

B. FIELD SURVEY DATA - RESIDENTIAL

1. Current Residential Occupants

There are 39 residential households living on the Project site. At the time of the interviews, these households consisted of at minimum 69 adults and 13 children (17 years or younger) for a total occupancy of 81 occupants. Household size ranges from 1 - 5 individuals. Rental rates among the units range from $1,000 - $1,800 per month with an average of $1,332 per month. Hotel staff, including a maid and a maintenance person, reside in two of the motel units with a reduction in rent in exchange for services.
The Project tenants occupy motel room units, all of which have kitchenettes. The Developer’s standard for housing density allows two persons per bedroom and one person in the common living area (2+1 occupancy standard). Based on this criterion, wherein a motel unit with kitchenette would be considered a studio, and available tenant data, nine units are overcrowded.

2. Income

Information regarding gross household income was provided by 26 of the households. According to income standards for the County of Orange (Exhibit A) adjusted for family size as published by the United States Department of Housing and Urban Development (HUD), 21 households qualify as Extremely Low Income (earning 30% or less of area median income), four households qualify as Very Low Income (31% - 50% AMI), two households qualify as Low Income (51% - 80% AMI), and the income for 12 households is unknown.

3. Ethnicity/Language

The households who reported ethnicity reported ethnicities as follows: Hispanic (7), White (11), Black (3), Pacific Islander (6), Asian (1), and Other (1). All but two households speak and understand English; two households prefer Spanish.

4. Senior/Handicapped Households

Seven households reported a senior head of household or spouse (62 years or older). Fourteen households reported having at least one member with a disability, including five households with members having mobility challenges. Appropriate steps will be taken to accommodate mobility challenges and to provide suitable permanent housing on a first floor or with access to an elevator and an ADA compliant unit when necessary. In addition, senior and disabled tenants will receive extra assistance to make sure their units are move-ready, to transport them to the permanent housing, if needed, and to accommodate any other special needs they may have.

5. Comparable Replacement Housing Needs

Replacement housing needs, as expressed in this plan, are defined by the total number of required comparable units and distribution of those units by bedroom size. The projected number of required units by bedroom size is calculated by comparing survey data for household size with the Developer’s replacement housing occupancy standards. These standards generally allow for up to two people in a studio unit, three persons in a one-bedroom unit, and five persons in a two-bedroom unit.

In addition, replacement housing needs must also be based on the legally present members of the household. However, the Developer will use non-federal funds to pay relocation benefits to those tenants not legally present in the United States but otherwise eligible for assistance.

Comparable replacement housing for a motel room with kitchenette will be a studio unit to be occupied by up to two persons. Three people in occupancy of a motel room will be offered a one-bedroom replacement unit. Four to five people in one motel room will be offered a two-bedroom replacement unit.
For the purposes of assessing needed replacement housing and estimated relocation costs, households who did not interview with OPC were assumed to require a studio unit. Therefore, based on the occupancy standard stated above, the comparable replacement units required for the 39 households to be permanently displaced are 30 studio units, five one-bedroom units, and four two-bedroom units.

6. Preferred Relocation Areas

Many households expressed a preference to remain in the Stanton community in order to maintain current access to employment, medical facilities, shopping, schools, public transport, and relatives. However, many households were also interested in other areas to relocate including, Anaheim, Westminster, Garden Grove, Buena Park, Brea, La Palma, Costa Mesa, Long Beach, Cypress, Huntington Beach, Norwalk, anywhere in Orange County, and Lake Elsinore.
III. RELOCATION RESOURCES

A. METHODOLOGY

For residential replacement housing, a resource survey was conducted to identify available studios and one-, two-, and three-bedroom rental units within Stanton and surrounding communities. The following sources were utilized:

-- Classified rental listings from local newspapers and For Rent publications
-- Contacts with real estate/property management companies serving the community
-- Internet sources of rental opportunities

B. COMPARABLE REPLACEMENT HOUSING AVAILABILITY

1. Replacement Rental Housing

The data from the resource survey is summarized in Table 3 below. The individual figures for number of units found by bedroom size are presented in the table alongside the number of units needed (shown in parentheses) to meet the re-housing obligations.

<table>
<thead>
<tr>
<th>Bedroom Size</th>
<th>Studio</th>
<th>One</th>
<th>Two</th>
</tr>
</thead>
<tbody>
<tr>
<td># Found (# Needed)</td>
<td>31 (30)</td>
<td>12 (5)</td>
<td>10 (4)</td>
</tr>
<tr>
<td>Rent Range</td>
<td>$1,300 - $1,890</td>
<td>$1,250 - $1,695</td>
<td>$1,625 - $2,000</td>
</tr>
<tr>
<td>Median Rent</td>
<td>$1,530</td>
<td>$1,560</td>
<td>$1,750</td>
</tr>
</tbody>
</table>

The median rent amount shown in the table is among the figures used to make benefit and budget projections for the Plan. This amount is, naturally, subject to change according to the market rates prevailing at the time of displacement.

2. Summary

Considering the above described availability of replacement housing resources gathered over a one-week period, it appears that there are more than adequate replacement housing resources for the residential occupants. However, the search was conducted in surrounding communities to identify enough studio units for the displacees.

But, while adequate replacement resources exist, based on survey results of rental opportunities and the tenants’ current rents, the some of the tenant occupants will likely have an increase in monthly rent. Possible increases, if any, will be met through the Developer’s obligation under applicable Relocation Laws, including Last Resort Housing (LHR) requirements. (See Section IV, E).

C. RELATED ISSUES

1. Concurrent Residential Displacement
There are no projects scheduled in the City of Stanton for the fall and winter of 2020/2021 that would cause residential displacements, which would compete with the Project for needed housing resources. No residential displacee will be required to move without both adequate notice and access to available, affordable, decent, safe and sanitary housing.
IV. THE RELOCATION PROGRAM

The Developer’s Relocation Program for permanent displacements is designed to minimize hardship, be responsive to unique Project circumstances, emphasize maintaining personal contact with all affected individuals, consistently apply all regulatory criteria to formulate eligibility and benefit determinations and conform to all applicable requirements. The relocation program to be implemented by the Developer will conform with the standards and provisions of all applicable Relocation Laws.

The Developer has retained OPC, a multi-lingual consulting firm, to administer the Relocation Program. OPC has worked on more than 5,000 public acquisition and relocation projects for more than 40 years. Experienced Developer staff will monitor the performance of OPC and be responsible to approve or disapprove OPC recommendations concerning eligibility and benefit determinations and interpretations of Developer’s policies.

The Developer will provide all required relocation assistance and benefits to the households the Developer has determined are eligible for assistance. The relocation program consists of two principal components: advisory assistance and financial assistance (Relocation Benefits).

A. ADVISORY ASSISTANCE

Advisory assistance services are intended to:

1. inform displacees about the relocation program;
2. help in the process of finding appropriate replacement accommodations;
3. facilitate claims processing;
4. maintain a communication link with the Developer;
5. coordinate the involvement of outside service providers.

To follow through on the advisory assistance component of the relocation program and assure that the Developer meets its obligations under the Relocation Laws, OPC staff will perform the following functions:

1. Distribute appropriate written information concerning the Developer’s relocation program in English and Spanish, as needed;
2. Inform the eligible households of the nature of, and procedures for, obtaining available Relocation Benefits (Exhibit B);
3. Determine the needs of each displacee eligible for assistance (including through personal interviews with the persons to be displaced);
4. Provide the eligible displacees with at least one, and preferably three, referrals to comparable replacement housing within a reasonable time prior to displacement.

*Generally, a comparable replacement dwelling must satisfy the following criteria:*

*The unit is decent, safe and sanitary - electrical, plumbing and heating systems are in good repair - no major, observable hazards or defects. The unit is adequate in size and is comparable to the acquired dwelling with respect to number of rooms, habitable living space and type and quality of construction, but not lesser in rooms or living space as necessary to accommodate the displaced person. The unit is functionally equivalent, including principle features.*

*The unit is located in an area not subjected to unreasonable adverse environmental conditions from either natural, or man-made sources, and not generally less desirable with respect to public utilities, transportation, public and commercial facilities, including schools and municipal services and reasonably accessible to the displaced person’s place of employment.*

*The unit is available both on the private market and to all persons regardless of race, color, sex, marital status, religion or national origin.*

*The monthly rental rate is within the financial means of the displaced residential tenant.*

5. Maintain an updated database of available housing resources, and distribute referral information to displacees for the duration of the Project;

6. Provide transportation to the residential displacees, if necessary, to inspect replacement sites within the local area;

7. Inspect replacement housing to assure it meets decent, safe and sanitary standards as described in the URA;

8. Supply information concerning federal and state programs and other governmental programs providing assistance to displaced persons;

9. Assist eligible occupants in the preparation and submission of relocation assistance claims;

10. Provide additional reasonable services necessary to successfully relocate occupants;

11. Make benefit determinations and payments in accordance with applicable law and the Developer’s adopted relocation guidelines;
12. Assure that no occupant is required to move without a minimum of 90 days written notice to vacate;

13. Inform all persons subject to displacement of the Developer’s policies with regard to eviction and property management;

14. Establish and maintain a formal grievance procedure for use by displaced persons seeking administrative review of the Developer’s decisions with respect to relocation assistance; and

15. Provide assistance that does not result in different or separate treatment based on or due to an individual’s sex, marital status, race, color, religion, ancestry, national origin, physical handicap, sexual orientation, and domestic partnership status.

B. RELOCATION BENEFITS

Specific eligibility requirements and benefit plans will be detailed on an individual basis with the displaced households. In the course of personal interviews and follow-up visits, the households will be counseled as to available options, maximum assistance amounts, and the consequences of any choice with respect to financial assistance.

Relocation benefits will be provided in accordance with the provisions of all applicable Relocation Laws, and Developer rules, regulations and procedures pertaining thereto. Benefits will be paid to eligible displaced persons upon submission of required claim forms and documentation in accordance with the Developer’s normal administrative procedures.

The Developer will process advance payment requests to mitigate hardships for tenants who do not have access to sufficient funds to pay move-in costs such as first month’s rent and/or security deposits. Approved requests will be processed expeditiously to help avoid the loss of desirable, appropriate replacement housing.

Eligible residential tenants will be eligible for the following relocation assistance:

1. Residential Moving Expense Payments

All residential occupants to be permanently relocated will be eligible to receive a payment for moving expenses. Moving expense payments will be made based upon the actual cost of a professional move or a fixed payment based on a room-count schedule or a combination of both.

a. Actual Cost (Professional Move)

Displacees may elect to have a licensed professional mover perform the move. The actual cost of the moving services, based on at least two acceptable bids, will be compensated by the Developer in the form of a direct payment to the moving company
upon presentation of an invoice. Transportation costs are limited to a distance of 50 miles in either case. In addition to the actual move, costs associated with utility reconnections (i.e., gas, water, electricity, telephone, and cable, if any), are eligible for reimbursement.

b. Fixed Payment (based on Room Count Schedule)

An occupant may elect to receive a fixed payment for moving expenses which is based on the number of rooms occupied in the displacement dwelling. In this case, the person to be relocated takes full responsibility for the move. The fixed payment includes all utility connections as described in Paragraph B.1.a., above.

The current schedule for fixed moving payments is set forth in Table 4 following:

<table>
<thead>
<tr>
<th>TABLE 4: Schedule of Fixed Moving Payments (2015)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unfurnished Dwelling</td>
</tr>
<tr>
<td>Room count</td>
</tr>
<tr>
<td>Amount</td>
</tr>
<tr>
<td>Furnished Dwelling</td>
</tr>
<tr>
<td>Room count</td>
</tr>
<tr>
<td>Amount</td>
</tr>
</tbody>
</table>

2. Rental Assistance to Tenants Who Choose to Rent

To be eligible to receive rental assistance benefits, a displaced tenant household must rent or purchase and occupy decent, safe, and sanitary comparable replacement dwelling within one year from the date they move from the displacement dwelling.

Based upon the available data regarding Project displacees, the displaced households may qualify for, and may be eligible to apply for, relocation benefits under URA and/or State provisions. Except in the case of Last Resort Housing situations, the potential payment to the household will be payable over a 42-month period and limited to a maximum of $7,200 as stated under URA guidelines. The relocation program is explained in detail in the informational brochure to be provided to each permanently displaced household (Exhibit B).

Rental Assistance payment amounts are equal to 42 times the difference between the base monthly rent and the lesser of:

(i) The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

(ii) The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.
The base monthly rent for the displacement dwelling is the lesser of:

(i) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Developer. For owner-occupants or households, which paid little or no rent, fair market rent will be used as a substitute for actual rent; or

(ii) Thirty percent (30%) of the displaced person’s average, monthly gross household income, if the amount is classified as “low income” by the U. S. Department of Housing and Urban Development’s (HUD) Annual Survey of Income Limits for the Public Housing and Section 8 Programs. (HUD’s Survey is shown as Exhibit A.) If a displaced household earns more than the amount that would qualify them as a “low income” household, refuses to provide appropriate evidence of income, or is a dependent, the base monthly rent shall be determined to be the average monthly cost for rent and utilities at the displacement dwelling; or

(iii) The total of the amount designated for shelter and utilities if receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

Table 5 portrays the benefits determination under the URA:

<table>
<thead>
<tr>
<th>TABLE 5: Example Computation of URA Rental Assistance Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Old Rent</strong></td>
</tr>
<tr>
<td>or</td>
</tr>
<tr>
<td><strong>Ability to Pay</strong></td>
</tr>
<tr>
<td><strong>Lesser of lines 1 or 2</strong></td>
</tr>
<tr>
<td><strong>Subtracted From:</strong></td>
</tr>
<tr>
<td><strong>Actual New Rent</strong></td>
</tr>
<tr>
<td>or</td>
</tr>
<tr>
<td><strong>Comparable Rent</strong></td>
</tr>
<tr>
<td><strong>Lesser of lines 4 or 5</strong></td>
</tr>
<tr>
<td><strong>Yields Monthly Need:</strong></td>
</tr>
<tr>
<td><strong>Rental Assistance</strong></td>
</tr>
</tbody>
</table>

3. **Downpayment Assistance to Tenants Who Choose to Purchase**

A displaced household may opt to apply the entire benefit amount for which they are eligible toward the purchase of a replacement unit (URA, at 49 CFR 24.402(b) and HUD Handbook 1378).
If a displaced household chooses to utilize up to the full amount of rental assistance eligibility (including any Last Resort benefits) to purchase a home, it may have the funds deposited in an open escrow account, provided that the entire amount is used for the downpayment and eligible, incidental costs associated with the purchase of a decent, safe, and sanitary replacement home. A provision shall be made in the escrow arrangements for the prompt return of the Developer funds, in the event escrow should fail to close within a reasonable period of time.

Final determination about the type of relocation benefits and assistance for which the households are eligible will be determined upon verification of the households’ occupants and incomes.

C. PROGRAM ASSURANCES AND STANDARDS

Adequate funds are available to permanently relocate the eligible Project households. Relocation assistance services will be provided to ensure that displacement does not result in different or separate treatment of households based on race, nationality, color, religion, national origin, sex, marital status, familial status, disability or any other basis protected by the federal Fair Housing Amendments Act, the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, the California Fair Employment & Housing Act, and the Unruh Act, as well as any other arbitrary or unlawful discrimination.

D. GENERAL INFORMATION REGARDING THE PAYMENT OF RELOCATION BENEFITS

Claims and supporting documentation for relocation benefits must be filed with the Developer no later than 18 months after the date of displacement.

The procedure for the preparation and filing of claims and the processing and delivery of payments will be as follows:

1. Claimant(s) will provide all necessary documentation to substantiate eligibility for assistance;

2. Developer staff will review all necessary documentation including, but not limited to, rental agreements or lease documents, moving bids, invoices and escrow material before reaching a determination as to which expenses are eligible for compensation;

3. Required claim forms will be prepared by OPC staff and presented to the claimants for review. Signed claims and supporting documentation will be returned to relocation staff and submitted to the Developer;

4. The Developer will review and approve claims for payment, or request additional information;

5. The Developer will issue benefit checks to claimants in the most secure, expeditious manner possible;
6. Final payments to residential displacees will be issued after confirmation that the Project premises have been completely vacated, and actual residency at the replacement unit is verified;

7. Receipts of payment and all claim material will be maintained in the relocation case file.

E. LAST RESORT HOUSING

Based on data derived from the surveys and analyses of the occupants in the Project area and costs of replacement housing resources, it is anticipated that “comparable replacement housing” will not be available, because the computed replacement housing assistance eligibility exceeds $7,200 and the estimated replacement dwelling monthly rental costs (including utilities) exceed 30% of the households’ average gross monthly income.

Therefore, if the Project proceeds, the Developer will authorize sufficient funds to provide housing of last resort to eligible displaced households. Due to the demonstrated number of available replacement housing resources for the displaced households, as shown above in Section III, B - 1, the need to develop a replacement housing plan to produce sufficient number of comparable replacement dwellings will not be necessary. Rather, funds will be used to make payments in excess of the monetary limits specified in the statute ($7,200); hence, satisfying the requirement that “comparable replacement housing” is available.

The Developer, at its discretion, may opt to pay Last Resort Housing payments in installments or in a lump sum. Recipients of Last Resort rental assistance, who intend to purchase rather than rent replacement housing, will have the right to request a lump sum payment of all benefits in the form of downpayment assistance, as described above, to assist with the purchase of a decent, safe and sanitary dwelling.

F. IMMIGRATION STATUS

Federal legislation (PL105-117) prohibits the payment of relocation assistance benefits under the Uniform Act to any alien not lawfully present in the United States unless such ineligibility would result in an exceptional and extremely unusual hardship to the alien’s spouse, parent, or child any of whom is a citizen or an alien admitted for permanent residence. Exceptional and extremely unusual hardship is defined as significant and demonstrable adverse impact on the health or safety, continued existence of the family unit, and any other impact determined by the Developer to negatively affect the alien’s spouse, parent or child. However, the Developer will authorize the payment of relocation assistance benefits to any otherwise eligible residential displacees from non-federally authorized reimbursable funds.

In order to track and account for relocation assistance and benefit payments, Developer staff will be required to seek immigration status information from each displacee aged 18 years or older by having them certify as to their legal status.
G. RELOCATION TAX CONSEQUENCES

In general, relocation payments are not considered income for the purpose of Division 2 of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986 (Title 26, U. S. Code), or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act (42 U. S. Code 301 et seq.) or the Personal Income Tax Law, Part 10 (commencing with Section 17001) of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part II (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code. The above statement on tax consequences is not intended as tax advice by the Developer. Displacees are responsible for consulting with their own tax advisors concerning the tax consequences of relocation payments.
V. ADMINISTRATIVE PROVISIONS

A. NOTICES

Each notice, which the Developer is required to provide to a Project site occupant, shall be personally delivered or sent by certified or registered first-class mail, return receipt requested and documented in the case file. Each notice will be written in plain, understandable language.

Persons who are unable to read and understand any notice will be provided with appropriate translation and counseling. Each notice will indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help. There are four principal notices:

1) General Information Notice
2) Informational Statement
3) Notice of Eligibility
4) Ninety-Day Notice to Vacate

The General Information Notice (GIN) is intended to provide potential relocatees with a general written description of the Developer’s relocation program and basic information concerning benefits, conditions of eligibility, noticing requirements and appeal rights (Exhibit C). The GIN is issued as early as is feasible in the initial stages of a Project, preferably, the planning stage. GINs were hand-delivered to all potentially displaced occupants in November 2018. GINs were again issued on August 14, 2020 via regular and certified mail.

The Informational Statement is intended to provide potential displacees with a general written description of the Developer’s relocation program and basic information concerning benefits, conditions of eligibility, noticing requirements and appeal rights (Exhibit B). The Informational Statement is issued as early as is feasible to the impacted residents in the initial stages of a Project.

A Notice of Relocation Eligibility (NOE) will be distributed to each eligible permanent displacee. The NOE to the residential relocatee contains a determination of eligibility for relocation assistance and a computation of a maximum entitlement based on information provided by the affected household and the analysis of comparable replacement properties undertaken by OPC staff. The NOEs will be issued to any eligible permanent displacee, once the Property has been secured by the Developer and the Project funding is in place.

No lawful occupant will be required to permanently move without having received at least 90 days advance written notice of the earliest date by which the move will be necessary. The 90-day notice will either state a specific date as the earliest date by which the occupant may be required to move or state that the occupant will receive a further notice indicating, at least 60 days in advance, the specific date of the required move. The 90-day notice will not be issued to any residential displacee before a comparable replacement dwelling has been made available.

In addition to the four principal notices, OPC will issue a timely written notification in the form of a Reminder Notice, which discusses the possible loss of rights and sets the expiration date for the loss of benefits to those persons who:
1) are eligible for monetary benefits,
2) have moved from the acquired property, and
3) have not filed a claim for benefits.

Reminder Notices will be issued periodically throughout the qualification period, as appropriate. An attempt shall be made to make written contact with all non-responsive relocatees no later than within the last six months prior to the filing expiration date.

B. PRIVACY OF RECORDS

All information obtained from displacees is considered confidential and will not be shared without the consent of the displacee or the Developer. Developer staff will comply with federal regulations concerning the safeguarding of relocation files and their contents.

C. GRIEVANCE PROCEDURES

The Developer’s Relocation Appeals process will be consistent with the Provisions of Article 5 of the State relocation guidelines (Appendix A) and 6150-6176. The right to appeal shall be described in all relocation explanatory material distributed to displacees.

As required under the State relocation guidelines, displacees will have the right to ask for administrative review when they believe themselves aggrieved by a determination as to eligibility, payment amounts, and the failure to provide comparable replacement housing referrals or the Developer’s property management practices.

Requests for administrative review and informal hearings will be directed to the Developer’s Senior Vice President, Finance. All requests for review will receive written responses from the Developer within three weeks of their receipt. If an informal appeal is denied, appellants will be entitled to file a written request for a formal hearing before an impartial and independent hearing officer.

The appellant does not have to exhaust administrative remedies first; the appeal/grievance can either go directly to the city, directly to HCD or directly to the Court. Any person and/or organization directly affected by the relocation plan may petition the Department of Housing and Community Development (HCD), located at 2020 West El Camino Ave., Sacramento, CA 95833 to review the relocation plan.

More detail concerning the appeals process will be provided upon request. Appellants will retain their appeal rights for up to 18 months following the date of displacement from the Project premises or receipt of final payment for relocation benefits, whichever is later.

D. EVICTION POLICY

1. Eviction may cause the forfeiture of a displacee’s right to relocation assistance or benefits. Relocation records will be documented to reflect the specific circumstances surrounding any eviction action.
2. Eviction may be undertaken for one or more of the following reasons:

(a) Failure to pay rent, except in those cases where the failure to pay is due to the owner’s failure to keep the premises in habitable condition, is the result of harassment or retaliatory action, or is the result of discontinuation or a substantial interruption of services;
(b) Performance of a dangerous and/or illegal act in the unit;
(c) A material breach of the rental agreement and failure upon notification to correct said breach within 30 days of Notice;
(d) Maintenance of a nuisance and failure to abate such nuisance upon notification within a reasonable time following Notice;
(e) Refusal to accept one of a reasonable number of offers of replacement dwellings; and/or,
(f) A requirement under State or local law or emergency circumstances that cannot be prevented by reasonable efforts on the part of the Developer.

E. CITIZEN PARTICIPATION

As the process for considering the Project moves forward, the Developer will observe the following protocol:

1. Provide affected tenants with full and timely access to documents relevant to the relocation program in both English and Spanish, as needed;
2. Encourage meaningful participation in reviewing the relocation plan and monitoring the relocation assistance program; including the Project area occupants, neighborhood groups and community organizations forming a relocation committee;
3. Provide technical assistance necessary to interpret elements of the relocation program;
4. Issue a general notice concerning the availability of the Plan for public review, as required, 30 days prior to its proposed approval; and
5. Include written or oral comments concerning the Plan as an attachment (Exhibit D) when it is forwarded to the County of Orange and HCD for approval.

F. PROJECTED DATE OF DISPLACEMENT

The Developer anticipates that Notices to Vacate will not be issued prior to October 2020.

G. ESTIMATED RELOCATION COSTS

The total budget estimate permanent relocation-related payments for this Project, including a 10% contingency, is $2,040,000 (rounded).
The estimated relocation budget does not include any payments related to property acquisition or the cost of any services necessary to implement the Plan and complete the relocation element of the Project.

If the Project is implemented, and circumstances arise that should change either the number of Project occupants, or the nature of their activity, the Developer will authorize any additional funds that may need to be appropriated. The Developer pledges to appropriate, on a timely basis, the funds necessary to ensure the successful completion of the Project, including funds necessary for LRH as indicated in Section IV, E, of this Plan to meet its obligation under applicable Relocation Laws.
EXHIBIT A
HUD INCOME LIMITS – ORANGE COUNTY

The following figures are approved by the U. S. Department of Housing and Urban Development (HUD) for use in the County of Orange to define and determine housing eligibility by income level.

<table>
<thead>
<tr>
<th>Family Size</th>
<th>Extremely Low</th>
<th>Very Low</th>
<th>Lower</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Person</td>
<td>26,950</td>
<td>44,850</td>
<td>71,750</td>
</tr>
<tr>
<td>2 Person</td>
<td>30,800</td>
<td>51,250</td>
<td>82,000</td>
</tr>
<tr>
<td>3 Person</td>
<td>34,650</td>
<td>57,650</td>
<td>92,250</td>
</tr>
<tr>
<td>4 Person</td>
<td>38,450</td>
<td>64,050</td>
<td>102,450</td>
</tr>
<tr>
<td>5 Person</td>
<td>41,550</td>
<td>69,200</td>
<td>110,650</td>
</tr>
<tr>
<td>6 Person</td>
<td>44,650</td>
<td>74,300</td>
<td>118,850</td>
</tr>
<tr>
<td>7 Person</td>
<td>47,700</td>
<td>79,450</td>
<td>127,050</td>
</tr>
<tr>
<td>8 Person</td>
<td>50,800</td>
<td>84,550</td>
<td>135,250</td>
</tr>
</tbody>
</table>

Figures are per the Department of Housing and Urban Development (California), updated in April 2020.
EXHIBIT B
INFORMATIONAL BROCHURES
1. GENERAL INFORMATION

The dwelling in which you now live is in a project area to be improved by, or financed through, the Displacing Agency using federal funds. If and when the project proceeds, and it is necessary for you to move from your dwelling, you may be eligible for certain benefits. You will be notified in a timely manner as to the date by which you must move. Please read this information, as it will be helpful to you in determining your eligibility and the amount of the relocation benefits you may receive under the federal law. You will need to provide adequate and timely information to determine your relocation benefits. The information is voluntary, but if you don’t provide it, you may not receive the benefits or it may take longer to pay you. We suggest you save this informational statement for reference.

The Displacing Agency has retained the professional firm of Overland, Pacific & Cutler, LLC (OPC) to provide relocation assistance to you. The firm is available to explain the program and benefits. Their address and telephone number is listed on the cover.

PLEASE DO NOT MOVE PREMATURELY. THIS IS NOT A NOTICE TO VACATE YOUR DWELLING. However, if you desire to move sooner than required, you must contact your representative with Overland, Pacific & Cutler, Inc., so you will not jeopardize any benefits. This is a general informational brochure only, and is not intended to give a detailed description of either the law or regulations pertaining to the Displacing Agency’s relocation assistance program.

Please continue to pay your rent to your current landlord, otherwise you may be evicted and jeopardize the relocation benefits to which you may be entitled to receive. Once the Displacing Agency acquires the property, you will also be required to pay rent to the Displacing Agency.

2. ASSISTANCE IN LOCATING A REPLACEMENT DWELLING

The Displacing Agency, through its representatives, will assist you in locating a comparable replacement dwelling by providing referrals to appropriate and available housing units. You are encouraged to actively seek such housing yourself. When a suitable replacement dwelling unit has been found, your relocation agent will carry out an inspection and advise you as to whether the dwelling unit meets decent, safe and sanitary housing requirements. A decent, safe and sanitary housing unit provides adequate space for its occupants, proper weatherproofing and sound heating, electrical and plumbing systems. Your new dwelling must pass inspection before relocation assistance payments can be authorized.

3. MOVING BENEFITS

If you must move as a result of displacement by the Displacing Agency, you will receive a payment to assist in moving your personal property. The actual, reasonable and necessary expenses for moving your household belongings may be determined based on the following methods:
• A Fixed Moving Payment based on the number of rooms you occupy (see below); or
• A payment for your Actual Reasonable Moving and Related Expenses based on at least two written estimates and receipted bills; or
• A combination of both (in some cases).

For example, you may choose a Self-Move, receiving a payment based on the Fixed Residential Moving Cost Schedule shown below, plus contract with a professional mover to transport your grand piano and/or other items that require special handling. In this case, there may be an adjustment in the number of rooms which qualify under the Fixed Residential Moving Cost Schedule.

A. Fixed Moving Payment (Self-Move)

A Fixed Moving Payment is based upon the number of rooms you occupy and whether or not you own your own furniture. The payment is based upon a schedule approved by the Displacing Agency, and ranges, for example, from $475.00 for one furnished room to $2,505.00 for eight rooms in an unfurnished dwelling. (For details see the table). Your relocation agent will inform you of the amount you are eligible to receive, if you choose this type of payment.

If you select a fixed payment, you will be responsible for arranging for your own move, and the Displacing Agency will assume no liability for any loss or damage of your personal property. A fixed payment also includes utility hook-ups and other related moving fees.

B. Actual Moving Expense (Commercial Move)

If you wish to engage the services of a licensed commercial mover and have the Displacing Agency pay the bill, you may claim the ACTUAL cost of moving your personal property up to 50 miles. Your relocation agent will inform you of the number of competitive moving bids (if any) which may be required, and assist you in developing a “mover” scope of services for Displacing Agency approval.

### Fixed Moving Schedule

<table>
<thead>
<tr>
<th>CALIFORNIA (Effective 2015)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Occupant Owns Furniture:</strong></td>
</tr>
<tr>
<td>1 room</td>
</tr>
<tr>
<td>2 rooms</td>
</tr>
<tr>
<td>3 rooms</td>
</tr>
<tr>
<td>4 rooms</td>
</tr>
<tr>
<td>5 rooms</td>
</tr>
<tr>
<td>6 rooms</td>
</tr>
<tr>
<td>7 rooms</td>
</tr>
<tr>
<td>8 rooms</td>
</tr>
<tr>
<td>Each additional room</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Occupant does NOT Own Furniture:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 room</td>
</tr>
<tr>
<td>Each additional room</td>
</tr>
</tbody>
</table>

### 4. REPLACEMENT HOUSING PAYMENT – TENANTS AND CERTAIN OTHERS

You may be eligible for a payment up to $7,200.00 to assist in renting or purchasing a comparable replacement dwelling. In order to qualify, you must either be a tenant or owner who has occupied the present dwelling for at least 90 days immediately prior to the initiation of negotiations.
A. **Rental Assistance.** If you **wish to rent** your replacement dwelling, your maximum rental assistance benefits will be based upon the difference over a forty-two (42) month period between the rent you must pay for a comparable replacement dwelling and the lesser of your current rent or thirty percent (30%) of your monthly household income if your total gross income is classified as “low income” by the U. S. Department of Housing and Urban Development’s (HUD) Annual Survey of Income Limits for Public Housing and Section 8 Programs. You will be required to provide your relocation agent with monthly rent and household income verification prior to the determination of your eligibility for this payment.

- OR –

B. **Down-payment Assistance.** If you qualify, and **wish to purchase** a home as a replacement dwelling, you can apply up to the total amount of your rental assistance payment towards the down-payment and non-recurring incidental expenses. Your relocation agent will clarify procedures necessary to apply for this payment.

5. **SECTION 8 TENANTS**

When you do move, you may be eligible to transfer your Section 8 eligibility to a replacement site. In such cases, a comparable replacement dwelling will be determined based on your family composition at the time of displacement and the current housing program criteria. This may not be the size of the unit you currently occupy. Your relocation agent will provide counseling and other advisory services along with moving benefits.

6. **REPLACEMENT HOUSING PAYMENT - HOMEOWNERS**

A. If you own and occupy a dwelling to be purchased by the Displacing Agency for **at least 90 days** prior to the initiation of negotiation, you may be eligible to receive a payment of up to $31,000.00 to assist you in purchasing a comparable replacement unit. This payment is intended to cover the following items:

1. **Purchase Price Differential** - An amount which, when added to the amount for which the Displacing Agency purchased your property, equals the lesser of the actual cost of your replacement dwelling; or the amount determined by the Displacing Agency as necessary to purchase a comparable replacement dwelling. Your relocation agent will explain both methods to you.

2. **Mortgage Interest Differential** - The amount which covers the increased interest costs, if any, required to finance a replacement dwelling. Your relocation agent will explain limiting conditions.

3. **Incidental Expenses** - Those one-time incidental costs related to purchasing a replacement unit, such as escrow fees, recording fees, and credit report fees. Recurring expenses such as prepaid taxes and insurance premiums are not compensable.

B. **Rental Assistance Option** - If you are an owner-occupant and choose to rent rather than purchase a replacement dwelling, you may be eligible for a rental assistance payment of up to the amount that you could have received under the Purchase Price Differential, explained above. The payment will be based on the difference between the fair market rent of the dwelling you occupy and the rent you must pay for a comparable replacement dwelling.
If you receive a rental assistance payment, as described above, and later decide to purchase a replacement dwelling, you may apply for a payment equal to the amount you would have received if you had initially purchased a comparable replacement dwelling, less the amount you have already received as a rental assistance payment.

7. QUALIFICATION FOR, AND FILING OF, RELOCATION CLAIMS

To qualify for a Replacement Housing Payment, you must rent or purchase and occupy a comparable replacement unit **within one year from the following**:

- For a tenant, the date you move from the displacement dwelling.
- For an owner-occupant, the latter of:
  - The date you receive final payment for the displacement dwelling, or, in the case of condemnation, the date the full amount of estimated just compensation is deposited in court; or
  - The date the Displacing Agency fulfills its obligation to make available comparable replacement dwellings.

All claims for relocation benefits must be filed with the Displacing Agency **within eighteen (18) months** from the date on which you receive final payment for your property, or the date, on which you move, whichever is later.

8. LAST RESORT HOUSING ASSISTANCE

If comparable replacement dwellings are not available when you are required to move, or if replacement housing is not available within the monetary limits described above, the Displacing Agency will provide Last Resort Housing assistance to enable you to rent or purchase a replacement dwelling on a timely basis. Last Resort Housing assistance is based on the individual circumstances of the displaced person. Your relocation agent will explain the process for determining whether or not you qualify for Last Resort assistance.

If you are a tenant, and you choose to purchase rather than rent a comparable replacement dwelling, the entire amount of your rental assistance and Last Resort eligibility must be applied toward the down-payment and eligible incidental expenses of the home you intend to purchase.

9. RENTAL AGREEMENT

As a result of the Displacing Agency's action to purchase the property where you live, you may become a tenant of the Displacing Agency. If this occurs, you will be asked to sign a rental agreement which will specify the monthly rent to be paid, when rent payments are due, where they are to be paid and other pertinent information.

10. EVICTIONS

Eviction for cause must conform to applicable State and local law. Any person who occupies the real property and is not in unlawful occupancy on the date of initiation of negotiations, is presumed to be entitled to relocation benefits, unless the Displacing Agency determines that:
The person received an eviction notice prior to the initiation of negotiations and, as a result, was later evicted; or
The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease; and
The eviction was not undertaken for the purpose of evading relocation assistance regulations.

Except for the causes of eviction set forth above, no person lawfully occupying property to be purchased by the Displacing Agency will be required to move without having been provided with at least 90 days written notice from the Displacing Agency.

11. APPEAL PROCEDURES - GRIEVANCE

The Developer's Relocation Appeals process will be consistent with the Provisions of Article 5 of the State relocation guidelines (Appendix A) and 6150-6176. The right to appeal shall be described in all relocation explanatory material distributed to displacees.

As required under the State relocation guidelines, displacees will have the right to ask for administrative review when they believe themselves aggrieved by a determination as to eligibility, payment amounts, and the failure to provide comparable replacement housing referrals or the Developer's property management practices.

Requests for administrative review and informal hearings will be directed to the Developer’s Senior Vice President, Finance. All requests for review will receive written responses from the Developer within three weeks of their receipt. If an informal appeal is denied, appellants will be entitled to file a written request for a formal hearing before an impartial and independent hearing officer.

The appellant does not have to exhaust administrative remedies first; the appeal/grievance can either go directly to the city, directly to HCD or directly to the Court. Any person and/or organization directly affected by the relocation plan may petition the Department of Housing and Community Development (HCD), located at 2020 West El Camino Ave., Sacramento, CA 95833 to review the relocation plan. More detail concerning the appeals process will be provided upon request. Appellants will retain their appeal rights for up to 18 months following the date of displacement from the Project premises or receipt of final payment for relocation benefits, whichever is later.

12. TAX STATUS OF RELOCATION BENEFITS

California Government Code Section 7269 indicates no relocation payment received shall be considered as income for the purposes of the Personal Income Tax Law, Part 10 (commencing with Section 170 01) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code. Furthermore, federal regulations (49 CFR Part 24, Section 24.209) also indicate that no payment received under this part (Part 24) shall be considered as income for the purpose of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986. The preceding statement is not tendered as legal advice in regard to tax consequences, and displacees should consult with their own tax advisor or legal counsel to determine the current status of such payments.

(IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be...
used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting marketing or recommending to another party any matters addressed herein)

13. LAWFUL PRESENCE REQUIREMENT

In order to be eligible to receive relocation benefits in federally-funded relocation projects, all members of the household to be displaced must provide information regarding their lawful presence in the United States. Any member of the household who is not lawfully present in the United States or declines to provide this information may be denied relocation benefits, unless such ineligibility would result in an exceptional and extremely unusual hardship to the alien’s spouse, parent, or child, any of whom is a citizen or an alien admitted for permanent residence. Exceptional and extremely unusual hardship is defined as significant and demonstrable adverse impact on the health or safety, continued existence of the family unit, and any other impact determined by the Displacing Agency to negatively affect the alien’s spouse, parent or child. Relocation benefits will be prorated to reflect the number of household members with certified lawful presence in the US. However, non-federal funds will be used to provide relocation assistance to all otherwise eligible displacees.

14. NON-DISCRIMINATION AND FAIR HOUSING

No person shall on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the Displacing Agency’s relocation assistance program pursuant to Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and other applicable state and federal anti-discrimination and fair housing laws. You may file a complaint if you believe you have been subjected to discrimination. For details contact the Displacing Agency.

15. ADDITIONAL INFORMATION AND ASSISTANCE AVAILABLE

Those responsible for providing you with relocation assistance hope to assist you in every way possible to minimize the hardships involved in relocating to a new home. Your cooperation will be helpful and greatly appreciated. If you have any questions at any time during the process, please do not hesitate to contact your relocation agent at Overland, Pacific & Cutler, LLC (OPC).

Yasmeen Flores or Ada Fernandez
(800) 400-7356
November 13, 2018

Occupant

11850 Beach Blvd., ___
Stanton, CA 90680

Dear Occupant(s):

**Jamboree Housing Corporation** (called here the “Developer”) is interested in acquiring and developing the property you currently occupy at **11850 Beach Blvd., Stanton, CA 90680** as part of the proposed Tahiti Motel Project (“Project”). This notice is to inform you of your rights under Federal and or State law. If the Developer acquires the property, and you are displaced for the Project, you may be eligible for relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended and/or California Relocation Assistance Law (Sec 7260 et. seq. of the CA Government Code.

However, you do not have to move now.

This is not a notice to vacate the premises or a notice of relocation eligibility.

The Developer has retained the professional firm of **Overland, Pacific & Cutler, LLC** (OPC) to represent the Developer and assist in the relocation process. In order to assess and better plan for the relocation needs of possible displaced households in the Project, the Developer is preparing a Relocation Plan. To prepare this Relocation Plan, OPC staff will need to meet with you to assess your relocation needs and potential eligibility for assistance. OPC will be at the motel to interview motel occupants and will be trying to contact you then. If you want to make an appointment that is convenient for you, please call one of the relocation specialists identified below.

**Christopher Baquir, Nicole Clancy, July Ly or Norma Jacquez**

(800) 400-7356

If the Developer acquires the property, and you are permanently displaced, and you are eligible for relocation assistance, you will be given advisory services, including referrals to replacement housing, and at least 90 days advance written notice of the date you will be required to move. You would also receive a payment for moving expenses and may be eligible for financial assistance to help you rent or buy a replacement dwelling. **Guests of the motel are not eligible for relocation assistance. You will be required to provide written documentation that supports any claim of permanent residency at the motel.**
Any person aggrieved by a determination as to eligibility for, or the amount of, a payment authorized by the Developer’s Relocation Assistance Program may have the appeal application reviewed by the Developer in accordance with its appeals procedure. Complete details on appeal procedures are available upon request from the Developer.

Note that pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance through a federal funding source, unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States. However, relocation assistance will be provided via non-federal funds to persons not lawfully present in the United States.

If you do rent your unit as a permanent tenant, you should continue to pay your monthly rent to your landlord because failure to pay rent and meet your obligations as a tenant may be cause for eviction and loss of relocation assistance. You are urged not to move or sign any agreement to purchase or lease a unit before receiving formal notice of eligibility for relocation assistance. If you move or are evicted before receiving such notice, you will not be eligible to receive relocation assistance. Please contact us before you make any moving plans.

Again, this is not a notice to vacate and does not establish eligibility for relocation payments or other relocation assistance. The Developer may not purchase the property. If the Developer decides not to purchase the property, you will be notified in writing.

If you have any questions about this or any other relocation issues, please contact the agent at the phone number provided on the previous page.

Sincerely,

Michele Folk, SR/WA, R/W-RAC, R/W-URAC
Vice President, Housing
Overland, Pacific & Cutler, LLC

_________________________ Delivered on/by: ____________/____________

Received by

X_________________________ Posted on/by: ____________/____________

Recipient’s Signature

_________________________ Mailed/receipt received on: ____________/________

Date
August 14, 2020

Dear Tenant(s):

Jamboree Housing Corporation (Developer) is in the process of acquiring the Tahiti Motel to be redeveloped as a permanent supportive housing project. All existing tenants of the motel will need to permanently relocate from the property in the future.

The Developer has retained our firm, Overland, Pacific & Cutler, LLC (OPC), to assist existing tenants through the relocation process. We have been trying to reach you to set up a time to give you information about the relocation assistance and benefits that will be available to you as well as to collect information about your household and relocation needs.

Please contact one of the relocation agents below as soon as possible to schedule an appointment for them to speak with you about the relocation program.

Yasmeen Flores or Ada Fernandez
(800) 400-7356

Because of the type of funding the Developer will use for the project, you are protected under Federal and State relocation laws. We have enclosed a General Information Notice that is required to be given to any tenants who will be displaced. We have also included a Document Request Letter and return envelope for your convenience. You will be eligible for rental assistance and moving assistance payments, but in order to calculate the amount of your potential relocation payments, we must collect written documentation regarding your household income and occupancy.

Due to the federal funds involved with the project, we are required to ask about your legal presence status in the United States (Certification of Lawful Presence form). But even if you are not in the country legally, you are still eligible for relocation assistance under the State relocation program.

**Again, please contact one of the agents above as soon as possible**, if you have not already spoken with one of them. It is also important that you return the written documentation requested so that we can ensure you receive as much assistance as possible. Please contact either of the agents above, if you have any questions about what documentation you should provide.

We are here to assist you throughout the relocation process. Thank you for your cooperation.

Sincerely,

Michele Folk
Senior Vice President
OPC
August 14, 2020

Occupant

11850 Beach Blvd., ___
Stanton, CA 90680

Dear Occupant(s):

**Jamboree Housing Corporation** (called here the “Developer”) is interested in acquiring and developing the property you currently occupy at **11850 Beach Blvd., Stanton, CA 90680** as part of the proposed Tahiti Motel Project (“Project”). This notice is to inform you of your rights under Federal and or State law. If the Developer acquires the property, and you are displaced for the Project, you **may** be eligible for relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended and/or California Relocation Assistance Law (Sec 7260 et. seq. of the CA Government Code.

**However, you do not have to move now.**

This is **not** a notice to vacate the premises or a notice of relocation eligibility.

The Developer has retained the professional firm of **Overland, Pacific & Cutler, LLC** (OPC) to represent the Developer and assist in the relocation process. In order to assess and better plan for the relocation needs of possible displaced households in the Project, the Developer is updating a Relocation Plan prepared in 2019. To update the Relocation Plan, OPC staff will need to interview you to assess your relocation needs and potential eligibility for assistance. Please call one of the relocation specialists identified below.

**Yasmeen Flores or Ada Fernandez**

(800) 400-7356

If the Developer acquires the property, and you are permanently displaced, and you are eligible for relocation assistance, you will be given advisory services, including referrals to replacement housing, and at least 90 days advance written notice of the date you will be required to move. You would also receive a payment for moving expenses and may be eligible for financial assistance to help you rent or buy a replacement dwelling. **Guests of the motel are not eligible for relocation assistance. You will be required to provide written documentation that supports any claim of permanent residency at the motel.**
Any person aggrieved by a determination as to eligibility for, or the amount of, a payment authorized by the Developer’s Relocation Assistance Program may have the appeal application reviewed by the Developer in accordance with its appeals procedure. Complete details on appeal procedures are available upon request from the Developer.

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Again, this is not a notice to vacate and does not establish eligibility for relocation payments or other relocation assistance. The Developer may not purchase the property. If the Developer decides not to purchase the property, you will be notified in writing.

If you have any questions about this or any other relocation issues, please contact the agent at the phone number provided on the previous page.

Sincerely,

[Signature]

Dr. Michele Folk, SR/WA, R/W-RAC, R/W-URAC
Senior Vice President
Overland, Pacific & Cutler, LLC

Delivered on/by: ____________/__________

Received by

[Signature]

Posted on/by: ____________/__________

Recipient’s Signature

[Signature]

Mailed/receipt received on: ____________/__________

Date
EXHIBIT D

PUBLIC COMMENTS & RESPONSES

There were no comments or questions received during the 30-day public review and comment period between September 1, 2020 and October 1, 2020. All Project tenants were given access to a copy of the draft Relocation Plan and were provided with an advisory notice informing them of the public review and comment process, where to send comments or questions, and the timeframe in which to submit them.
October 15, 2020

To: Robin Stieler, Clerk of the Board

From: Frank Kim, County Executive Officer

Subject: Request for Closed Session on October 20, 2020

Accordingly, please prepare the Agenda item to read:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR – County Executive Office requests a Closed Session pursuant to Government Code Section 54956.8, to confer with its real property negotiator.

Property Location: County Owned Property at Former MCAS El Toro

County Negotiator: Thomas A. Miller, Chief Real Estate Officer

Negotiating Party: Simpson Chevrolet
Syco Riverside
Tuttle-Click Auto Group
City of Irvine
Irvine BMW
Arbor Group

Ranscapes, Inc.
Norm Reeves Honda
OC Storage LLC
Great Scott Tree Service
Irvine Subaru
Macias Gardening

Under Negotiation: Terms of and Value of Existing Licenses and Leases

Recommended Action: Conduct Closed Session

cc: Members, Board of Supervisors
    Chief Executives
    Leon J. Page, County Counsel