

**FUNDING AGREEMENT BETWEEN CITY OF SALINAS**  
**AND**  
**County of San Benito Community Services & Workforce Development**  
**FOR**  
**State California Housing Community & Development (State HCD)**  
**Emergency Solutions Grant (ESG)**  
**FISCAL YEAR 2017-2018**

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**FUNDING AGREEMENT BETWEEN CITY OF SALINAS**

**AND**

**County of San Benito Community Services & Workforce Development**

**FOR**

**State HCD Emergency Solutions Grant (ESG) Funding**

**FISCAL YEAR 2017-2018**

This State Emergency Solutions Grant (ESG) Agreement ("Agreement"), made and entered into this 17th day of April 2018, by and between the City of Salinas, a charter city and municipal corporation, ("City"), and, **County of San Benito Community Services & Workforce Development**, a California non-profit corporation, (hereinafter referred to as "Grantee").

**RECITALS**

**WHEREAS, the State of California (the "State"), Department of Housing and Community Development ("Department") issued a Notice of Funding Availability (NOFA) dated June 6, 2017 under the Emergency Solutions Grant (ESG) Program ("Program"). The City of Salinas prepared a NOFA to ESG agencies in Monterey and San Benito Counties on December 31, 2016.**

**WHEREAS,** City of Salinas is an approved State of California ESG Administrative Entity (AE) and has made these funds available to eligible recipients/Grantees, including private non-profit organizations;

**WHEREAS,** the Department has approved funding allocations for the ESG Program, subject to terms and conditions of the NOFA, Program guidelines and requirements, and the Standard Agreement and other contracts between Department and ESG grant recipients;

**WHEREAS,** ESG funds are available for the operations and essential supportive services for homeless prevention, rapid re-housing, and grant administration;

**WHEREAS,** ESG funds may be used in non-entitlement and entitlement areas within San Benito and Monterey Counties;

**WHEREAS,** the Grantee must make matching contributions to supplement the Grantee's ESG program in an amount that equals the Grantee's fiscal year grant for ESG and each matching contribution must meet the requirements under 2 CFR 200.306;

**WHEREAS,** Grantee has applied to the City for FY 2017-18 Non-Entitlement ESG public services funding to reimburse Grantee for a portion of the cost of providing services to the community;

**WHEREAS**, the City of Salinas was authorized to be the Administrative Entity (AE) by Resolution # 21053 (N.C.S.) dated September 20, 2016, "A Resolution of the Salinas City Council Authorizing the City of Salinas to be the State Administrative Entity for the Emergency Solutions Grant (ESG) Grant";

**WHEREAS**, the Grantee follows the regulations set forth by the Department of Housing and Community Development (HCD), Emergency Solutions Grants Program State Regulations under the California Code of Regulations Title 25, Division 1, Chapter 7, Subchapter 20.

**NOW, THEREFORE**, in consideration of mutual covenants and agreements contained herein, the parties hereto agree as follows:

## **PART I - AGREEMENT**

### **Section 1. Definitions (as used in this Agreement)**

Except to the extent modified or supplemented by this Agreement, any term defined in Title I of the Housing and Community Development Act of 1974, or the HUD Emergency Solutions Grant Regulations at 24 CFR Part 576, shall have the same meaning when used herein.

- a. "Grantee" shall mean an entity, whether public or private, which has the responsibility for administering a project or activity meeting the criteria specified by HUD in the Emergency Solutions Grant regulations (24 CFR 576.) that is authorized to use ESG funds to carry out certain special activities.
- b. "HUD" means the U.S. Department of Housing and Urban Development or a person authorized to act on behalf of the Department.
- c. Emergency Solutions Grant, "ESG" means the Emergency Solutions Grant program.
- d. "Proposal" means the agency's application submitted to the City of Salinas requesting ESG funding.

### **Section 2. Term**

This Agreement shall commence on April 05, 2018, and expires on April 30, 2019, unless suspended or terminated sooner pursuant to the terms of this Agreement. This Agreement may not be extended beyond the term set forth in this section.

### **Section 3. Scope of Service**

This Agreement, including the attached budget, Exhibit A and Exhibit B- Project Timeline, herein made part of this agreement, is to be performed in accordance with Grantee's FY 2017-18 Funding Proposal/Application for funding ("Proposal") dated February 6, 2017 and addendums as applicable, on file at the City of Salinas, Community and Economic Development Department-Housing Division, and incorporated herein by this reference.

- a. Activities

The Grantee will be responsible for administering the ESG grant San Benito County Warming Shelter in a manner satisfactory to the City/AE and consistent with ESG



Regulations defined in 24 CFR 576.01 and the California Code of Regulations Title 25, Division 1, Chapter 7, Subchapter 20. Such program will include the following activities eligible under the ESG program:

b. Components and Objectives

The ESG program provides funding for five program components: (1) street outreach; (2) emergency shelter; (3) homeless prevention; (4) rapid re-housing assistance; and (5) HMIS as defined in CFR 576.01 through 576.108.

The objectives of the ESG program are to: (1) engage homeless individuals and families living on the street; (2) improve the number and quality of emergency shelters for homeless individuals and families; (3) help operate these shelters; (4) provide essential services to shelter residents, (5) rapidly re-house homeless individuals and families, and (6) prevent families/individuals from becoming homeless as defined in 24 CFR Part 576.

c. Levels of Accomplishment-Goals and Performance Measures

The levels of accomplishment are referenced in Exhibit B-Project Timeline and herein made part of this agreement.

d. Staffing

The list of staff and time commitments to be allocated to each activity are included in Section 5 of the Grantee's FY 17/18 Application. Any changes in the Key Personnel assisted or their general responsibilities under this project are subject to the prior approval of the Grantee. The City must be contacted if any key personnel changes occur during the grant cycle.

e. Performance Monitoring

The City will monitor the performance of the Grantee against goals and performance standards as stated above. Substandard performance as determined by the City will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Grantee within a reasonable period of time after being notified by the City, contract suspension or termination procedures will be initiated and the City may be required to request the Grantee to reimburse funds mismanaged or misspent back to the State.

#### **Section 4. Funding**

**Purpose:**

Activity 1: Warming Shelter guests will be able to utilize the internet to search for housing opportunities during their stay and receive assistance from staff. The goal is to assist guests as much as possible for them to be housed by the end of the shelter season.

Activity 2: Warming Shelter guests who are linked to, or will need to be linked to services, will be provided transportation to their appointments every morning. Shelter coordinator and supervisor will speak to the various service providers to schedule appointments early in the morning so the shelter van may drop off guests directly to their appointments and each guest will receive a bus token to get back in to town.

Activity 3: Warming Shelter guests and families residing at the emergency family shelter will be given assistance once they have identified a housing opportunity. The integrated case worker will contact prospective landlords and pass on information regarding the rapid rehousing component and the measures taken to keep guests and families housed. The rapid re-housing assistance consists of deposit and 3 months rent.

The funds to be used by the City for the payments to Grantee hereunder are ESG funds received under a grant from the State of California HCD.

- a. **Maximum Compensation:** It is expressly understood that the total compensation to be paid to Grantee under this Agreement for services rendered shall not exceed **\$190,801.00**.
- b. **Funding Availability:** Funding is contingent upon services provided under this Agreement meeting the requirements of the Emergency Solutions Grant Program, as outlined in Title 24, Code of Federal Regulations, Section 576 incorporated herein by reference and made a part hereof, by providing assistance to homeless individuals and families by undertaking homeless prevention activities. The availability of said funds is subject to the control of the State of California, United States Government, Department of Housing and Urban Development and should said funds be encumbered, withdrawn or otherwise made unavailable to City, whether earned by or promised to Grantee, Grantee shall not be paid said funds until they are available for payment. No other funds owned or controlled by City shall be paid under this Agreement unless specifically permitted by the Council of the City of Salinas.

It is specifically understood and agreed by Grantee that the funds herein authorized for the programs, projects, and services to be undertaken and performed pursuant to this Agreement constitute all of the money presently available for the purpose of this Agreement; that future additional funding of any such programs, projects, or services beyond the term of this Agreement, by any new Agreement or amendment or extension of this Agreement, will depend not only upon the satisfactory performance of this Agreement by Grantee, but also upon the availability to City of grant funds allocated for such purposes; that neither City, nor any employee of City, has made any promise or commitment, expressed or implied, that any additional funds will be paid or made available to Grantee for the purpose of this Agreement over and above the funds expressly allocated thereto under the terms herein.

Grantee is advised that because additional funding may not be available beyond the term of this Agreement for the completion of any unfinished project or the continuation of any ongoing program or service, Grantee is expected to structure and conduct each project and program in such manner that it may be readily completed or terminated with the minimum of waste or loss in the event no further funding thereof is available.

- c. **Use of HUD Funds:** The Grantee shall administer its program in conformance with 2 CFR 200, prior OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.
- d. **Method of Payment:** City will provide payment for program costs covered by this Agreement on a monthly or quarterly basis upon successful electronic submission of "Expense Report" through the City's online data management system

([www.citydataservices.net](http://www.citydataservices.net)) by Grantee indicating the amount of payment requested and a breakdown of expenditures consistent with Grantee's budget included in Exhibit A. All costs shall be supported by properly executed invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible upon request by City and HUD, or designated agents thereof.

e. **Financial Management and Accounting Standards**

**Grantee shall request funds** only for authorized budget item(s) and the request shall be approved by City's Planning Manager (Housing Division) or his or her designee prior to payment. Payment requests are due on the tenth (10th) **day of each month, whether monthly or quarterly. Should the 10<sup>th</sup> fall on a weekend or holiday, the Grantee is responsible to provide their reports prior to the weekend or holiday. Agencies that miss City submittal deadlines more than two times in one fiscal year shall be disqualified from submitting a funding proposal for the following year per the Public Services Funding Parameters adopted by Salinas City Council on May 21, 2013.** Payments shall be reimbursed based upon the prior month's expenditures and appropriate documentation must be submitted electronically. "Expense Report" submitted incorrectly or without the "Activity Report" shall be returned to Grantee by City. Funding shall only be provided for expenses incurred or services provided during the period commencing April 5, 2018 and ending April 30, 2019. **Payment requests received by City after May 11, 2019 need not be considered for payment.**

If any portion of the approved funding is neither expended nor encumbered by April 30, 2019, the allocation shall be correspondingly reduced and the funds made available for other eligible ESG activities and any amendment thereto. In order to ensure compliance with the federal and state regulations concerning timely expenditure of the City's FY 2017-18 ESG Grant the abovementioned project shall be completed within the timeframes specified in the Project timeline (**Exhibit B**).

The Grantee may request an extension for the completion of the proposed scope of work. The Extension Request may only be approved on a case by case basis and only upon written request by submittal of a Request for Extension Form provided by the City of Salinas. Such form shall be completed on the City Data Services (CDS) website at [www.citydataservices.net](http://www.citydataservices.net).

Upon written request by Grantee, the Planning Manager may authorize such extension request, provided all HUD, State and City requirements are met. Upon review of the Request for Extension form, the Planning Manager will provide a determination in writing to Grantee within fifteen (15) City of Salinas business working days.

f. **End of Year Reporting for the Consolidated Annual Performance and Evaluation Report**

At the end of the State Fiscal Year timeframe, Grantees must submit HUD's required information for the eCart (ESG-CAPER Annual Reporting Tool) and Guide. This information must be prepared using the same methodology as the eCart and must be used



with all ESG CAPER Comma Separated Values (CSV) export files. Grantees must submit this information in a timely manner. The reporting for this is explained in the HUD Exchange eCart webpage.

- g. **Budget Modifications:** Upon electronic submission of a "Budget Modification Request" by Grantee, City's Planning Manager (Housing Division) may authorize a budget revision. Any budget revision executed shall not authorize the total compensation to be paid under this Agreement, as so modified, to exceed the amount shown above in Section 4, paragraph b. Such budget modifications shall be completed on the City Data Services (CDS) website at [www.citydataservices.net](http://www.citydataservices.net). Because the City has required spending thresholds, any budget modification must be approved by the City in order to ensure the City meets the State's funding requirements.
- h. **Unexpended Funds:** When a portion of the approved budget amount is not expended or encumbered, as per the approved budget within the Proposal (Exhibit A), the maximum compensation shall be automatically reduced by any unexpended portion unless otherwise indicated, in writing, by City's Planning Manager (Housing Division). Grantees spending rapid rehousing dollars are required to spend all their rapid rehousing funds. **Should an agency be at risk to not complete the rapid rehousing obligation of expenditure, the City reserves the right to reassess the grant and possibly de-obligate funding to another agency in order to meet the spending requirements for rapid rehousing.**
- i. **Improperly Expended Funds:** If City has reason to believe that any funds disbursed to Grantee under this Agreement were not expended in accordance with the terms and conditions hereof, City shall notify Grantee, in writing, of the facts or conduct which warrant(s) such belief, and shall provide Grantee reasonable opportunity to demonstrate or achieve compliance with the terms of this Agreement. If Grantee fails to demonstrate such compliance to the satisfaction of City within the time specified, upon request by City, Grantee shall immediately refund to City the amount determined to be improperly expended. Monies refunded must come from non-resources.

The provisions of this paragraph shall be in effect during the terms of this Agreement and for three years thereafter, or until such time as HUD shall have certified after audit, that all funds disbursed to Grantee under this Agreement were expended in accordance with the terms and conditions hereof. The Grantee would be required to re-pay any improperly spent funds to the City of Salinas.

#### **Section 4A. Non-Entitlement ESG Program Requirements**

Grantee shall comply with the following requirements of the ESG Program (24 CFR 576), as applicable and the City of Salinas Housing and Community Service Emergency Solutions Grant Operations Manual.

- a. Funding of homeless prevention activities for households that have received eviction notices or notices of termination of utility services shall meet the following requirements: (i) the inability of the family to make the required payment must be the result of a sudden reduction in income; (ii) the assistance must be necessary to avoid eviction of the family or termination of the services to the family; (iii) there must be a reasonable prospect the

family will be able to secure payment within a reasonable period of time; and (iv) the assistance must not supplant funding for pre-existing homeless prevention activities from any other source.

- b. Whenever ESG funds are used to perform minor rehabilitation of a structure, said structure must be maintained as a shelter for the homeless for not less than a three-year period. Whenever ESG funds are used for either major rehabilitation of a structure, or for conversion of a structure for use as an emergency shelter for the homeless, said structure shall be maintained as a shelter for not less than a ten-year period from the completion of the work. For the purpose of this Agreement, "Minor Rehabilitation/Renovation" means rehabilitation that involves costs totaling seventy-five percent (75%) or less of the value of the building before rehabilitation and "Major Rehabilitation" means rehabilitation that involves costs in excess of seventy-five percent (75%) of the value of the building before rehabilitation.
- c. Any building in which ESG funds are used for essential services, or payment of operating expenses, must be maintained as a shelter for the homeless or a facility for assisting the homeless for the period during which such assistance is provided. For buildings with multiple tenants, this requirement applies only to the portion occupied by Grantee.
- d. Any building for which ESG funds are used for renovation, conversion or major rehabilitation must meet federal, state and local government safety and sanitation standards upon completion of work.
- e. Homeless individuals and families must be given assistance in obtaining: (i) appropriate supportive services, including permanent housing, medical health treatment, mental health treatment, counseling, supervision, and other services essential for achieving independent living; and (ii) other Federal, State, local and private assistance available for such individuals.
- f. Grantee shall develop and implement procedures to ensure the confidentiality of records pertaining to any individual served pursuant to this Agreement and/or provided family violence prevention or treatment services and further to ensure that the address or location of any family violence shelter will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter.
- g. Grantee shall involve, to the maximum extent practicable, homeless individuals and families in policy-making and general operations such as renovation, operation and maintenance of facilities and the delivery of services.
- h. Grantee agrees to participate in the local Continuum of Care's Homeless Management Information System (HMIS) including requirements to collect and report an array of data pertaining to homelessness, including unduplicated counts, the use of services, and the effectiveness of the local homeless assistance system. Communities and homeless assistance providers use the data stored in HMIS to improve homeless assistance programs and better serve homeless persons meeting federal requirements of the Emergency Solutions Grant under the McKinney-Vento Homeless Assistance Act.

All other requirements of the ESG Program per title 24 CFR Part 576.



## **Section 4B. Other Program Requirements**

Grantee shall carry out each activity in compliance with all applicable federal laws and regulations as described below:

**Monitoring:** City will monitor Grantee to ensure that the ESG funds granted through this Agreement are used in accordance with all program requirements (24 CFR 576 & 24 CFR Part 84, Subpart C, Section 84.51) and to determine if Grantee is meeting its objectives listed in Grantee's Proposal, as submitted to City. Substandard performance as determined by City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by Grantee within a specified period of time after being notified by City, contract suspension or termination procedures will be initiated.

**Evaluation:** The City reserves the right to survey Grantee's clients. If the City elects to survey Grantee's clients, the City will deliver questionnaires to the Grantee and the Grantee will distribute those questionnaires to Grantee's clients. Grantee's clients may then remit completed questionnaires directly to the City. The method of return to the City would be clarified during the evaluation process. To maintain Grantee's protection of client confidentiality, City agrees that client surveys will not contain questions requiring the survey-taker to reveal any personally identifying client data. Following receipt of clients' completed questionnaires, the City shall forward a summary of the results to the Grantee.

**Disclosure of Confidential Client Information:** City and Grantee will protect the confidentiality of all records pertaining to any individual served under this Agreement and will protect the disclosure of such documents, except as otherwise required under state or federal law or unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian. Grantee expressly acknowledges that City is subject to the California Public Records Act and may, therefore, be obligated to disclose records pertaining to Grantee and its activities and services provided pursuant to this Agreement.

Depending on the nature or timing of the request, or future court decisions, records received by City pursuant to this agreement may not remain private and may be publicly disclosed. Given the nature of the applicable law under the California Public Records Act, City cannot guarantee or warrant that it will be able to keep submitted records confidential. Grantee therefore agrees to defend and indemnify City against any suit brought under the California Public Records act to obtain the records; otherwise, City shall not be obligated to defend such suit and may release the records.

## **Section 5. Records and Reports**

Grantee shall provide to City's Planning Manager (Housing Division) or his/her designee, a Monthly or Quarterly Activity Report, in a form determined by City, so that City may meet its record keeping and reporting requirements to HUD. These reports shall be due by the tenth day of each month, and will reflect the prior month's activities. Such Activity Reports shall be completed on the City Data Services (CDS) website at [www.citydataservices.net](http://www.citydataservices.net). As required by City and by HUD, Grantee shall maintain adequate records to support the reported statistics regarding beneficiary characteristics and services provided. Such records shall be made available for inspection by City, HUD or designated agents thereof upon

request as specified in 24 CFR Part 576.500 and 576.501. Grantee shall maintain all records required by the regulations specified in 24 CFR Part 576.500, and that are pertinent to the activities funded under this agreement; including but not limited to:

- a. records demonstrating that funded activities meet one of the National Objectives of the ESG program;
- b. records must include third party documentation of homelessness or have approval from City staff if it is not possible to get third party documentation on some clients;
- c. records required to determine the eligibility of activities;
- d. records stating the Grantee's policies on procedures to document homelessness;
- e. records documenting compliance with fair housing and equal opportunity components of the ESG program;
- f. financial records as required by 24 CFR 576.500 and 24 CFR PART 84.21-28 (Revised 2 CFR, Part 215) agreeing to adhere to the accounting principles and procedures required therein, to employ adequate internal controls, and to maintain necessary source documentation for all costs incurred;
- g. records demonstrating client eligibility for services provided (including-but not limited to- client name, address, income or other basis for determining eligibility, and description of service provided) and reports of milestones and schedules of programs as requested, per 24 CFR Parts 84 and 85;
- h. other records necessary to document compliance with Subpart K of 24 CFR Part 570;
- i. the Annual Program Narrative Report due July 31, 2018 (incorporating data on prior year's activities); and
- j. performance reports will be provided from the Homeless Management Information System (HMIS) on a quarterly basis to City.

Grantee shall retain all records specified under this Agreement for a period of five years after the expenditures of all funds from the grant under which the last program participant was served.

#### **Section 6: Insurance**

Grantee shall indemnify, defend and hold City and its officers, employees, agents, and volunteers harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to any property, or any violation of any federal, state, or municipal law or ordinance, or other cause in connection with the negligent or intentional acts or omission of Grantee, its employees, subcontractors, or agents, or on account of the performance or character of the work, or any other matter arising out of or related to this Agreement, except for any claim arising out of the active negligence or willful misconduct of City, its officers, employees, agents or volunteers. It is understood that the duty of Grantee to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code, and that Grantee shall at its own expense, upon written request of City, defend any such suit or action brought against City, its officers, agents, or employees. Acceptance of insurance certificates and endorsements required under this Agreement does not relieve Grantee from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.



Grantee shall reimburse City for all costs and expenses (including, but not limited to, fees and charges of architects, engineers, attorneys, and other professionals and court costs) incurred by City in enforcing the provisions of this Section.

Grantee shall maintain comprehensive general liability and property damage insurance or commercial general liability insurance, covering all operations of the Grantee, its agents and employees, performed in connection with the activities conducted under this Agreement, including but not limited to premises and automobiles.

**Updated 2015 Requirements-General Liability:**

Contractor shall at all times during the term of this Agreement maintain in effect a policy or policies having an A.M Best rating of A-Class VIII or better for bodily injury liability, personal injury, advertising injury and property damage, including product liability insurance with limits on the Declarations Page but not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and Two Million and 00/100 Dollars (\$2,000,000) in the general aggregate and products/completed operations aggregate insuring against any and all liability of the insured with respect to premises and products/completed operations. Liability coverage shall also include coverage for underground work and/or construction performed (if applicable). The coverage afforded to the additional insureds under the Contractor's policy shall be primary insurance and non-contributory. If coverage is on a claims-made basis, the Contractor shall maintain "tail coverage" no less than ten (10) years after the expiration date of the policy or policies. Any policy or policies carrying a deductible of more than \$25,000.00 may be subject to review by the City of the Contractor's financials.

**Umbrella or Excess** - Contractor shall provide limits on the Declarations Page but not less than Two Million and 00/100 Dollars (\$2,000,000) per occurrence and Two Million and 00/100 (\$2,000,000) in the aggregate on a follow - form basis having an A.M Best rating of A-Class VIII or better.

**Auto Liability** - Contractor shall provide limits on the Declarations Page but not less than One Million and 00/100 (\$1,000,000.00) combined single limit for bodily injury and property damage having an A.M Best rating of A - Class VIII or better. Automobile Liability Symbol 1 (any auto), if the Company owns automobiles. An entity without autos shall have "Non -owned and Hired" coverage (Auto Symbols 8 & 9). The City and its elected and appointed officers, boards, commissions, agents and employees shall be named as Additional Insureds.

**Workers' Compensation** – Contractor shall provide Workers' Compensation Insurance sufficient to meet its statutory obligation and to provide benefits for employees with claims of bodily injury or occupational disease (including resulting death) as required by the State of California and Employer's Liability Insurance for One Million and 00/100 Dollars (\$1,000,000). Waiver of Subrogation for Workers' Compensation in favor of the City of Salinas is required.

**Professional Liability** - Contractor shall provide limits on the Declarations Page but not less than One Million and 00/100 Dollars (\$1,000,000) per occurrence and One Million and 00/100 Dollars (\$1,000,000) in the aggregate having an A.M Best rating of A-Class VIII or better.

THE COVERAGE BELOW IS SPECIFIC TO CONTRACTS WITH POTENTIAL POLLUTION EXPOSURE:

**Contractor's Pollution Liability** – The Contractor's pollution liability insurance policy shall provide limits on the Declarations Page but not less than Five Million and 00/100 Dollars

(\$5,000,000) per claim and Five Million and 00/100 Dollars (\$5,000,000) in the aggregate having an A.M Best rating of A-Class VIII or better. Such liability limits shall be project specific, dedicated to the work to be performed by Contractor. The pollution policy shall contain or be endorsed to include coverage for the following: bodily injury (including death), property damage and environmental cleanup costs, both on-Site and off-Site;

1. Transportation of any waste, including loading/ unloading, from the Site to the final disposal location as well as any temporary storage, transshipment or transfer sites. Transportation coverage shall include owned, hired and non-owned automobiles; and
2. All disposal locations (final and temporary). All such disposal locations shall be covered by the policy as non-owned disposal sites;
3. Shall not contain any exclusion for microbial matter, lead or asbestos.
4. Shall not contain any contractual liability exclusion or any other similar exclusion which would serve to exclude coverage for liability assumed by the Contractor under the Agreement.

The insurance shall include a Waiver of Subrogation in favor of the City. For the avoidance of doubt, Contractor agrees that it presently releases all claims against the City that may arise in the future within the scope of the required subrogation waiver.

- a. All insurance companies, with the exception of workers compensation and professional errors and omissions, affording the above coverage to Grantee shall be required to add the City of Salinas, its officers, employees, agents, and volunteers as additional "insureds" by endorsement under the insurance policy and shall stipulate that this insurance policy will operate as primary insurance for the work performed and that no other insurance maintained by City or other named insureds will be called upon to contribute to a loss covered thereunder. The policy shall contain no special limitations on the scope of protections afforded to City, its officers, employees, agents, or volunteers. All insurance companies affording coverage to Grantee shall be required to add the City of Salinas as an additional insured under the insurance policy.
- b. All insurance companies affording coverage to Grantee shall be insurance organizations admitted by the Insurance Commissioner of the State Department of Insurance to transact the business of insurance in the State of California, and shall be written insurers with a current A.M. Best Rating of A-Class VIII or better.
- c. All insurance companies affording the above coverage shall provide thirty (30) days written notice to the City of Salinas Risk and Benefits Analyst, 200 Lincoln Avenue, Salinas CA 93901, should the policy be canceled or reduced in coverage before the expiration date, except that the insurance companies shall only be required to provide ten days notice prior to cancellation for non-payment. For the purposes of this notice requirement, any material change prior to expiration shall be considered cancellation.
- d. Grantee shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to City's Senior Human Resources Analyst, by certified mail to the City of Salinas Administration Department, 200 Lincoln Avenue, Salinas, CA 93901 and by Grantee uploading the Certificate of Insurance into the City Data Service website at [www.citydataservices.net](http://www.citydataservices.net) on behalf of the City of Salinas, concurrently with the submittal of this Agreement. A

statement on the insurance certificate which states that the insurance company "will endeavor" to notify the certificate holder, "but failure to mail such notice shall impose no obligation or liability to any kind upon the company, its agents or representatives" does not satisfy the requirement of subsection (e) herein. Grantee shall ensure that the authorized representative of the insurance company strikes the above quoted language from the certificate. The insurance certificate shall also state the unpaid limits of the policy.

- e. Grantee shall provide a substitute certificate of insurance no later than ten (10) days prior to the policy expiration date. Failure by Grantee to provide such substitution and extend the policy expiration date shall be considered a default. In the event Grantee is unable to provide a substitute certificate of insurance within the time prescribed in this subsection, Grantee shall provide written confirmation of renewal, in a form satisfactory to the City, to act as proof of insurance only until such time as a certificate of insurance has been received by the City.
- f. Maintenance of insurance by Grantee as specified in this Agreement shall in no way be interpreted as relieving Grantee of any responsibility whatever, and Grantee may carry, at its own expense, such additional insurance as Grantee deems necessary.
- g. In lieu of providing proof of insurance as required by Section 9(A) through (G) herein above, Grantee may provide a letter of insurance to City which represents and warrants to City that Grantee is lawfully self-insured with respect to the liabilities which it may incur in the performance of this Agreement and that, to the best of Grantee's knowledge, Grantee will be in a financial position to meet such potential liabilities when they occur.

#### **Section 7. Subcontracts**

Grantee may contract with one or more third parties (subcontractors) to carry out a portion of the services and program described in the Proposal, insofar as Grantee deems such to be proper and efficient.

Prior to Grantee entering into any agreement for any person or organization to render said services, the Grantee shall obtain written approval from City's Planning Manager (Housing Division). Such subcontracts, together with all other activities by or on behalf of Grantee, shall not require payment in excess of City's portion of the total project budget as stated in Part I, Exhibit A of this Agreement. The subcontractor shall be subject to the same terms and conditions that Grantee is subject to under this Agreement and Grantee shall ensure the terms of this Agreement are expressly set forth in any agreements in it may have with any such subcontractors. City shall in no event be liable to any subcontractor or any other creditor of Grantee, and shall be liable to Grantee only in accordance with the terms and conditions of this Agreement.

#### **Section 8. Environmental Review (ER)**

The environmental effects of the activity or project carried out must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and the related authorities listed in HUD's implementing regulations at 24 CFR parts 50 and 58. No funds may be committed to the activity or project before the completion of the Environmental Review (ER) and approval of the request of release of funds and related certification, except as authorized by 24 CFR Part 58. Grantee shall not commit funding to any



property until City staff has approved the ER and has received clearance from the State Historic Preservation Office (SHPO) to commence work (only for properties over 50 years old).

a. **Air and Water:** The Grantee agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. , 7401, et seq.;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

### **Section 9. National Flood Insurance Program**

This Agreement is subject to the requirements of the Flood Disaster Protection Act of 1973 (Public Law 93-234, 42 U.S.C. 4001). The Grantee shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation) in accordance with the requirements of Section 102(a) of said Act.

### **Section 10. Lead-Based Paint**

Any grants or loans made by Grantee for the rehabilitation of residential structures with assistance provided under this Agreement shall be made subject to the provisions for the elimination of lead-based paint hazards under 24 CFR Part 35 Subpart B and 24 CFR 570.608. Grantee will comply with the requirements of 24 CFR 92.355 for notification, inspection, testing and abatement procedures concerning lead-based paint.

Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

### **Section 11. Amendment**

Where it is determined by the Planning Manager (Housing Division) that there is a need to make any change in the project, fiscal procedures, or the terms and conditions of this Agreement (including any changes necessary to comply with changes in Federal, State or local laws or regulations), such change shall be incorporated by written amendment to this Agreement and approved by the Salinas City Council and by Grantee, provided that adjustments in line items within the total approved budget, and minor changes in the nature and scope of services specified in the Agreement, may be approved by the Planning Manager (Housing Division) - any such changes shall be documented in writing.

## **Section 12. Assignment**

There shall be no assignment of rights or obligations under this Agreement without written approval of the Planning Manager (Housing Division). This Agreement restricts the right of the Grantee to assign rights and responsibilities and restricts the right to modify this Agreement. Written notification requesting reassignment of modifications to effectuate the assignment and the modification of the rights and responsibilities under the Agreement must be requested along with a current copy of the IRS letter regarding tax status on any possible merges. Any changes of this agreement must be signed by the Board of Directors of the Grantee, if a corporation, or the management if not a corporation, and by the City of Salinas.

## **Section 13. Suspension and Termination**

If Grantee materially fails to comply with any term of this Agreement, City may suspend or terminate the Agreement in whole or in part. City may terminate the Agreement for convenience with the mutual written agreement of Grantee. Grantee may terminate the Agreement upon no less than thirty (30) days of receipt of written notice, setting forth the reasons for such termination and the effective date of such termination.

In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports of Grantee, become the property of City and Grantee shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder, to the date of termination.

In no event shall any payment by City hereunder constitute a waiver by City of any breach of this Agreement or any default, which may then exist on the part of Grantee, nor shall such payment impair or prejudice any remedy available to City with respect to the breach or default. City expressly reserves the right to demand of Grantee the repayment to the City of any funds disbursed to Grantee under this Agreement, which were not expended in accordance with the terms of this Agreement, and Grantee agrees to promptly refund any such funds upon demand.

Notwithstanding the above, Grantee shall not be relieved of liability to City for damages sustained by City or others by virtue of any breach of the Agreement by Grantee, and City may withhold any payments to the Grantee for the purpose of set off until such time as the exact amount of damages due City from Grantee is determined.

## **Section 14. Terms and Conditions**

This Agreement is subject to and incorporates the provisions attached hereto, and by this reference made a part hereof, which provisions constitute Part II, "Supplemental General Conditions," attached to this Agreement; and/or any written amendment(s) to this Agreement mutually agreed upon by the parties hereto. To the extent that any of the term and conditions of Part I of this Agreement are inconsistent or otherwise in conflict with any of the terms of Part II of this Agreement, the terms and conditions of Part II shall take precedence and apply.

This Agreement and all performance hereunder is subject to the Federal regulations pertaining to the ESG Program, and Grantee agrees to comply with all such regulations, which are incorporated herein by reference and made a part hereof, and which are available for inspection at the Housing Division.

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## PART II - SUPPLEMENTAL GENERAL CONDITIONS

### The following conditions take precedence over any conflicting conditions in the Agreement:

#### **Section 1. Program Income**

Any income generated by Grantee from the use of ESG funds must be immediately reported as earned and returned to City.

#### **Section 2. Uniform Administrative Requirements**

- a. **Establishment and Maintenance of Records:** Grantee shall comply with the requirements and standards of Federal Office of Management and Budget Circular 2 CFR, Part 230, "Cost Principles for Non Profit Organizations", and 24 CFR Part 84, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations." 24 CFR Part 84, Subpart C, Sections 84.40 through 84.48 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and Executive Orders. No additional procurement standards or requirements shall be imposed upon recipients, unless specifically required by Federal statute or Executive Order or approved by Office of Management and Budget.

Records shall be maintained in accordance with any other requirements prescribed by HUD or City with respect to all matters covered by this Agreement. Except as otherwise authorized by HUD, such records shall be maintained for a period of five years after receipt of the final payment under this Agreement.

- b. **Documentation of Costs:** All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible to City upon reasonable request.
- c. **OMB Standards:** Unless specified otherwise within this agreement, the Grantee shall procure all materials, property or services in accordance with the requirements of 2 CFR 200.

#### **Section 3. Title VI of the Civil Rights Act of 1964**

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 performance of this Agreement.

**Compliance:** The Grantee agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107, and 12086.



Grantee shall take reasonable steps to ensure meaningful access to their programs and activities by Limited English Proficient (LEP) persons while not imposing undue burdens on Grantee. Persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be "limited English proficient," or "LEP." Grantee shall assess its extent of its obligation to provide specialized LEP services using the following four factors:

- a. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or Grantee;
- b. The frequency with which LEP persons come in contact with the program;
- c. The nature and importance of the program, activity, or service provided by the program to people's lives; and
- d. The resources available to Grantee and costs of modifying existing procedures.

After performing the four-factor analysis, Grantee is encouraged to document the analysis and outcome and to develop a Language Access Plan (LAP). The LAP identifies Grantee's immediate and longer-term plans for providing language services, which might include identifying LEP individuals who need language assistance, measures by which Grantee's staff will provide language services, how Grantee will train its staff to implement the LAP, providing public notice of the language services Grantee provides, and self-assessment and monitoring by Grantee of its LAP.

#### **Section 4. Land Covenants**

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 99-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Grantee shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Grantee, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself so discriminate.

#### **Section 5. Executive Order No. 11063**

Grantee shall not discriminate because of race, color, religion, sex, or national origin in the sale, lease, rental, or other disposition of residential property and related facilities, or in the use or occupancy thereof, if property is provided for in whole or in part by a grant of or ESG funds.

#### **Section 6. Nondiscrimination**

No person in the United States shall, on the grounds of race, color, sex, national origin, or religion be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement. Additionally, discrimination on the basis of age, under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.] or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794] and the Americans with Disabilities Act of 1990, shall be prohibited under the performance of this Agreement. Grantee

shall comply with regulations found at Title 24, Code of Federal Regulations, Part 8, that complement Section 504 of the Rehabilitation Act of 1973.

The Grantee agrees to comply with the non-discrimination in employment and contracting opportunities, laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

- a. **Fair Housing Act [42 U.S.C. 3601 et seq.]**. No person shall, on the grounds of race or color, religion, sex, national origin, familial status, or disability be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.
- b. **Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.]**. No person shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.
- c. **Section 504 of the Rehabilitation Act of 1973, as amended [29 U.S.C. 794]**. No otherwise qualified individual with a disability shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity under this Agreement.

(i) A Grantee that employs less than fifteen (15) persons shall:

- (a). Take appropriate steps to ensure effective communication with applicants, determine auxiliary aids necessary, adopt and implement procedures to ensure that interested person can obtain information concerning the existence and location of accessible services, activities, and facilities. [24 CFR 8.6]
- (b). Evaluate its current policies and practices to determine whether, in whole or in part, they do not or may not meet the requirements of Section 504 and the implementing federal regulations; modify any policies and practices that do not meet the requirements; take appropriate corrective steps to remedy the discrimination revealed by the self-evaluation; maintain on file for at least three years following completion of the evaluation, make available for public inspection and provide to the responsible civil rights official a list of the interested persons consulted, a description of areas examined and any problems identified, and a description of any modifications made and of any remedial steps taken. [24 CFR 8.51]

(ii) A Grantee that employs fifteen (15) persons or more shall implement (i)(a) and (i)(b) above and in addition:

- (a). Designate at least one person to coordinate its efforts to comply with the obligations imposed by Section 504 and the implementing federal regulations. [24 CFR 8.53(a)]
- (b). Adopt grievance procedures that incorporate due process standards that provide for the prompt and equitable resolution of complaints alleging any

action prohibited by the obligations imposed by Section 504 and the implementing federal regulations. [24 CFR 8.53(b)]

- (c). Take appropriate initial and continuing steps to notify participants, beneficiaries, applicants and employees that the Grantee does not discriminate in admission or access to, or treatment or employment in, its federally assisted programs and activities. [24 CFR 8.54]

d. **Subtitle A of Title II of the Americans with Disabilities Act of 1990 [42 U.S.C. 12131].** No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity under this Agreement.

- (i) A public entity that employs less than fifty (50) persons shall:

- (a). Evaluate its current services, policies, and practices, and the effects thereof, and to the extent that such do not or may not meet the requirements of Subtitle A and the implementing federal regulations, shall proceed to make the necessary modifications. [28 CFR 35.105]

- (b). Make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Part 35 and its applicability to the services, programs or activities of the public entity, and make such information available to them in such a manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them by the Americans With Disabilities Act and Part 35. [28 CFR 35.106]

- (c). TDD's (telecommunication devices for the deaf) or equally effective telecommunication systems shall be used to communicate by telephone with individuals with impaired hearing or speech. [28 CFR 35.161]

- (ii) A public entity that employees fifty (50) persons or more shall implement (i)(a), (i)(b) and (i)(c) above and in addition:

- (a). Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities including any investigation of any complaint alleging noncompliance or any actions prohibited by ADA, make information about designated person available to all interested individuals, adopt and publish grievance procedures providing prompt and equitable resolution of complaints alleging any prohibited action. [28 CFR 35.107]

- (b). Take appropriate steps to ensure communication with applicants, participants, and members of the public with disabilities are as effective as communications with others, furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, enjoy the benefits of, a service, program or activity, determine what type of auxiliary aid and service is necessary, give primary consideration to the requests of individuals with disabilities. [28 CFR 35.160]

## **Section 7. Affirmative Action**

The Subrecipient agrees that it shall be committed to carry out pursuant to the Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966. The City shall provide Affirmative Action guidelines to the Grantee to assist in the formulation of such program. The Grantee shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

- a. **Executive order 11625, 12432, and 12138 Women-and Minority-Owned Businesses (W/MBE):** Grantee agrees to take reasonable steps to ensure that small businesses owned by women or by racial or ethnic minorities have the opportunity to compete for contracts resulting from this Agreement. The Grantee will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Grantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.
- c. **Executive Order 11246 Equal Employment Opportunity and Affirmative Action (EEO/AA statement):** The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the City, state that it is an Equal Opportunity or Affirmative Action employer. Grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, handicap, disability, sexual orientation, ancestry, national origin or any other basis prohibited by applicable law. The Grantee shall take affirmative action to ensure that applicants that are employed and employees are treated during employment without regard to their race, color, religion, sex, age, handicap, disability, sexual orientation, ancestry, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.  
The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that all qualified applicants will receive consideration for employment without regards to race, color, religion, sex, age, handicap, disability, sexual orientation, ancestry, national origin or any other basis prohibited by law.

### **Affirmative Outreach**

The Grantee will make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures that the Grantee intends to use to make known the availability of the facilities, assistance, and services will be available to



reach persons of any particular race, color, religion, sex, age, national origin, familial status or disability who may qualify for those facilities and services, the recipient or subrecipient must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services. The Grantee must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Consistent with Title VI and Executive Order 13166, Grantees are required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (LEP) persons.

#### **Section 8. Business and Employment Opportunities for Lower-Income Residents**

Grantee will conform with the rules and regulations set forth under Section 3 of the Housing and Urban Development Act of 1968, (12 USC 1701u), as amended, and the HUD regulations issued pursuant thereto at 24 CFR Part 135. Grantee is encouraged to the greatest extent feasible, to provide opportunities for training and employment be given to lower-income residents of the City of Salinas, and contracts for work in connection with the Project be awarded to business concerns which are located in, or owned in substantial part by, persons residing in the City of Salinas.

#### **Section 9. Labor Standards**

Except with respect to the rehabilitation of residential property designed for residential use for less than eight units, Grantee and all contractors engaged under contracts in excess of \$2,000 for construction work financed in whole or in part with assistance provided under this Agreement, shall comply with HUD requirements pertaining to such contracts and the applicable requirements of the regulations of the Department of Labor under 29 CFR Parts 3, 5, and 5a, governing the payment of wages and the ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under such regulations are imposed by State or local law, nothing hereunder is intended to relieve Grantee of its obligation, if any, to require payment of the higher rates. Grantee shall cause or require to be inserted in full in all such contracts subject to such regulations, provisions meeting the requirements of 29 CFR 5.5. and, for such contracts in excess of \$10,000, 29 CFR 5a.3.b.

The provisions of the Davis-Bacon Act, (40 U.S.C. 276a to 276a-5) do not apply to the ESG program.

#### **Section 10. Acquisition and Rehabilitation of Real Property and Displacement of Persons and Businesses**

If Grantee causes the involuntary temporary or permanent displacement of any person or business in connection with development of the Project, Grantee shall reimburse City for City's out-of-pocket costs and expenses, if any, related to compliance with 24 CFR 576.408, Policies for Displacement, Relocation, Acquisition, and Replacement of Housing, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended ("1970 Relocation Act"), and, if triggered by 24 CFR 92.353(e), Section 104(d) of the Housing and Community Development Act of 1974, including the costs of all notices, advisory assistance, relocation benefits, and replacement dwelling units as required by the 1970 Act, as amended, and the implementing regulations at 49 CFR Part 24. If triggered by 24 CFR 92.353(e), Grantee shall also reimburse City for City's out-of-pocket costs and expense to comply with Section 104(d) of

the Housing and Community Development Act of 1974, and the implementing regulations at 24 CFR 576.408 . Grantee hereby agrees to indemnify City from and against, any and all claims and liabilities for relocation benefits required by the 1970 Act or other federal statutes and regulations in connection with activities undertaken pursuant to this Agreement.

#### **Section 11. Conflict of Interest**

- a. **Interest of Certain Federal Officials:** No member of or Delegate to the Congress of the United States, and no resident Commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.
- b. **Interest of Members, Officers, or Employees of City, Members of Local Governing Body, or Other Officials:** No member, officer, or employee of City, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the Agreement. Grantee shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purpose of this subparagraph.
- c. **Interest of Members, Officers, or Employees of Grantee and Subgrantees:** No employees, officer or agent of Grantee or any subgrantee shall participate in the selection, award or administration of a contract in which Federal funds are used, where, to his knowledge, he or his immediate family, partners, or organization in which he or his immediate family or partner has a financial interest or with whom he is negotiating or has any arrangement concerning prospective employment. The recipients' officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. Any interest on the part of Grantee or his employees must be immediately disclosed to HUD and to City.

The Grantee agrees to abide by the provisions of 24 Section 576.404, ESG Conflict of Interest Provisions, specific to the ESG program; 404(a) organizational, 404(b) individuals and 404(c) contractors, which include (but are not limited to) the following:

1. The Grantee shall maintain a written code of standard conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
2. No employee, officer or agent of the Grantee shall participate in the selection, or in the award, or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
3. No covered person who exercises or has exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter.

For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the City, the Subrecipient, or any designated public agency.

#### **Section 12. Reversion of Assets**

Upon expiration of this Agreement, Grantee shall transfer to the City's ESG fund any unexpended funds and any accounts receivable attributable to the use of ESG funds. Rapid Rehousing funds must be spent within the grant period by the Grantee. Residual assets derived from Grantee's use of ESG funds, such as fixtures and equipment, shall vest with the City upon the end of this Agreement. The City reserves the right to monitor and verify the continued proper management of Grantee's assets derived from ESG funding, if any.

**The City is responsible for meeting a 60% expenditure on rapid rehousing dollars and agencies in charge of rapid rehousing dollars must keep track of their spending and ensure their agency meets the rapid rehousing expenditure as proposed in their application.**

#### **Section 13. Lobbying Prohibited**

No Federal appropriated funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement.

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 Agreement, Grantee shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Grantee shall require that this Section be included in the award documents for all sub-awards at all tiers in connection with this Agreement and that all Grantees shall certify and disclose accordingly.

#### **Section 14. Faith-based Activities**

- a. **Faith-Based Activities Organizations:** 24 CFR Part 576, Section 406 states Faith-based activities organizations that are directly funded under the ESG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the ESG-funded programs or services. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.
- b. **Religious Organizations:** 24 CFR Part 576, Section 406(c) 576 states a religious organization that receives ESG funds will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its beliefs, provided that it does not use direct ESG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, Faith-based organizations may use space in their facilities to provide ESG -funded services without removing religious art, icon, scriptures, or other religious symbols. A ESG -funded religious organization retains its



authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

- c. **Religious Discrimination:** 24 CFR Part 576, Section 406(c) 576 states an organization receives ESG funds shall not, in providing that ESG assistance, discriminate against a program participant or prospective program beneficiary on the basis of religion or religious belief.
- d. **Grantees.** Any sub-recipient of ESG funds provided under this Agreement shall abide by the terms under faith-based activities as described in Title 24 CFR 576.406 with religious activities.
- e. **Structures Used for Religious Activities** 24 CFR Part 576, Section 406(e) states that ESG funds may not be used for the rehabilitation of structures to the extent that those structures are used for inherently religious activities. ESG funds may be used for the rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under the ESG program. Where a structure is used for both eligible and inherently religious activities, ESG funds may not exceed the cost of those portions of the rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to ESG funds. Sanctuaries, chapels, or other rooms that an ESG-funded religious congregation uses as its principal place of worship, however, are ineligible for funded improvements under the program. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR Parts 84 and 85).
- f. **Commingling Funds:** 24 CFR Part 576, Section 406(f) states that if the recipient or a subrecipient that is a local government voluntarily contributes its own funds to supplement federally funded activities, the recipient or subrecipient has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, Section 24 CFR 576.406 applies to all of the commingled funds.

## **Section 15. Audits and Inspections**

Grantee will, at any time during normal business hours and as often as City, HUD, citizens or the Comptroller General of the United States may deem necessary, make available to City, to HUD, to citizens in accordance with the state, federal, and local law, and to representatives of the Comptroller General for examination of all of Grantee's records with respect to all matters covered by this Agreement, excepting in all circumstances any and all records or materials subject to protection pursuant to California Evidence Code §950 et seq. Grantee shall permit City, HUD, citizens notwithstanding 24 CFR 85.42 (f), and provide citizens with reasonable access to records regarding the past use of ESG funds, consistent with applicable State and local laws regarding privacy, including the attorney-client privilege set forth in California Evidence Code §950 et seq. of confidentiality) and representatives of the Comptroller General to audit, examine and make excerpts, copies or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement in accordance with local, state, and federal

laws, but at all times no information otherwise protected from disclosure pursuant to California Evidence Code §950 et seq.

Grantees receiving less than \$500,000 a year in Federal Grants are exempt from Federal audit requirements, but Grantees' records, as may be covered by the attorney client privilege, must be available for review upon request by City, HUD, or representatives of the Comptroller General for examination. Grantees receiving \$500,000 or more in Federal grants within a fiscal year shall have an audit made in accordance with OMB Circular A-133.

Grantee further represents to City that Grantee, as a non-profit 501(c) (3) law firm, represents clients in confidential attorney-client relationships, and therefore neither Grantee, nor any of its employees, legal or administrative, are mandatory reporters as described in Welfare & Institutions Code Section 15630 and/or are exempted from reporting pursuant to Welfare and Institutions Code Section 15632(b) and shall maintain at all times the confidentiality of Grantee's clients.

#### **Section 16. HUD Requirements**

Unearned or other payments under this Agreement may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by HUD or City at any time, or if the grant to City under Title I of the Housing and Community Development Act of 1974, as amended from time to time, is suspended or terminated.

#### **Section 17. Prohibition Against Payment of Bonus or Commissions**

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

#### **Section 18. Copyrights**

If this Agreement or its performance results in a book or other copyrightable material, the author is free to copyright the work, but the U. S. Department of Housing and Urban Development and City each reserve a royalty free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, (and to authorize others to use) all copyrighted material and all material which can be copyrighted.

#### **Section 19. Patents**

Any discovery or invention arising out of or developed during the course of work aided by this Agreement shall be promptly and fully reported to City for the sole determination by the U. S. Department of Housing and Urban Development and City as to whether patent protection on such invention or discovery shall be sought and how the rights in the invention or discovery including rights under any patent issued thereon, shall be disposed of and administered, in order to protect the public interest.

## **Section 20. Political Activity Prohibited**

None of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Grantee shall comply with provisions of the Hatch Act, which limits political activities of employees.

## **Section 21. Board of Directors**

Grantee shall provide City with information regarding any changes in the Board of Directors or the management of Grantee no later than ten (10) days from the official change.

## **Section 22. Notices**

Any notices under this Agreement shall be sent to the parties by personal delivery, by facsimile, or by certified mail, return receipt requested, postage prepared in the United States Postal Service at the addresses set forth below. Notice shall be deemed effective upon delivery or transmission if delivered or sent by facsimile and on the third (3rd) day after mailing. The parties designate the following names, titles, addresses, and telephone numbers:

### **City:**

Planning Manager  
City of Salinas  
Community & Economic Development Department-Housing Division  
65 W. Alisal Street, 2<sup>nd</sup> Floor  
Salinas, California 93901  
Telephone: 831-758-7334

### **Grantee:**

County of San Benito Community Services & Workforce Development  
1111 San Felipe Road Suite 107  
Hollister, CA 95023  
Telephone: 8316370103

## **Section 23. Legal Representation**

Each party affirms that it has been represented by legal counsel of its own choosing regarding the preparation and the negotiation of this Agreement and the matters and claims set forth herein, and that each of them has read this Agreement and is fully aware of its contents and its legal effect. Neither party is relying on any statement of the other party outside the terms set forth in this Agreement as an inducement to enter into this Agreement.

## **Section 24. Joint Representation**

The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any party. No presumptions or rules of interpretation based upon the identity of the party preparing or drafting the Agreement, or any part thereof, shall be applicable or invoked.

### **Section 25. Warranty of Authority**

Each party represents and warrants that it has the right, power, and authority to enter into this Agreement. Each party further represents and warrants that it has given any and all notices, and obtained any and all consents, powers, and authorities, necessary to permit it, and the persons entering into this Agreement for it, to enter into this Agreement.

### **Section 26. No Waiver of Rights**

Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. The failure to provide notice of any breach of this Agreement or failure to comply with any terms of this Agreement shall not constitute a waiver thereof. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or of any other promise. A waiver by City of any one or more of the conditions of performance within this Agreement shall not be construed as a waiver(s) of any other condition of performance under this Agreement.

### **Section 27. Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement.

### **Section 28. No Third Party Rights**

The parties do not intend for any third party to obtain a right by virtue of this Agreement.

### **Section 29. Modification**

No amendments to or changes to this Agreement may be made, except by a writing expressly authorized and signed by City and Grantee.

### **Section 30. Severability**

It is the intent of the parties that in the event that any provision herein is held to be invalid, the remaining provisions shall continue in full force and effect unless enforcement of the Agreement so modified would frustrate the purpose of this Agreement.

### **Section 31. Further Assurances**

Each party agrees to do such further acts and things and do and execute and deliver such additional agreements and instruments as the other may reasonably require to consummate, evidence or confirm the agreements contained herein in a manner contemplated hereby.

### **Section 32. Entire Agreement**

This Agreement constitutes the entire agreement between City and Grantee and is the final expression of City and Grantee with respect to the included terms and conditions, and as a complete and exclusive statement of the terms and conditions of the agreement. City and Grantee acknowledge that any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by City and Grantee.

### **Section 33. Rights and Obligations**

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

### **Section 34. Attorney Fees**

In case suit shall be brought to interpret or enforce this Agreement, or because of the breach of any other covenant or provision herein contained, the prevailing party in such action shall be entitled to recover their reasonable attorney fees in addition to such costs as may be allowed by the court. If awarded, City's attorneys' fees shall be calculated at the market rate.

### **Section 35. Credit for HUD Funding and City of Salinas**

The Grantee shall include the HUD logo and the City of Salinas logo, where feasible, on website and written materials about the HUD-funded program, and include a statement such as "This program funded, in part, by the U.S. Department of Housing and Urban Development in cooperation with the City of Salinas."

### **Section 36. Compliance with Laws**

Grantee's performance under this Agreement shall be in accordance and full compliance with all applicable federal, state and local laws and any rules or regulations promulgated thereunder.

### **Section 37. Close-outs**

- e. The Grantee's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the City has control over funds, including program income.
- f. **Historic Preservation:** The Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

EXHIBIT A – Budget

EXHIBIT B - Scope of Work & Additional Goals

EXHIBIT C-Rental Rehabilitation Program - Additional Requirements

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**IN WITNESS WHEREOF**, as authorized representatives of the **CITY OF SALINAS** and **County of San Benito Community Services & Workforce Development** , a non-profit corporation, have executed this Agreement.

City of Salinas

Grantee:

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

Ray E. Corpuz Jr., City Manager

Date: \_\_\_\_\_

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

Anthony Botelho, Chair – San Benito County  
Board of Supervisors

Date: \_\_\_\_\_

APPROVED AS TO FORM:

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

Christopher A. Callihan, City Attorney

Date: \_\_\_\_\_

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

Irma Valencia, Deputy County Counsel

Date: 4-20-18

RECOMENED FOR APPROVAL:

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

Anastacia Wyatt, Planning Manager

Date: \_\_\_\_\_



**EXHIBIT A – BUDGET****FY 2017-2018 BUDGET:**

Funding by Category:	\$95,801		\$95,000			\$190,801
Budget Category	Rapid Rehousing	Street Outreach	Emergency Shelter	Homeless Prevention	HMIS	Total
<b>Employee Services</b>						
Shelter Manager			\$18,884			\$18,884
Shelter Coordinator			\$12,590			\$12,590
Case Manager, TBH	\$16,353		\$0			\$16,353
<b>Supplies and Materials</b>						
Consumable Supplies	\$500		\$2,500			\$3,000
Non-Consumable Supplies	\$500		\$2,500			\$3,000
<b>Outside Services</b>						
Telephone	\$100		\$986			\$1,086
Utilities	\$200		\$0			\$200
Maintenance	\$200		\$0			\$200
Contract/Consultant Services	\$2,500		\$48,000			\$50,500
<b>Other Charges</b>						
Rent	\$250					\$250
Travel (Mileage)	\$50		\$0			\$50
Insurance						\$0
<b>Capital Outlay</b>						
Equipment/Furniture						\$0
<b>Other</b>						
Rental Assistance	\$69,908					\$69,908
OPEB	\$1,740		\$0			\$1,740
Workers Comp.	\$1,500					\$1,500
Cost Plan	\$2,000					\$2,000
Contractor Emergency Repair			\$2,000			\$2,000
Contractor Agency Cost Plan			\$7,540			\$7,540
<b>Total</b>	<b>\$95,801</b>	<b>\$0</b>	<b>\$95,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$190,801</b>



## EXHIBIT B - SCOPE OF WORK & ADDITIONAL GOALS

Project Description:	<p>Activity 1: Warming Shelter guests will be able to utilize the internet to search for housing opportunities during their stay and receive assistance from staff. The goal is to assist guests as much as possible for them to be housed by the end of the shelter season.</p> <p>Activity 2: Warming Shelter guests who are linked to, or will need to be linked to services, will be provided transportation to their appointments every morning. Shelter coordinator and supervisor will speak to the various service providers to schedule appointments early in the morning so the shelter van may drop off guests directly to their appointments and each guest will receive a bus token to get back in to town.</p> <p>Activity 3: Warming Shelter guests and families residing at the emergency family shelter will be given assistance once they have identified a housing opportunity. The integrated case worker will contact prospective landlords and pass on information regarding the rapid rehousing component and the measures taken to keep guests and families housed. The rapid re-housing assistance consists of deposit and 3 months rent.</p>
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### Additional Goals

Qty	Units	Description
11	Guests at Warming Shelter	20% of guests staying at the Warming Shelter will find permanent housing by the end of the shelter season and remain housed using the rapid rehousing funds from this contract.
14	Services provided	25% of the Warming Shelter guests will be linked to services such as employment, cash and non cash benefits, behavioral health and medical services.
10	Rapid Rehousing	20% of the total guests served will receive rapid rehousing services in form of rental subsidies to stay housed after their shelter stay.