

**MEMORANDUM OF UNDERSTANDING BY AND BETWEEN
THE CITY OF FRESNO AND COUNTY OF FRESNO
through its
DEPARTMENT OF SOCIAL SERVICES
FOR IMPLEMENTATION OF THE JOINT COVID-19 HOMELESSNESS
RESPONSE PLAN**

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into effective upon execution by both parties, by and between the CITY OF FRESNO (the CITY), and COUNTY OF FRESNO, DEPARTMENT OF SOCIAL SERVICES, for IMPLEMENTING THE JOINT COVID-19 HOMELESSNESS RESPONSE PLAN.

RECITALS

WHEREAS, the State of California has appropriated \$1,012,869.44 to the CITY under Senate Bill 89, COVID-19 Emergency Homelessness Funding, to protect the health and safety of people experiencing homelessness and reduce the spread of the COVID-19 outbreak; and

WHEREAS, the State of California has appropriated \$382,080.59 to the County, under Senate Bill 89, COVID-19 Emergency Homelessness Funding, to protect the health and safety of people experiencing homelessness and reduce the spread of the COVID-19 outbreak; and

WHEREAS, the State of California has required the CITY and the COUNTY to do joint planning for the application of these funds to protect the health and safety of people experiencing homelessness and reduce the spread of the COVID-19 outbreak; and

WHEREAS, said joint planning has taken place and continues; and

WHEREAS, the COUNTY hereby represents that it desires to and is professionally and legally capable of performing the homelessness response services; and

WHEREAS, this Agreement will be administered for the City by its City Manager or its designee.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises hereinafter contained to be kept and performed by the respective parties, it is mutually agreed as follows:

1. Scope of Services. The COUNTY shall perform to the satisfaction of the CITY the services described in **Exhibit A**, including all work incidental to, or necessary to perform, such services even though not specifically described in **Exhibit A**. COUNTY shall receive \$1,012,869.44 for the services described in **Exhibit A**, the City shall render payment to the County within 10 days of the City's receipt of the Senate Bill 89 funds.

2. Term of Agreement and Time for Performance. This Agreement shall be retroactively effective from March 19, 2020 by both parties and shall continue in full force and effect through the date when the COVID-19 Homelessness Response Process is completed, subject to any earlier termination in accordance with this Agreement. The services as described in **Exhibit A** are to commence upon the retroactive Effective Date of March 19, 2020, and shall be completed in a sequence assuring expeditious completion, but in any event, all such services shall be completed prior to expiration of this Agreement and in accordance with any performance schedule set forth in **Exhibit A**.

3. Amendment to Increase or Decrease Scope of Services: The parties may modify this Agreement to increase or decrease the scope of services or provide for the rendition of services not required by this Agreement, which modification shall include an adjustment to County's compensation. Any change in the scope of services must be made by written amendment to the Agreement signed by an authorized representative for each party. County shall not be entitled to any additional compensation if services are performed prior to a signed written amendment.

4. Termination, Remedies and Force Majeure.

(a) This Agreement shall terminate without any liability of the City or to County upon the earlier of: (i) County filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against County; (ii) seven calendar days prior written notice with or without cause by the City to County; (iii) the City's non-appropriation of funds sufficient to meet its obligations hereunder during any City fiscal year of this Agreement, or insufficient funding for the Project; or (iv) expiration of this Agreement.

(b) Immediately upon any termination or expiration of this Agreement, County shall (i) immediately stop all work hereunder; (ii) immediately cause any and all of its subcontractors to cease work; and (iii) return to the City any and all unearned payments and all properties and materials in the possession of County that are owned by the City. Subject to the terms of this Agreement, County shall be paid compensation for services satisfactorily performed prior to the effective date of termination. County shall not be paid for any work or services performed or costs incurred which reasonably could have been avoided.

(c) In the event of termination due to failure of County to satisfactorily perform in accordance with the terms of this Agreement, the City may withhold an amount that would otherwise be payable as an offset to, but not in excess of, the City's damages caused by such failure. In no event shall any payment by the City pursuant to this Agreement constitute a waiver by the City of any breach of this Agreement which may then exist on the part of the County, nor shall such payment impair or prejudice any remedy available to the City with respect to the breach.

(d) Upon any breach of this Agreement by the County, the City may (i) exercise any right, remedy (in contract, law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law; (ii) proceed by appropriate court action to enforce the terms of the Agreement; and/or (iii) recover all direct, indirect, consequential, economic, and incidental damages

for the breach of the Agreement. If it is determined that the City improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.

(e) County shall provide the City with adequate written assurances of future performance, upon the Administrator's request, in the event County fails to comply with any terms or conditions of this Agreement.

(f) County shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of County and without its fault or negligence such as, acts of God or the public enemy, acts of the City in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. County shall notify the Administrator in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Administrator of the cessation of such occurrence.

5. Confidential Information and Ownership of Documents.

(a) Any reports, information, or other data prepared or assembled by County pursuant to this Agreement shall not be made available to any individual or organization by County without the prior written approval of the Administrator. During the term of this Agreement, and thereafter, County shall not, without the prior written consent of the City, disclose to anyone any Confidential Information. The term "Confidential Information" for the purposes of this Agreement shall include all proprietary and confidential information of the City, including but not limited to business plans, marketing plans, financial information, materials, compilations, documents, instruments, models, source or object codes, and other information disclosed or submitted, orally, in writing, or by any other medium or media. All Confidential Information shall be and remain confidential and proprietary in the City.

(b) Any and all writings and documents prepared or provided by County pursuant to this Agreement are the property of the City at the time of preparation and shall be turned over to the City upon expiration or termination of the Agreement. County shall not permit the reproduction or use thereof by any other person except as otherwise expressly provided herein.

(c) If County should subcontract all or any portion of the services to be performed under this Agreement, County shall cause each subcontractor to also comply with the requirements of this Section 5.

(d) This Section 5 shall survive expiration or termination of this Agreement.

6. Professional Skill. It is further mutually understood and agreed by and between the parties hereto that inasmuch as County represents to the City that the County and its subcontractors, if any, are skilled in the profession and shall perform in accordance with the standards of said profession necessary to perform the services agreed to be done by it under this Agreement, the City relies upon the skill of the County and any subcontractors to do and perform such services in a skillful manner and

the County agrees to thus perform the services and require the same of any subcontractors. Therefore, any acceptance of such services by the City shall not operate as a release of County or any subcontractors from said professional standards.

7. Indemnification. City shall indemnify, hold harmless and defend County, State of California and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by County, State of California, City or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of City or any of its officers, officials, employees, agents, or volunteers in the performance of this Agreement; provided nothing herein shall constitute a waiver by city of governmental immunities including California Government Code section 810 et seq.

County shall indemnify, hold harmless and defend City, State of California and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by the City, State of California, County or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of County or any of its officers, officials, employees, agents, or volunteers in the performance of this Agreement; provided nothing herein shall constitute a waiver by County of governmental immunities including California Government Code section 810 et seq.

In the event of concurrent negligence on the part of City or any of its officers, officials, employees, agents, or volunteers, and County or any of its officers, officials, employees, agents, or volunteers, the liability for any and all such claims, demands and actions in law or equity for such losses, fines, penalties, forfeitures, costs and damages shall be apportioned under the State of California's theory of comparative negligence as presently established or as may be modified hereafter.

This section shall survive termination or expiration of this Agreement.

8. Insurance. The County shall comply with all of the insurance requirements in Exhibit B to this Agreement.

9. Conflict of Interest and Non-Solicitation.

(a) Prior to the City's execution of this Agreement, County shall complete a City of Fresno conflict of interest disclosure statement in the form as set forth in **Exhibit C**. During the term of this Agreement, County shall have the obligation and duty to immediately notify the City in writing of any change to the information provided by County in such statement.

(b) County shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and

regulations including, without limitation, California Government Code Section 1090 et. seq., the California Political Reform Act (California Government Code Section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq.). At any time, upon written request of the City, the Consultant shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, County and the respective subcontractor(s) are in full compliance with all laws and regulations. County shall take, and require its subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, County DSS shall immediately notify the City of these facts in writing.

(c) In performing the work or services to be provided hereunder, County shall not employ or retain the services of any person while such person either is employed by the City or is a member of any City council, commission, board, committee, or similar City body. This requirement may be waived in writing by the City Manager, if no actual or potential conflict is involved.

(d) County represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, direct or indirect, to solicit or procure this Agreement or any rights/benefits hereunder.

(e) Neither County, nor any of County subcontractors performing any services on this Project, shall bid for, assist anyone in the preparation of a bid for, or perform any services pursuant to, any other contract in connection with this Project unless fully disclosed to and approved by the City Manager, in advance and in writing. County and any of its subcontractors shall have no interest, direct or indirect, in any other contract with a third party in connection with this Project unless such interest is in accordance with all applicable law and fully disclosed to and approved by the City Manager, in advance and in writing. Notwithstanding any approval given by the City Manager under this provision, County shall remain responsible for complying with Section 9(b), above.

(f) If County should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, County shall include the provisions of this Section 9 in each subcontract and require its subcontractors to comply therewith.

(g) This Section 9 shall survive expiration or termination of this Agreement.

10. Reserved.

11. General Terms.

(a) Except as otherwise provided by law, all notices expressly required of the City within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the Administrator or designee.

(b) Records of County expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the City or its authorized representatives upon request during regular business hours throughout the

life of this Agreement and for a period of three years after final payment or, if longer, for any period required by law. In addition, all books, documents, papers, and records of County pertaining to the Project shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. If any litigation, claim, negotiations, audit, or other action is commenced before the expiration of said time period, all records shall be retained and made available to the City until such action is resolved, or until the end of said time period whichever shall later occur. If County should subcontract all or any portion of the services to be performed under this Agreement, County shall cause each subcontractor to also comply with the requirements of this paragraph. This Section 11(b) shall survive expiration or termination of this Agreement.

(c) Prior to execution of this Agreement by the City, County shall have provided evidence to the City that County is licensed to perform the services called for by this Agreement (or that no license is required). If County should subcontract all or any portion of the work or services to be performed under this Agreement, County shall require each subcontractor to provide evidence to the City that subcontractor is licensed to perform the services called for by this Agreement (or that no license is required) before beginning work.

12. Nondiscrimination. To the extent required by controlling federal, state, and local law, County shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran, or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, County agrees as follows:

(a) County will comply with all applicable laws and regulations providing that no person shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran, or veteran of the Vietnam era 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) County will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran, or veteran of the Vietnam era. County shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran, or veteran of the Vietnam era. Such requirement shall apply to County's employment practices including, 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. County agrees to

post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

(c) County will, in all solicitations or advertisements for employees placed by or on behalf of County in pursuit hereof, 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, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran, or veteran of the Vietnam era.

(d) County will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising such labor union or workers' representatives of the County's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) If County should subcontract all or any portion of the services to be performed under this Agreement, County shall cause each subcontractor to also comply with the requirements of this Section 12.

13. Independent Contractor.

(a) In the furnishing of the services provided for herein, County is acting solely as an independent contractor. Neither County, nor any of its officers, agents, or employees shall be deemed an officer, agent, employee, joint venturer, partner, or associate of the City for any purpose. The City shall have no right to control or supervise or direct the manner or method by which County shall perform its work and functions. However, the City shall retain the right to administer this Agreement so as to verify that County is performing its obligations in accordance with the terms and conditions thereof.

(b) This Agreement does not evidence a partnership or joint venture between County and the City. County shall have no authority to bind the City absent the City's express written consent. Except to the extent otherwise provided in this Agreement, County shall bear its own costs and expenses in pursuit thereof.

(c) Because of its status as an independent contractor, County and its officers, agents, and employees shall have absolutely no right to employment rights and benefits available to City employees. County shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare, and retirement benefits. In addition, together with its other obligations under this Agreement, County shall be solely responsible, indemnify, defend and save the City harmless from all matters relating to employment and tax withholding for and payment of County's employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers' compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in the City's employment benefits, entitlements, programs and/or funds offered employees of the City whether arising by reason of any common law, de facto, leased, or co-employee rights or other theory. It is acknowledged that

during the term of this Agreement, County may be providing services to others unrelated to the City or to this Agreement.

14. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.

15. Binding. Subject to Section 16, below, once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees, and representatives.

16. Assignment.

(a) This Agreement is personal to County and there shall be no assignment by County of its rights or obligations under this Agreement without the prior written approval of the City Manager or designee. Any attempted assignment by County, its successors or assigns, shall be null and void unless approved in writing by the City Manager or designee.

(b) County hereby agrees not to assign the payment of any monies due County from the City under the terms of this Agreement to any other individual(s), corporation(s), or entity(ies). The City retains the right to pay any and all monies due the County directly to the County.

17. Compliance With Law. In providing the services required under this Agreement, County shall at all times comply with all applicable laws of the United States, including but not limited to, the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), the State of California and the City, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

18. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

19. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or

interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

20. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

21. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability of any one provision in this Agreement shall not affect the other provisions.

22. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

23. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

24. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

25. Precedence of Documents. In the event of any conflict between the body of this Agreement and any exhibit or attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the exhibit or attachment. Furthermore, any terms or conditions contained within any exhibit or attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.

26. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

27. No Third Party Beneficiaries. The rights, interests, duties, and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

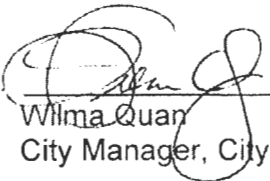
28. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both the City and County.

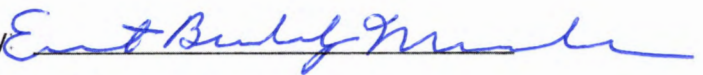
[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, on the day and year first above written.

CITY OF FRESNO,
A California municipal corporation

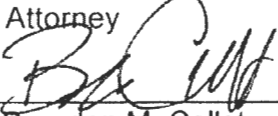
COUNTY OF FRESNO

By:  4/21/2020
Date
Wilma Quan
City Manager, City of Fresno

By: 
Name: Ernest Buddy Mendes

Title: Chairman, Board of Supervisors
(If corporation or LLC., Board Chair, Pres. or Vice Pres.)

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

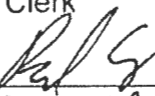
By: 
Date
Brandon M. Collet
Senior Deputy City Attorney

By: _____

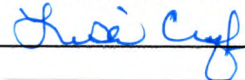
Name: _____

Title: _____
(If corporation or LLC., CFO, Treasurer, Secretary or Assistant Secretary)

ATTEST:
YVONNE SPENCE, CRM MMC
City Clerk

By:  4/22/2020
Date
BERNICE E. SEIDEL
Deputy

REVIEWED BY:

ATTEST:
BERNICE E. SEIDEL
Clerk of the Board of Supervisors
County of Fresno, State of California
By:  Deputy

Addresses:
CITY:
City of Fresno
Attention: Wilma Quan
City Manager
2600 Fresno Street
Fresno, CA 93721
Phone: (559) 621-7000
FAX: (559) 621-7990

COUNTY OF FRESNO:
Attention: Jean Rousseau
County Administrative Officer
2281 Tulare Street, Suite 304
Fresno, CA 93721
Phone: (559) 600-1710
FAX:

- Attachments:
1. Exhibit A - Scope of Services
 2. Exhibit B - Insurance Requirements
 3. Exhibit C - Conflict of Interest Disclosure Form

BMC:prn [04-21-2020]

EXHIBIT A

SCOPE OF SERVICES Service Agreement between City of Fresno (the City) and Fresno County Department of Social Services (County)

Scope of Work

County shall invest in COVID-19 prevention and containment efforts for temporary shelters, including, but not limited to, medically indicated services and supplies, such as testing and handwashing stations, and enhancements to existing shelter facilities. The intent is to allow for proper social distancing and isolation to reduce the spread of COVID-19 among the homeless population.

Monitoring

County shall maintain books, records, documents, and other evidence that demonstrates the funding was used for the appropriate purposes, as laid out in the Scope of Work. These books, records, documents, and other evidence shall be made available for audit and inspection by the City for a period of three years.

Annual Report Deadlines

County shall submit an expenditure report to City by July 1, 2020 and January 1, 2021. If the County fails to provide such documentation, City may disencumber any portion of the amount authorized by this Agreement with a 14-day written notification.

Reporting Requirements

The expenditure report shall contain detailed information including the following:

1. An ongoing tracking of the specific uses and expenditures of any program funds broken out by uses.
2. In addition to the reports, City may require supplemental reporting with written notice to County.

Expenditure Deadline

Pursuant to Assembly Bill 74, Statutes of 2019, Chapter 23 (Budget Act of 2019) SEC. 1.80, funds shall be encumbered by June 30, 2020.

Budget

1. Agreement Amount:
The total amount of this Agreement shall not exceed \$1,012,869.44.

EXHIBIT B
INSURANCE REQUIREMENTS
Consultant Service Agreement between City of Fresno (the City)
and the County of Fresno (the County)
COVID-19 Emergency Homelessness Funding

The parties agree to meet and confer and shall provide an agreed upon Exhibit B within 30 days of the execution of this Agreement.

- (i) Throughout the life of this Agreement, COUNTY shall pay for and maintain in full force and effect all insurance as required herein with an insurance company(ies) either admitted by the California Insurance Commissioner to do business in the State of California and rated no less than "A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by CITY'S Risk Manager or designee at any time and in his/her sole discretion. If the COUNTY is self-insured, the following requirements will outline the responsibility of the self-insured coverage. The required policies of insurance as stated herein shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to CITY and STATE and each of their officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.
 - (a) If at any time during the life of the Agreement or any extension, COUNTY or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to COUNTY shall be withheld until notice is received by CITY that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to CITY. Any failure to maintain the required insurance shall be sufficient cause for CITY to terminate this Agreement. No action taken by CITY pursuant to this section shall in any way relieve COUNTY of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by CITY that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.
 - (b) The fact that insurance is obtained by COUNTY shall not be deemed to release or diminish the liability of COUNTY, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify CITY and STATE shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by COUNTY. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of

COUNTY, vendors, suppliers, invitees, consultants, medical professionals, subcontractors, consultants, or anyone employed directly or indirectly by any of them.

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under "Minimum Limits of Insurance."
2. The most current version of ISO *Commercial Auto Coverage Form CA 00 01, providing liability coverage arising out of the ownership, maintenance or use of automobiles in the course of your business operations. The Automobile Policy shall be written on an occurrence form and shall provide coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Professional Liability including both (Abuse & Molestation) & (Medical Malpractice) Insurances that insures against liability arising out of the bodily injury, personal injury, including mental anguish, and third-party property damage occurring because of the wrongful or negligent acts attributable to the institution. The Abuse & Molestation coverage should protect against a wide range of potential claims, including but not limited to sexual molestation and other sexual misconducts. The Medical Malpractice coverage should protect against any claims of medical negligence.

MINIMUM LIMITS OF INSURANCE

COUNTY shall procure and maintain for the duration of the contract insurance with limits of liability not less than those set forth below. However, insurance limits available to CITY and STATE and each of their officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. **COMMERCIAL GENERAL LIABILITY**
 - (i) \$2,000,000 per occurrence for bodily injury and property damage;
 - (ii) \$2,000,000 per occurrence for personal and advertising injury;

- (iii) \$4,000,000 aggregate for products and completed operations; and,
- (iv) \$4,000,000 general aggregate applying separately to the work performed under the Agreement.

2. **COMMERCIAL AUTOMOBILE LIABILITY**

\$1,000,000 per accident for bodily injury and property damage.

3. **Workers' Compensation Insurance as required by the State of California with, statutory limits and EMPLOYER'S LIABILITY with limits of liability not less than:**

- a. \$1,000,000 each accident for bodily injury;
- b. \$1,000,000 disease each employee; and,
- c. \$1,000,000 disease policy limit.

4. **CYBER LIABILITY** insurance with limits not less than:

- (i) \$1,000,000 per claim/occurrence; and,
- (ii) \$2,000,000 policy aggregate

5. **PROFESSIONAL LIABILITY** (Abuse & Molestation and Medical Malpractice):.

- (i) \$3,000,000 per claim/occurrence; and,
- (ii) \$5,000,000 policy aggregate.

UMBRELLA OR EXCESS INSURANCE

In the event COUNTY purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the CITY and STATE and each of their officers, officials, employees, agents, and volunteers.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

COUNTY shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and COUNTY shall also be responsible for payment of any self-insured retentions. Any self-insured retentions must be declared on the Certificate of Insurance, and approved by, the CITY'S Risk Manager or designee. At the option of the CITY'S Risk Manager or designee, either:

- (i) The insurer shall reduce or eliminate such self-insured retentions as respects CITY and STATE or any of their officers, officials, employees, agents, and volunteers; or
- (ii) COUNTY shall provide a financial guarantee, satisfactory to CITY'S Risk Manager or designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall CITY be responsible for the payment of any deductibles or self-insured retentions.

OTHER INSURANCE PROVISIONS/ENDORSEMENTS

- (i) All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty calendar days' written notice has been given to CITY, except ten days for nonpayment of premium. COUNTY is also responsible for providing written notice to the CITY under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, COUNTY shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, COUNTY shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.
- (ii) The Commercial General and Automobile Liability insurance policies shall be written on an occurrence form.
- (iii) The Commercial General and Automobile Liability insurance policies shall be endorsed to name CITY and STATE and each of their officers, officials, agents, employees and volunteers as an additional insured. COUNTY shall establish additional insured status for the CITY and STATE for all ongoing and completed operations under the Commercial General Liability policy by use of ISO Forms or an executed manuscript insurance company endorsements providing additional insured status. The Commercial General endorsements must be as broad as that contained in ISO Forms: GC 20 10 11 85 or both CG 20 10 & CG 20 37.
- (iv) The Commercial General and Automobile Liability insurance shall contain, or be endorsed to contain, that the COUNTY'S insurance shall be primary to and require no contribution from the CITY or STATE. The Commercial General Liability policy is required to include primary and noncontributory coverage in favor of the CITY and STATE for both the ongoing and completed operations coverage. These coverages shall contain no special limitations on the scope of protection afforded to CITY and STATE and each of their officers, officials, employees, agents, and volunteers. If COUNTY maintains higher limits of liability than the minimums shown above, CITY and STATE requires and shall be entitled to coverage for the higher limits of liability maintained by COUNTY.
- (v) Should any of these policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by defense costs, then the requirement for the Limits of Liability of these policies will be twice the above stated limits.
- (vi) For any claims related to this Agreement, COUNTY'S insurance coverage shall be primary insurance with respect to the CITY and STATE and each of their officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the CITY and STATE and

each of their officers, officials, agents, employees, and volunteers shall be excess of the COUNTY'S insurance and shall not contribute with it.

- (vii) The Workers' Compensation insurance policy shall contain, or be endorsed to contain, a waiver of subrogation as to CITY and STATE and each of their officers, officials, agents, employees, and volunteers.
- (viii) The Commercial General and Automobile Liability insurance policies shall contain, or be endorsed to contain, a waiver of subrogation as to CITY and STATE and each of their officers, officials, agents, employees, and volunteers.

If the *Professional Liability (Abuse & Molestation, Medical Malpractice and Cyber) insurance policy* is written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by County.
2. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement work or termination of the Agreement, whichever occurs first, or, in the alternative, the policy shall be endorsed to provide not less than a five year discovery period.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by County, County must purchase "extended reporting" coverage for a minimum of five years completion of the Agreement work or termination of the Agreement, whichever occurs first.
4. A copy of the claims reporting requirements must be submitted to CITY for review.
5. These requirements shall survive expiration or termination of the Agreement.

PROVIDING OF DOCUMENTS - COUNTY shall furnish CITY with all certificate(s) and applicable endorsements effecting coverage required herein **All certificates and applicable endorsements are to be received and approved by the CITY'S Risk Manager or designee prior to CITY'S execution of the Agreement and before work commences.** All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon request of CITY, COUNTY shall immediately furnish CITY with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement. All subcontractors working under the direction of COUNTY shall also be required to provide all documents noted herein.

SUBCONTRACTORS - If COUNTY subcontracts any or all of the services to be performed under this Agreement, COUNTY shall require, at the discretion of the CITY Risk Manager or designee, subcontractor(s) to enter into a separate Side Agreement with the City to provide required indemnification and insurance protection for both the CITY and STATE. Any required Side Agreement(s) and associated insurance documents for the subcontractors must be reviewed and preapproved by CITY Risk

Manager or designee. If no Side Agreement is required, COUNTY will be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

EXHIBIT C
DISCLOSURE OF CONFLICT OF INTEREST
 COVID-19 Emergency Homelessness Funding

		YES*	NO
1	Are you currently in litigation with the City of Fresno or any of its agents?	<input type="checkbox"/>	<input type="checkbox"/>
2	Do you represent any firm, organization, or person who is in litigation with the City of Fresno?	<input type="checkbox"/>	<input type="checkbox"/>
3	Do you currently represent or perform work for any clients who do business with the City of Fresno?	<input type="checkbox"/>	<input type="checkbox"/>
4	Are you or any of your principals, managers, or professionals, owners or investors in a business which does business with the City of Fresno, or in a business which is in litigation with the City of Fresno?	<input type="checkbox"/>	<input type="checkbox"/>
5	Are you or any of your principals, managers, or professionals, related by blood or marriage to any City of Fresno employee who has any significant role in the subject matter of this service?	<input type="checkbox"/>	<input type="checkbox"/>
6	Do you or any of your subcontractors have, or expect to have, any interest, direct or indirect, in any other contract in connection with this Project?	<input type="checkbox"/>	<input type="checkbox"/>
* If the answer to any question is yes, please explain in full below.			

Explanation: _____

Additional page(s) attached.

Signature

Date

(Name)

(Company)

(Address)

(City, State Zip)