

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER  
18-ESG-12335

PURCHASING AUTHORITY NUMBER (if applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CONTRACTOR'S NAME

County of Fresno

2. The term of this Agreement is:

START DATE

Upon HCD Approval

THROUGH END DATE

05/12/2021

3. The maximum amount of this Agreement is:

\$285,252.00

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Authority, Purpose and Scope of Work	2
Exhibit B	Budget Detail and Payment Provisions	2
Exhibit C*	State of California General Terms and Conditions	GTC - 04/2017
Exhibit D	ESG Program Terms and Conditions	16
Exhibit E	Special Conditions	1
Exhibit F	Additional Provisions	0
TOTAL NUMBER OF PAGES ATTACHED		21 pages

Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resource>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)  
County of Fresno

CONTRACTOR BUSINESS ADDRESS  
P.O. Box 24055

CITY  
Fresno

STATE  
CA

ZIP  
93779

PRINTED NAME OF PERSON SIGNING

Nathan Magsig

CONTRACTOR AUTHORIZED SIGNATURE

ATTEST:

BERNICE E. SEIDEL  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By: [Signature]  
Deputy

TITLE  
Chairman, Fresno County Board of Supervisors

DATE SIGNED

December 10, 2019

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS

2020 W. El Camino Ave., Suite 130

CITY  
Sacramento

STATE  
CA

ZIP  
95833

PRINTED NAME OF PERSON SIGNING

Synthia Rhinehart

TITLE

Contracts Manager,  
Business & Contract Services Branch

DATE SIGNED

11/2/20

CONTRACTING AGENCY AUTHORIZED SIGNATURE

[Signature]  
California Department of General Services Approval (or exemption, if applicable)

**EXHIBIT A**

**AUTHORITY, PURPOSE AND SCOPE OF WORK**

**1. Authority & Purpose**

This Standard Agreement ("Agreement") will provide official notification of the conditional reservation of funds under the Department of Housing and Community Development's (referred to herein as "HCD" or "Department") administration of the Emergency Solutions Grants ("ESG") Program for non-formula jurisdictions pursuant to the provisions of 42 USC 11371 – 42 USC 11378, ("Federal Statutes"), 24 CFR Part 576, ("Federal Regulations"), 25 California Code of Regulations (CCR), Section 8400 et seq. ("State Regulations") all as shall be amended from time to time. HCD receives federal funds for ESG from the United States Department of Housing and Urban Development (HUD). In accepting this conditional reservation of funds, Contractor (sometimes referred to herein as "Grantee" or "Administrative Entity") agrees to comply with the terms and conditions of this Agreement, the Notice of Funding Availability under which the Contractor applied, the representations contained in the Contractor's recommendations for this funding allocation, and the requirements of the authorities cited above.

**2. Scope of Work**

- A. Contractor shall perform the Scope of Work ("Work") required by 25 CCR Section 8403 and as described in the Application, which is on file at the Department, Division of Financial Assistance, 2020 West El Camino Avenue, Sacramento, California 95833. Contractor's selected homeless service providers shall perform the Work set forth in Exhibit B, Paragraph 1, of this Agreement. All written materials or alterations to the Work submitted as addenda to the original award recommendation package submitted by the Contractor and which are approved in writing by the ESG NOFA Award or Grant Management Manager, or higher Departmental official, as appropriate, are hereby incorporated as part of the application/award recommendation package submitted to the Department. The Department reserves the right to require the Contractor to modify any or all parts of the award recommendation package in order to comply with ESG requirements. The Department reserves the right to review and approve all Work to be performed by the Contractor in relation to this Agreement. Any proposed revision to the Work must be submitted in writing, for review and approval by the Department, and may require a contract amendment. Any approval shall not be presumed unless such approval is made by the Department in writing.
- B. Contractor shall perform the Work, only in the areas as identified, and in accordance to the approved ESG Application and required by 25 CCR Section 8403 according to the Federal ESG requirements. Contractor's selected homeless service providers shall provide services in the areas identified in the application/award recommendation package submitted to the Department. Services shall be provided by the Contractor and the Contractor's funded subrecipients for at least the term of the ESG grant.

**3. Contract Amount of Agreement**

Grant Award Amount: \$285,252

**EXHIBIT A**

**4. Term of Agreement and Deadlines**

- A. This Agreement is effective upon approval by the Department, which is the date executed by all parties (such date, the "Effective Date").
- B. This Agreement will expire on: May 12, 2021
- C. All Program funds shall be expended by: February 12, 2021
- D. All Final Funds Requests shall be submitted to the Department within 60 days after the expenditure deadline.
- E. Reimbursements will not be made after this Agreement expires.

**5. Department Contract Coordinator**

The coordinator of this Agreement for the Department is the ESG Program Manager for the Grants Management Section, Division of Financial Assistance, or the Program Manager's designee. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class mail to the Program Representative:

Department of Housing and Community Development  
Division of Financial Assistance, Grants Management Section  
Emergency Solutions Grants Program Representative  
2020 West El Camino Avenue, Suite 400  
Sacramento, California 95833

**6. Contractor's Contract Coordinators**

Contractor's Authorized Representative for this Agreement is listed below. Unless otherwise informed, any notice, report or other communication required by this Agreement shall be mailed by first class mail to the following address:

Authorized Representative Name:	Nathan Magsig
Authorized Representative Title:	Chairman County of Fresno Board of Supervisors
Agency Name:	County of Fresno
Address:	2281 Tulare Street Fresno, CA 93721
Phone No.:	(559) 600-5000
Email Address:	District5@fresnocountyca.gov

**EXHIBIT B**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. Budget Detail and Description of Work**

ESG funds shall be used for the following activities, as described under the federal ESG regulations at 24 CFR Part 576, Subpart B—Program Components and Eligible Activities:

Rapid Rehousing Assistance	\$127,452
Emergency Shelter	\$102,090
Street Outreach	\$ 15,900
Homelessness Prevention	\$ 21,200
Homeless Management Information System	\$ 10,600
Grant Administration	\$ 8,010

**TOTAL GRANT AWARD AMOUNT:** **\$285,252**

**2. Method of Payment**

Payments to Contractor shall be made on a reimbursement basis with the exception that a Contractor may request an operating advance of \$5,000 or thirty (30) days working capital, whichever is greater. A request for an operating advance must be received by the Department within sixty (60) days of the Effective Date of this Agreement. To receive payment for the Work performed, or to receive an operating advance, the Contractor must submit, on forms provided by the Department, a duly executed ESG Request for Funds (RFF). The Contractor shall submit all RFFs to the Department, as referenced in Exhibit A, Section 5, or any other address of which the Contractor has been notified in writing. The Department shall not authorize payments unless it determines that the Work has been performed in compliance with the terms of this Agreement. Contractor shall not receive an operating advance or be reimbursed for expenditures incurred prior to the Effective Date of this Agreement, unless otherwise approved by the Department pursuant to Exhibit D, Paragraph 1A. Reimbursements will not be made after this Agreement expires.

The first request for disbursement shall include expenditure detail. After the first request, the Department may rely on the Contractor's certification that expenditures claimed in a request for disbursement are eligible and necessary, provided that the Contractor also certifies that detailed supporting documentation verifying each expenditure is available and shall be retained by the Contractor for three (3) years after the Department closes its HUD grant. NOTE: Record retention is based on the Department's HUD closing date; NOT three years from this Agreement expiration. The retention requirement can extend beyond 3 years after this Agreement expires. Therefore, the Contractor must contact the Department for the specific record retention date for this Agreement.

Contractor shall not receive an advance or be reimbursed for expenditures incurred prior to the Effective Date of this Agreement until all requirements have been met. Environmental review compliance shall include compliance with 24 C.F.R. Part 50. Contractor shall not be reimbursed for expenditures incurred after the expiration date of this Agreement, as set forth in Exhibit A, Section 4.



**EXHIBIT B**

**3. Budget Changes**

After the Effective Date of this Agreement, no changes shall be made to the program budget, funded homeless service providers, or eligible activities without prior written approval from the Department. Any changes to this Agreement must be made in writing and approved by both the Department and the Contractor. The proposed change/s must be consistent with 25 CCR 8403 and also comply with the requirements in 25 CCR Sections 8408 and 8409.

Contractor agrees to notify the Department in writing of any line item changes to the budget needed for the Department to update the federal Integrated Disbursement and Information System. For line item changes representing more than twenty-five (25) percent of the overall project budget, a contract amendment is required.

**4. Ineligible Costs**

- A. ESG funds shall not be used for costs associated with activities in violation of any law or for any activities referenced as ineligible in 25 CCR 8408. The Department reserves the right to request additional information and clarification to determine the reasonableness and eligibility of all costs to be paid with funds made available by this Agreement. If Contractor or its funded subrecipients use ESG funds for the costs of ineligible activities, Contractor shall be required to reimburse these funds to the Department and shall be prohibited from applying to the Department for subsequent ESG funds until the Department is fully reimbursed.
- B. An expenditure which is not authorized by this Agreement, or which cannot be adequately documented, shall be disallowed and must be reimbursed to the Department or its designee, by the Contractor. Expenditures for Work, not described in Exhibit A or Paragraph 1 above, shall be deemed authorized only if the performance of such Work is approved in writing by the Department prior to the Commencement of such Work.
- C. The Department, at its sole and reasonable discretion, shall make the final determination regarding the allowability of expenditures.

**5. Indirect Costs**

Contractor and/or subcontractors will allow their providers to seek reimbursement for indirect costs. The applicant must:

- A. Comply with all OMB requirements and standards including 2 CFR 200.403, 200.415, and Part 200 Appendix 4;
- B. Certify that any providers seeking reimbursement for indirect costs at the de minimis rate do not meet the definition of a major nonprofit organization as defined by OMB 2 CFR 200.414; and,
- C. Maintain records including evidence of the Modified Total Direct Cost (MTDC) ([2 CFR 200.68](#)) calculations, indirect cost limits, and supporting documentation for actual direct cost billing.

# General Terms and Conditions (GTC 04/2017)

## EXHIBIT C

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.
  - a. The Government Code Chapter on Antitrust claims contains the following definitions:
    - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
    - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
  - b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
  - c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
  - d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.



16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:
- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
  - b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.
19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:
- a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
  - b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

**EXHIBIT D**

**ESG PROGRAM TERMS AND CONDITIONS**

**1. Effective Date, Commencement of Work and Completion Dates**

This Agreement is effective upon approval by the State, signed and dated on page one of the Standard Agreement, (STD. 213), and by all parties. All eligible costs incurred after the date of the award letter issued to the grantee by HCD may be reimbursable. Contractor shall not incur any costs to be reimbursed prior to the date of the award letter. In addition, no activity funds shall be incurred until any required environmental review process has been completed, if required under 24 CFR 50. Contractor agrees that the Work shall be completed by the expenditure date specified in Exhibit A, Paragraph 4.

- A. Contractor must obligate all funds within 120 days from the date of the award notification letter. "Obligate" means that the Contractor has placed orders, awarded contracts, received services, or entered similar transactions that require payment from the grant amount. In the case of an award made to a general purpose local government that subcontracts with private nonprofit organizations via letters of awards and Service Provider Agreements, the subcontractors are subject to obligate the funds within 120 days from the date of the award notification letter received by the general purpose local government.
- B. Contractor agrees to provide documentation satisfactory to the Department evidencing the obligation of ESG funds within 120 days from the date the Department made the grant amount available to the Contractor. If the Contractor fails to provide such documentation, the Department may disencumber any portion of the amount authorized by this Agreement with a fourteen (14) day written notification.
- C. Contractor and its subcontractors agree that the Work shall be completed by the expenditure date specified in Exhibit A, Section 4 and that the Work will be provided for the full term of this Agreement.

**2. Eligible Activities**

ESG funds awarded by the Contractor shall be used for the eligible activities set forth in Exhibit B as permitted under the federal ESG regulations at 24 CFR Part 576. The following additional limitations or requirements shall apply:

- A. A maximum of ten percent of the funds provided under this Agreement may be used for Homeless Management Information System (HMIS) activities.
- B. ESG funds shall not be used for renovation, conversion, or major rehabilitation activities pursuant to 576.102. Minor repairs to an ESG-funded Emergency shelter that do not qualify as Renovation, Conversion, or Major Rehabilitation are an eligible use of ESG funds.

**EXHIBIT D**

- C. No less than 40% of these funds available to the Contractor must be awarded to rapid rehousing, except that Administrative Entities partnering with a neighboring Continuum of Care from the Balance of State Allocation must award 100% of both Service Area formula allocations to rapid rehousing.
- D. For rapid rehousing and homelessness prevention activities, no subpopulation targeting will be permitted except if documentation of all of the following is provided to the Department prior to the award of funds for these activities:
  - 1) Evidence that there is an unmet need for these activities for the subpopulation proposed for targeting; and,
  - 2) Evidence that there is existing funding in the Continuum of Care Service Area for programs that address the needs of the excluded populations for these activities.
- E. As set forth in the Department's 2018 Annual Action Plan to HUD:
  - 1) Homelessness prevention activities are limited to a 10% of a funded project;
  - 2) An emergency shelter or rapid rehousing project may also contain up to 10% in homeless prevention or street outreach activities; and,
  - 3) The street outreach or rapid rehousing activity referenced in subparagraph (ii) may be subcontracted to another eligible provider or may be provided directly by the Contractor. Subcontracting ESG funds to other programs for purposes of carrying out activities that are not part of the program awarded funds under the Standard Agreement is not permitted.
- F. Pursuant to OMB requirements, Contractor may permit homeless service providers receiving ESG funds to charge an indirect cost allocation to their grant. The indirect cost allocation may not exceed ten percent of the allowable direct costs under the ESG activity unless a higher limit for the indirect cost allocation has been approved by the applicable federal agency pursuant to OMB requirements. Indirect Costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective or activity.

**3. State Contract Manual Requirements (Section 3.11, Federally-Funded Contracts (Rev. 3/03):**

- A. It is mutually understood between the parties that this Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.



**EXHIBIT D**

- B. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the purpose of this Program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this contract in any manner.
- C. The parties mutually agree that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- D. The Department has the option to invalidate the contract under the 30-day cancellation clause or to amend the contract to reflect any reduction in funds.

**4. Sufficiency of Funds and Termination**

- A. The Department may terminate this Agreement at any time for cause by giving a minimum of fourteen (14) days' notice of termination, in writing, to the Contractor. Cause shall consist of: violations of any terms and/or special conditions of this Agreement; the Federal Statutes; the Federal Regulations; the State Regulations; withdrawal of the Department's expenditure authority. Upon termination of this Agreement, unless otherwise approved in writing by the Department, any unexpended funds received by the Contractor shall be returned to the Department within thirty (30) days of the Notice of Termination.
- B. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays, which would occur if the Agreement were executed after the determination was made.
- C. This Agreement is valid and enforceable only if sufficient funds are made available to the Department by the United States Government for the purposes of this Program. In addition, this Agreement is subject to any additional restrictions, limitations or conditions, or statute, regulations or any other laws, whether federal or those of the State of California, or of any agency, department, or any political subdivision of the federal or the State of California governments, which may affect the provisions, terms or funding of this Agreement in any manner.
- D. It is mutually agreed that if the Congress does not appropriate sufficient funds for the Program, this Agreement shall be amended to reflect any reductions in funds.
- E. The Department has the option to terminate this Agreement under the thirty (30) day cancellation clause or to amend this Agreement to reflect any reduction of funds.

**5. Transfers**

Contractor may not transfer by subcontract or novation, or by any other means, the rights, duties, or performance of this Agreement or any part thereof, except with the prior written approval of the Department and a formal amendment to this Agreement to affect such subcontract or novation.

**EXHIBIT D**

**6. Contractors and Subcontractors**

- A. Contractor, or its subcontractors, shall not enter into any Agreement, written or oral, with any contractor without the prior determination by the Department of the Contractor's eligibility. A Contractor or subcontractor is not eligible to receive grant funds if the Contractor is not licensed and in good standing in California or is listed on the Federal Consolidated List of Debarred, Suspended and Ineligible Contractors.
- B. The Agreement between the Contractor and any subcontractor shall require the Contractor and its subcontractors, if any, to:
  - 1) Perform the Work in accordance with Federal, State and local housing and building codes, as applicable.
  - 2) Comply with the labor standards described in this Exhibit, Section 20, as applicable. In addition to the requirements of this Exhibit, all contractors and subcontractors must comply with the provisions of the California Labor Code, as applicable.
  - 3) Comply with the applicable Equal Opportunity Requirements, described in this Exhibit, Section 14.
  - 4) Maintain at least the minimum State-required worker's compensation insurance for those employees who will perform the Work or any part of it.
  - 5) Maintain, as required by law, unemployment insurance, disability insurance, and liability insurance in an amount to be determined by the Department, which is reasonable to compensate any person, firm, or corporation who may be injured or damaged by the Contractor or any subcontractor in performing the Work or any part of it.
  - 6) Agree to include all the terms of this Agreement in each subcontract.
- C. The Department reserves the right of pre-award review and approval of all proposed contracts and related procurement documents, such as requests for proposals and invitations for bids, where the subcontract amount exceeds \$25,000.

**7. Core Practices**

- A. All ESG-funded activities shall operate in a manner consistent with the requirements of 25 CCR 8409, including but not limited to use of a homelessness coordinated entry system, housing first practices, and progressive engagement practices.
- B. All service providers receiving ESG funds shall take actions to create an effective, welcoming and affirming environment for all program participants and employees, including, but not limited to, persons of different races, ethnicities, sexual orientations, gender identities, and gender expressions.

**EXHIBIT D**

- C. The Contractor will establish and implement to the maximum extent practicable and where appropriate, policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, mental health facilities, foster care or other youth facilities or correction programs and institutions) in order to prevent this discharge from immediately resulting in homelessness for these persons.
- D. The Contractor will develop and implement procedures to ensure the confidentiality of the records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG program, including protection against the release of the address or location of any family violence shelter project, except with the written authorization of the person responsible for the operation of the shelter.
- E. If ESG funds are used for shelter operations or essential services related to street outreach or emergency shelter, the Contractor will ensure the subrecipient will provide services or shelter to homeless individuals and families for the period during which the ESG assistance is provided, without regard to a particular site or structure, so long the applicant serves the same type of persons (e.g., families with children, unaccompanied youth, veterans, disabled individuals or victims of domestic violence) or persons in the same geographic area.
- F. The Contractor will ensure the subrecipients will assist homeless individuals in obtaining permanent housing, appropriate supportive services (including medical and mental health treatment, counseling, supervision and other services essential for achieving independent living) and other federal, state, local, and private assistance available for such individuals.
- G. To the maximum extent practical the Contractor and it's subrecipients will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining and operating facilities assisted under ESG on provided services assisted under the ESG program and in providing services for occupants of facilities assisted by ESG.

**8. Shelter and Housing Standards**

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

If rapid rehousing or homeless prevention assistance is provided, the assisted housing must meet the minimum habitability standards at 24 CFR 576.403 (c).

**EXHIBIT D**

**9. Inspections**

- A. Contractor shall inspect any Work performed hereunder to ensure that the Work is being and has been performed in accordance with the applicable Federal, State and/or local requirements, and this Agreement.
- B. The Department reserves the right to inspect any Work performed hereunder to ensure that the Work is being and has been performed in accordance with the applicable Federal, State and/or local requirements, and this Agreement.
- C. Contractor agrees to require that all Work that is determined based on such inspections not to conform to the applicable requirements be corrected and to withhold payments to the subrecipient or subcontractor until it is corrected.

**10. Monitoring Grant Activities**

- A. Contractor shall monitor the activities selected and awarded by them to ensure compliance with Federal and ESG requirements. An onsite monitoring visit of homeless service providers listed in Exhibit A shall occur whenever determined necessary by the Contractor, but at least once during the grant period.
- B. The Department will monitor the performance of the Contractor based on a risk assessment and according to the terms of this Agreement. The Department may also monitor any subrecipients of the Contractor as the Department deems appropriate based on a risk assessment.
- C. The Department will monitor the performance of Contractor and funded projects based on the performance measures used by HUD in ESG or the Continuum of Care program. In the event that project-level or system-wide performance consistently remains in the lowest quartile compared to all participating Service Areas in the Continuum of Care allocation, the Department will work collaboratively with the Contractor to develop performance improvement plans which will be incorporated into this Standard Agreement and other agreements required under 25 CCR Section 8403
- D. If it is determined that a Contractor or any of its subrecipients falsified any certification, application information, financial, or contract report, the Contractor shall be required to reimburse the full amount of the ESG award to the Department, and may be prohibited from any further participation in the ESG program. The Department may also impose any other actions permitted under 24 CFR 576.501 (c).
- E. As requested by the Department, the Contractor shall submit to the Department all ESG monitoring documentation necessary to ensure that Contractor and its subrecipients are in continued compliance with Federal and ESG requirements. Such documentation requirements and the submission deadline shall be provided by the Department at the time such information is requested from the Contractor.



**EXHIBIT D**

**11. Compliance with Federal and State Laws and Regulations**

- A. The Contractor and its subrecipients shall comply with the policies, guidelines and requirements under 2 CFR, Part 200, as applicable, as they relate to the cost principles, audit requirements, acceptance and use of federal funds under this part.
- B. The Contractor agrees to comply with all federal laws and regulations applicable to the ESG Program and to the grant activity(ies), and with any other federal provisions as set forth in this agreement. The Contractor agrees to comply with all federal and State laws and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all others matters applicable to the Contractor, its contractor or subcontractor and the Work. This includes but is not limited to complying with all relevant sections of 2 CFR Part 200.

**12. Procurement of Goods and Services**

Prior to the drawdown of ESG funds for the Contractor's purchase of goods or services, Contractor, shall comply with the Procurement Standards contained in 2 CFR 200. Contractor, when procuring goods with ESG funds, must provide the Department with evidence of compliance with these requirements, as applicable.

**13. Procurement of Recovered Materials**

Contractor and its subrecipients must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceed \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**14. Equal Opportunity Requirements and Responsibilities**

- A. **Title VI of the Civil Rights Act of 1964:** This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving federal financial assistance.
- B. **Title VII of the Civil Rights Act of 1968 (The Fair Housing Act):** This act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing.

**EXHIBIT D**

- C. **Restoration Act of 1987:** This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability or age in a program or activity which does not directly benefit from such assistance.
- D. **Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309]:** This section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.
- E. **The Fair Housing Amendment Act of 1988:** This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.
- F. **The Housing for Older Persons Act of 1995 (HOPA):** Retained the requirement that the housing facilities must have one person who is 55 years of age or older living in at least 80% of its occupied units. The act also retained the requirement that housing facilities publish and follow policies and procedures that demonstrate intent to be housing for persons 55 or older.
- G. **The Age Discrimination Act of 1975:** This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic including: KRS 18A.140; KRS 344.040; 101 KAR 1:350 Paragraph 11; 101 KAR 1:375 Paragraph 2(3); 101 KAR 2:095 Paragraphs 6 and 7.
- H. **Section 504 of the Rehabilitation Act of 1973:** It is unlawful to discriminate based on disability in federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance. Section 504 also contains design and construction accessibility provisions for multi-family dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991.
- I. **The Americans with Disabilities Act of 1990 (ADA):** This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.

**EXHIBIT D**

- J. **Executive Order 11063:** This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government.
- K. **Executive Order 11259:** This executive order provides that the administration of all federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.
- L. **The Equal Employment Opportunity Act:** This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings federal, state, and local governments under the Civil Rights Act of 1964.
- M. **The Immigration Reform and Control Act (IRCA) of 1986:** Under IRCA, employers may hire only persons who may legally work in the U.S., i.e., citizens and nationals of the U.S. and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (1-9).
- N. **The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978:** This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of federal laws prohibiting discriminatory employment.
- O. **The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002):** This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.
- P. **Executive Order 11246:** This executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race.

**15. The Training, Employment, and Contracting Opportunities for Business and Lower-Income Persons Assurance of Compliance (Section 3):**

The Contractor will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing 24 CFR, Part 135. The responsibilities of the Contractor are outlined in 24 CFR Part 135.32 as follows:

- A. Implementing procedures designed to notify Section 3 residents about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.



**EXHIBIT D**

- B. Notifying potential subrecipients for Section 3 covered projects of the requirements and incorporating the Section 3 clause set forth in Section 135.38 in all solicitations and contracts in excess of \$100,000.
- C. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns by undertaking activities such as described in the appendix to this part, as appropriate, to reach the goals set forth in Section 135.30. Subrecipients, at their own discretion, may establish reasonable numerical goals for the training and employment of Section 3 residents and contract award to Section 3 business concerns that exceed those specified in Section 135.30.
- D. Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the subrecipient has notice or knowledge that the Contractor has been found in violation of the regulations in 24 CFR Part 135.
- E. Documenting actions taken to comply with the requirements of this part, the results of those actions taken and impediments, if any.
- F. A Contractor which distributes funds for Section 3 covered assistance to units of local governments, to the greatest extent feasible, must attempt to reach the numerical goals set forth in Section 135.30 regardless of the number of local governments receiving funds from the Section 3 covered assistance which meet the thresholds for applicability set forth at Section 135.30. The State must inform units of local government to whom funds are distributed of the requirements of this part; assist local governments and their contractors in meeting the requirements and objectives of this part; and monitor the performance of local governments with respect to the objectives and requirements of this part.

**16. Affirmative Outreach:**

- A. Contractor or its subrecipients must make known that the use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures the Contractor or its subrecipients intends to use to make known the availability of its facilities, assistance, and services will 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 Contractor or its subrecipients must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services.
- B. Contractor or its subrecipients 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 person with disabilities. Consistent with Title VI and Executive Order 13166, applicants are also required to take reasonable steps to ensure meaningful access to programs and activities for Limited English Proficiency (LEP) persons.



**EXHIBIT D**

**17. Environmental Requirements**

This Agreement is subject to the provisions of the California Environmental Quality Act (CEQA). Contractor assumes responsibility to fully comply with CEQA's requirements regarding the Work. In addition, Contractor shall comply with the environmental requirements of 24 CFR Part 576.407 subdivision (d). The obligation of funds and incurring of costs is hereby conditioned upon compliance with CEQA, 24 CFR Section 576.407 subdivision (d) and completion by the State and the U.S. Department of Housing and Urban Development of all applicable review and approval requirements.

The Contractor shall supply all available, relevant information necessary for HCD to perform for each property any environmental review as required under 24 CFR Part 50. The Contractor shall also carry out mitigating measures required by HCD or select an alternate eligible property. HUD may eliminate from consideration any application that would require an environmental impact statement (EIS).

The subrecipient, or any contractor of the subrecipient, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project, or commit or expend ESG or local funds for eligible activities under this part, until HUD has performed an environmental review under 24 CFR Part 50 and the subrecipient has received HUD approval of the property. For all funded applications, HCD will inform the subrecipient any required additional environmental review.

**18. Clean Air and Water Acts**

This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 U.S.C. 1857et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR, Part 15, as amended from time to time.

**19. Lead-Based Paint Hazards**

The assistance provided under this Agreement is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 – 4845), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 - 4856). Activities performed with the assistance provided under this Agreement are subject to 24 CFR, Part 35.

**20. Prevailing Wages**

- A. Where funds provided through this Agreement are used for construction work, or in support of construction work, Contractor shall ensure that the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of the Labor Code (pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations) are met.

**EXHIBIT D**

- B. For the purposes of this requirement "construction work" includes but is not limited to rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, through this Agreement. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract"). Where the construction contract will be between the Contractor and a licensed building contractor, Contractor shall serve as the "awarding body" as defined in the Labor Code. Where the Contractor will provide funds to a third party that will enter into the construction contract with a licensed building contractor, the third party shall serve as the "awarding body".
- C. The construction contract and any amendments thereto shall be subject to the prior written approval of the Department. Prior to any disbursement of funds, including but not limited to release of any final retention payment, the Department may require a certificate from the awarding body that prevailing wages have been or will be paid when required by Section 1720 et. seq. of the Labor Code.

**21. Matching Funds**

- A. Each Contractor shall be required to supplement the assistance provided through Federal ESG funds with funding from other sources. Each Contractor shall certify to the Department its compliance with this requirement and shall include with such certification a description of the sources and amounts of such supplemental funds.

**22. Assurance of Compliance with the "Violence Against Women Reauthorization Act of 2013" (VAWA) (S.47 - 113th Congress (2013-2014)) (as amended or reauthorized) Title VI - Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking – Sec. 601-603**

VAWA provides housing protections for survivors of domestic and dating violence, sexual assault, and stalking when it comes to finding and keeping a home they can feel safe in.

VAWA applies for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation, and which must be applied consistently with all nondiscrimination and fair housing requirements. VAWA now expands housing protections to HUD programs beyond HUD's public housing program and HUD's tenant-based and project-based Section 8 programs. VAWA now provides enhanced protections and options for victims of domestic violence, dating violence, sexual assault, and stalking.

During the performance of this Agreement, the Contractor or its subrecipients assure that:

- A. Domestic Violence survivors are not denied assistance as an applicant, or evicted or have assistance terminated as a tenant, because the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, and stalking.
- B. It will implement an 'emergency transfer plan', which allows for domestic violence survivors to move to another safe and available unit if they fear for their life and safety.

**EXHIBIT D**

- C. It will provide "Protections against denials, terminations, and evictions that directly result from being a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy."
- D. It will implement a 'Low-barrier certification process' where a domestic violence survivor need only to self-certify in order to document the domestic violence, dating violence, sexual assault, or stalking, ensuring third party documentation does not cause a barrier in a survivor expressing their rights and receiving the protections needed to keep themselves safe.

**23. Liability Insurance**

Unless otherwise approved in writing, Contractor shall have and maintain in full force and effect during the terms of this Agreement liability insurance in an amount of not less than \$1,000,000.00 per occurrence with the Department named as an additional insured. Prior to drawdown of funds, Contractor shall provide a valid certificate of insurance to the Department Program Representative for review and approval.

**24. Reporting and Recordkeeping**

- A. By July 31 of each year, Contractor shall submit an Annual Performance Report to the Department. In accordance with federal reporting requirements, the report will include, but will not be limited to, beneficiary data, Minority Owned Business/Women Owned Business (MBE/WBE) data, and Section 3 data, if applicable.
- B. Contractor shall submit, within thirty (30) days after the end of the State-designated reporting period, in a manner and format approved by the Department, a Request for Funds (RFF) and Detailed Expense Report (DER). Compliance reports shall be submitted as specified by the Department. Close-out-of-grant progress reports shall be submitted within sixty (60) days after the end of the reporting period.
- C. Contractor shall manage and maintain all client data information using a Homeless Management Information System (HMIS) or comparable data system (defined as a separate data system that collects required HMIS and ESG data elements and complies with HUD Data and Technical Standards). Contractor shall collect all program data elements using the HMIS and comply with all reporting requirements.
- D. Contractor shall maintain all fiscal and program records pertaining to the Grant for a period of three (3) years after the Department closes its HUD grant or any other period specified in 24 CFR §576.500 (y).

**NOTE:** Record retention is based on the Department's HUD closing date; NOT three years from this Agreement expiration. The retention requirement can extend beyond three years after this Agreement expires. Therefore, the Contractor must contact the Department for the specific record retention date for this Agreement.

- E. Contractor shall submit required reports on forms approved by the Department.



**EXHIBIT D**

**25. Audit/Retention and Inspection of Records**

- A. Contractor agrees to maintain accounting books and records in accordance with Generally Accepted Accounting Standards. Contractor agrees that the Department, the Department of General Services, the Bureau of State Audits, or their designated representatives, shall have the right to review and copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for three (3) years after the Department closes its HUD grant or any other period specified in 24 CFR §576.500 (y).

**NOTE:** Record retention is based on the Department's HUD closing date; NOT three years from this Agreement expiration. The retention requirement can extend beyond three years after this Agreement expires. Therefore, the Contractor must contact the Department for the specific record retention date for this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the Department to audit records and interview staff in any subcontract related to performance of this Agreement.

- B. The audit shall be performed by a qualified State, local or independent auditor. Contractor shall notify the Department of the auditor's name and address immediately after the selection has been made. The contract for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
- C. Private Nonprofit Organization and Unit of General-Purpose Local Government contractors shall comply with the audit requirements contained in 2 CFR Part 200.

**26. Faith-Based Activities**

Pursuant to Section 8406 (b) (2) of the State Regulations, Contractor and its subrecipients listed in Exhibit B shall not require, as a condition of Program Participant housing, participation by Program Participants in any religious or philosophical ritual, service, meeting or rite. Contractor and its subrecipients listed in Exhibit B shall also comply with the requirements of 24 CFR Section 576.406 of the Federal Regulations.

**27. Interest of Members, Officers or Employees of Contractors, Members of Local Governing Body**

Pursuant to 24 CFR 576.404, in addition to the conflict of interest requirements in OMB Circulars A-102 and A-110, no person:

- A. Who is an employee, agent, consultant, officer or elected as appointed official of the Contractor (or of any designated public agency); and,
- B. Who exercises or has exercised any functions or responsibilities with respect to assisted activities; or,



**EXHIBIT D**

- C. Who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or for one (1) year thereafter. HUD may grant an exception to this exclusion as provided in 24 CFR §570.611 (d) and (e).

**28. Anti-Lobbying Certification**

The Contractor shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with this grant and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.

Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and no more than \$100,000 for such failure.

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of it, 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 the awarding of any federal contract, the cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

**29. Waivers**

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. Failure of the Department to enforce the provisions of this Agreement or required performance by the Contractor of these provisions, at any time, shall in no way be construed to be a waiver of such provisions, nor affect the validity of this Agreement, or the right of the Department, to enforce these provisions.

**30. Litigation**

- A. If any provision of this Agreement, or any underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.

**EXHIBIT D**

- B. Contractor shall notify the Department immediately of any claim or action undertaken by or against it, which affects or may affect this Agreement of the Department and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department

**31. Sanctions**

The Department may impose sanctions, as well as any other remedies available to it under law, on Contractor or its subrecipients, for failure to abide by any State and Federal laws and regulations applicable to the ESG Program. Such sanctions include:

- A. Conditioning a future grant on compliance with specific laws of regulations;
- B. Directing Contractor or its subrecipients to stop incurring costs under the current grant;
- C. Requiring that some or the entire grant amount is remitted to the Department;
- D. Reducing or disencumbering some or all of the amount of grant funds Contractor would otherwise be entitled to receive;
- E. Electing not to award future grant funds to Contractor, unless and until appropriate actions are taken by the Contractor to ensure compliance; and/or,
- F. Taking any other actions permitted pursuant to 24 CFR 576.501.

**EXHIBIT E**

**SPECIAL CONDITIONS**

These Special Conditions are specific for this Standard Agreement.

**1. Eligibility Conditions for Youth**

- Youth aged 24 and under seeking assistance shall not be required to provide third party documentation to establish their eligibility under 42 U.S.C. 11302(a) or (b) to receive services.
- Unaccompanied youth aged 24 and under or families headed by youth aged 24 and under who are living in unsafe situations may be served by youth-serving providers.

Fund 0001  
Subclass 10000  
Org 56107001  
Account 4375