

1 **CORONAVIRUS STATE LOCAL FISCAL RECOVERY FUNDS**

2 **AMENDMENT NO. 2 TO SUBRECIPIENT AGREEMENT**

3 This Amendment No. 2 to Subrecipient Agreement (“Amendment No. 2”) is dated
4 _____ and is between ACTS Foundation, a California nonprofit 501(c)(3) corporation
5 whose address is 5125 North Gates Avenue, Suite 101, Fresno, CA 93722 (“Subrecipient”), and the
6 County of Fresno, a political subdivision of the State of California (“County”).

7 **Recitals**

8 A. On March 11, 2021, the President signed into law the American Rescue Plan Act of 2021
9 (“ARPA”) which established the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”)
10 Program.

11 B. The ARPA authorizes the County to expend SLFRF awarded to the County for certain eligible
12 purposes, including for response to the negative economic impacts of the COVID-19 pandemic, by
13 providing assistance to households through food programs.

14 C. On September 6, 2022, the County and the Subrecipient entered into County agreement number
15 22-408 (“Agreement”), to increase capacity service levels to meet the community’s demand in the
16 Subrecipient’s Grocery Giveaway, CityServe, and the Senior Citizens Grocery Delivery programs, which
17 provided funds for personnel salaries and benefits, utility fees, operational and office supplies, food and
18 bagging costs, facility security, and transport fuel expenditures for calendar years 2023 and 2024, to
19 benefit disadvantaged neighborhoods and populations in and near Northwest City of Fresno at no cost
20 to individuals and families in need (Program).

21 D. On September 5, 2023, the Fresno County Board of Supervisors approved Amendment No. 1 to
22 Subrecipient Agreement, which is County Agreement No. 23-450 (“Amendment No. 1”), which was
23 intended to assist the Subrecipient with recovering costs by consolidating the Expenditure Plan, rather
24 than continuing with the unanticipated rigid nature of the requirements as presented in the original
25 Agreement.

26 E. The Subrecipient represents that since Amendment No. 1 was executed, the monthly budget
27 expectations have changed sufficiently that the Subrecipient is having difficulty expending certain line
28 items, which has created an undue hardship in the administration of the grant funds.

1 F. The Subrecipient represents that it would benefit from a modification clause that is consistent
2 with the standard language found in other County ARPA Agreements, while also being allowed to work
3 their Program through June 30, 2026, rather than being restricted to December 31, 2024.

4 G. The County and the Subrecipient now desire to further amend the Agreement to revise the
5 Program's expenditure plan to accommodate the changes described above and allow the County's
6 Administrative Officer or designee to approve minor budgetary modifications as needed and appropriate.
7 The parties therefore agree as follows:

8 1. This Amendment shall be retroactive to December 31, 2024.

9 2. All references to "Revised Exhibit B" in the Agreement shall be amended to refer to "Revised
10 Exhibit B-1." Revised Exhibit B-1 is attached to this Amendment No. 2, and incorporated by this
11 reference.

12 3. The recital located on page 3, lines 2-8, shall be deleted in its entirety, and replaced with the
13 following:

14 "WHEREAS, the SUBRECIPIENT represents that SLFRF provided under this Agreement will
15 provide funding assistance to increase capacity service levels to meet the community's demand in the
16 SUBRECIPIENT's Grocery Giveaway, CityServe, and the Senior Citizens Grocery Delivery programs
17 consisting of personnel salaries and benefits, utility fees, operational and office supplies, food and
18 bagging costs, facility security, and transport fuel expenditures beginning June 21, 2022 and ending
19 June 30, 2026, which would benefit disadvantaged neighborhoods and populations in and near
20 Northwest City of Fresno at no cost to individuals and families in need (Program);"

21 4. Subsection D of Section 1, located on page 4, lines 12-17, shall be deleted in its entirety, and
22 replaced with the following:

23 "SUBRECIPIENT represents that it intends to use SLFRF to increase capacity service levels to meet
24 the community's demand in the SUBRECIPIENT's Grocery Giveaway, CityServe, and the Senior Citizens
25 Grocery Delivery programs, consisting of personnel salaries and benefits, utility fees, operational and
26 office supplies, food and bagging costs, facility security, and transport fuel expenditures beginning June
27 21, 2022 and ending June 30, 2026, which would benefit disadvantaged neighborhoods, as shown on
28 Table 1-1 of Revised Exhibit B-1, attached and incorporated by this reference."

1 5. Subsection G of Section 1, located on page 5, lines 6 through 15, shall be deleted in its entirety,
2 and replaced with the following:

3 “G. Timeline. SUBRECIPIENT shall ensure that the Program is diligently undertaken and completed,
4 and all SLFRF granted under this Agreement are fully expended, no later than June 30, 2026. By
5 August 31, 2024, SUBRECIPIENT shall analyze, and shall report to COUNTY in writing, whether it can
6 complete the Program or fully expend the SLFRF granted under this Agreement by June 30, 2026. If
7 SUBRECIPIENT is not capable of completing the Program or fully expending the SLFRF granted under
8 this Agreement on the Program by June 30, 2026, SUBRECIPIENT shall return any previously issued
9 SLFRF, which have not been bindingly obligated to a permissible use, to COUNTY within fifteen
10 calendar days.”

11 6. A portion of Section 13, Grant Funding/Compensation, Subsection A, located on page 14, lines
12 16 through 25, is deleted, and replaced with the following:

13 “It is expressly agreed and understood that the total amount of SLFRF to be granted by COUNTY to
14 SUBRECIPIENT for the Program shall not exceed five hundred thousand dollars (\$500,000), which will
15 provide funding assistance to increase capacity service levels to meet the community’s demand in the
16 SUBRECIPIENT’s Grocery Giveaway, CityServe, and the Senior Citizens Grocery Delivery programs.
17 The provision of SLFRF for the program will fund personnel salaries and benefits, utility fees,
18 operational and office supplies, food and bagging costs, facility security, and transport fuel expenditures
19 beginning June 21, 2022, and ending June 30, 2026, which will benefit disadvantaged neighborhoods
20 and populations in and near northwest City of Fresno at no cost to individuals and families in need.
21 SUBRECIPIENT shall track number of individuals fed through its food distribution events held at its
22 warehouse location, number of distribution events, and number of residents receiving grocery food
23 deliveries by SUBRECIPIENT.”

24 7. Section 15, Modification, located on page 17, lines 12 through 13, is deleted in its entirety, and
25 replaced with the following:

26 “Any matters of this Agreement may be modified from time to time by the written consent of all the
27 parties without, in any way, affecting the remainder. Changes to line items established in Revised
28 Exhibit B-1, which, when added together during the term of the Agreement do not exceed ten

1 percent (10%) of the total maximum compensation payable to Subrecipient, may be made with the
2 written approval of Subrecipient and County's Administrative Officer or designee. These
3 modifications shall not result in any change to the maximum compensation amount payable to
4 Subrecipient, as described in Section 13, herein."

5 8. A portion of Exhibit A, located on page 26, lines 17-24, is deleted in its entirety, and replaced
6 with the following:

7 "SLFRF provided under this Agreement will provide funding assistance to increase capacity service
8 levels to meet the community's demand in the SUBRECIPIENT's Grocery Giveaway, CityServe, and
9 the Senior Citizens Grocery Delivery programs, consisting of personnel salaries and benefits, utility
10 fees, operational and office supplies, food and bagging costs, facility security, and transport fuel
11 expenditures beginning on June 21, 2022 through June 30, 2026, which will benefit disadvantaged
12 neighborhoods and populations in and near northwest City of Fresno at no cost to individuals and
13 families in need. SUBRECIPIENT represents that SLFRF will assist to meet its goal to feed an
14 estimated 36,000 individuals, including 6,000 senior residents, with the goal of increasing its
15 numbers by 20% each year."

16 9. When both parties have signed this Amendment No. 2, the Agreement, Amendment No. 1, and
17 this Amendment No. 2 together constitute the Agreement.

18 10. The Subrecipient represents and warrants to the County that:

- 19 a. The Subrecipient is duly authorized and empowered to sign and perform its obligations under
20 this Amendment No. 2.
- 21 b. The individual signing this Amendment No. 2 on behalf of the Subrecipient is duly authorized
22 to do so and his or her signature on this Amendment No. 2 legally binds the Subrecipient to
23 the terms of this Amendment No. 2.

24 11. The parties agree that this Amendment No. 2 may be executed by electronic signature as
25 provided in this section.

- 26 a. An "electronic signature" means any symbol or process intended by an individual signing this
27 Amendment No. 2 to represent their signature, including but not limited to (1) a digital
28 signature; (2) a faxed version of an original handwritten signature; or (3) an electronically

1 scanned and transmitted (for example by PDF document) version of an original handwritten
2 signature.

3 b. Each electronic signature affixed or attached to this Amendment No. 2 is deemed equivalent
4 to a valid original handwritten signature of the person signing this Amendment No. 2 for all
5 purposes, including but not limited to evidentiary proof in any administrative or judicial
6 proceeding, and (2) has the same force and effect as the valid original handwritten signature
7 of that person.

8 c. The provisions of this section satisfy the requirements of Civil Code section 1633.5,
9 subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3, Part 2, Title
10 2.5, beginning with section 1633.1).

11 d. Each party using a digital signature represents that it has undertaken and satisfied the
12 requirements of Government Code section 16.5, subdivision (a), paragraphs (1) through (5),
13 and agrees that each other party may rely upon that representation.

14 e. This Amendment No. 2 is not conditioned upon the parties conducting the transactions under
15 it by electronic means and either party may sign this Amendment No. 2 with an original
16 handwritten signature.

17 12. This Amendment No. 2 may be signed in counterparts, each of which is an original, and all of
18 which together constitute this Amendment No. 2.

19 13. The Agreement as amended by this Amendment No. 2 is ratified and continued. All provisions of
20 the Agreement and not amended by this Amendment No. 2 remain in full force and effect.

1 The parties are signing this Amendment No. 2 on the date stated in the introductory clause.

2 ACTS FOUNDATION

COUNTY OF FRESNO

3 

4 Kevin Foster, President of the Board of
5 Directors of the ACTS Foundation

Ernest "Buddy" Mendes, Chairman of the
Board of Supervisors of the County of Fresno

6 Mailing Address:
7 ACTS Foundation
8 5125 N. Gates Avenue, Suite 101
9 Fresno, CA 93722

Attest:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: _____
Deputy

10 For accounting use only:

11 Org: 1033
12 Fund: 0026
13 Subclass: 91021
14 Account: 7845

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Revised Exhibit B-1

Subrecipient Expenditure Plan

SUBRECIPIENT shall provide to COUNTY drawdown requests for payments for eligible expenses to complete the Program. In the first thirty (30) days following the Effective Date of this Agreement, SUBRECIPIENT may make one (1) drawdown request to a maximum of one hundred twenty-five thousand dollars (\$125,000), equivalent to twenty five percent (25%) of the Program's total budgeted amount (\$500,000), to cover eligible expenditures in support of the Program. The first drawdown request from SUBRECIPIENT to the COUNTY shall also be accompanied by a written certification from the SUBRECIPIENT that the drawdown request for payment is consistent with the amount of work scheduled to be performed or materials to be purchased with the amount of funding being requested from the COUNTY. Drawdowns requests shall detail purchase orders, receipts, and reimbursement requests, detailing items purchased, and expenses incurred or anticipated to be incurred in support of the Program for items listed in Table 1-1 of Revised Exhibit B-1 of this Agreement.

Revised Table 1-1, Expenditure Plan

Revised Table 1-1 Expenditure Plan					
Line Items	Existing Budget	Increases	Reductions to account for increases	Final Budget	Budget Narrative
Food Costs	\$ 46,000.00	\$ 9,963.23		\$ 55,963.23	This line includes food cost, food handling, and food bank fees and expenditure to host Grocery Giveaway, CityServe, and the Senior Citizens' Grocery Delivery program events, i.e. Central California Food Bank, and similar food bank providers and entities. Includes but is not limited to food costs, bags/gloves, and food bank fees.
Supplies	\$ 1,575.00			\$ 1,575.00	Includes costs for supply items that support events and operations. For example, canopies, traffic control, office supplies, warehouse supplies.
Pickup and Delivery Fuel	\$ 20,282.00		\$ 18,075.55	\$ 2,206.45	Includes fuel related costs in support of the programs.
Building Rental	\$ 108,500.00	\$ 2,072.83		\$ 110,572.83	Includes costs for building rental.
FT Director	\$ 155,000.00	\$ 7,224.40		\$ 162,224.40	Includes expenditures through December 2024 for salaries and benefits for a full-time Director
PT Admin Salary	\$ 47,500.00	\$ 14,712.37		\$ 62,212.37	Includes expenditures through December 2024 for salaries and benefits for a part-time Admin.
PT Delivery Driver	\$ 28,500.00			\$ 28,500.00	Includes expenditures through December 2024 for salaries and benefits for a part-time delivery driver or consultant.
Custodian Maintenance	\$ 15,500.00			\$ 15,500.00	Includes costs for facility maintenance and janitorial services.
Utilities	\$ 39,940.00		\$ 10,284.98	\$ 29,655.02	Includes expenses related to utilities such as water, solid waste, recycling, electricity/gas; and communication costs such as internet and phone service in support of the programs
Security	\$ 2,190.00			\$ 2,190.00	Includes cost to provide security.
Truck Ins/Rent/Forklift	\$ 23,520.00		\$ 5,612.30	\$ 17,907.70	Includes anticipate cost for vehicle insurance, rental vehicles such as a forklift used for the programs.
Liability Insurance	\$ 4,700.00			\$ 4,700.00	Includes anticipate cost to fund Liability Insurance.
C-Train for City Serve	\$ 2,790.00			\$ 2,790.00	Includes cost to fund C-trains, storage containers.
Pest Control	\$ 3,100.00			\$ 3,100.00	Includes cost to provide pest control at facilities.
Contingency	\$ 903.00			\$ 903.00	Line item includes unanticipated expenses that may have not been accounted for in the line-item estimates.
Totals	\$ 500,000.00	\$ 33,972.83	\$ 33,972.83	\$ 500,000.00	

Revised Exhibit B-1

Drawdown Request Form

Date:

County of Fresno
ARPA - SLFRF Coordinator
2281 Tulare Street, Room 304
Fresno, CA 93721

Subject: Drawdown Request for

Subrecipient

Subrecipient Name

In accordance with the executed Agreement for the above-referenced Program, the [SUBRECIPIENT NAME] is requesting drawdown payment of \$ _____ in support of the Program.

The [SUBRECIPIENT NAME] certifies that this request for payment is consistent with the amount of work that has been completed to date, detailing items purchased, and expenses incurred or anticipated to be incurred in support of the Program in accordance with the Subrecipient Expenditure Plan (Revised Exhibit B-1, Table 1-1) documented in the executed Agreement, and as evidenced by the enclosed invoices and supporting documents.

Payee**Invoice # / Contract #**

Amount

Sincerely,

[Subrecipient Officer]

[Subrecipient Name]

Enclosure(s)