

**GRANT AGREEMENT  
BETWEEN THE CITY OF OAKLAND AND CONTRA COSTA COUNTY  
FOR THE 2020 HOPWA PROGRAM CARES ACT**

**PARTIES AND EFFECTIVE DATE**

This **Grant Agreement** (“Agreement” or “Contract”) dated April 1, 2020 is made and entered into by and between the City of Oakland, a municipal corporation (the “City”), and CONTRA COSTA COUNTY, a political subdivision of the State of California, (the “County” or “Grantee”) . The City and the County are hereinafter collectively referred to as the “Parties.”

Grant Number: CAH20-FHW001

**RECITALS**

**WHEREAS**, on April 4, 2020, the U.S. Department of Housing and Urban Development (“HUD”) issued a grant award letter to the City pursuant to the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) that states, among other things, “The supplemental funds provided under the CARES Act are to be used by HOPWA [Housing Opportunities for Persons With AIDS] grantees as additional funding to maintain operations and for rental assistance, supportive services, and other necessary actions, in order to prevent, prepare for, and respond to coronavirus.”; and

**WHEREAS**, on July 3, 2020, the Oakland City Council passed Resolution No. 88202, which, among other things, authorized the City Administrator to award a grant to the County, based on CARES funding, in the not to exceed amount of \$ 131,685, identified as project No. 62 set forth in Exhibit A to said resolution; and

**WHEREAS**, the City Administrator has determined that using the selection process set forth in Schedule A, the County will contract with one or more nonprofit housing developers (each a “Developer”) and service providers (each a "Sub-recipient") to carry out projects that result in housing development, supportive services, and/or homeless prevention activities for persons with HIV/AIDS that are needed on an emergency basis; and

**WHEREAS**, funds are available for this Agreement in the Human Services Department Fund (2103), Program [1005319];

Now, therefore, the Parties to this Agreement covenant as follows:

**AGREEMENT PROVISIONS**

1. **Grant**

Subject to the terms and conditions of this Agreement, the City agrees to provide a grant of funds to Grantee in an amount up to \$131,685 dollars. (the “Grant”).

2. **Scope of Work**

As a condition of this Grant, Grantee must diligently and in good faith perform the community-related work, services, and activities (“Work”) specified in the **Scope of Work** attached to this Agreement and incorporated herein as **Schedule A**.

The County shall select projects to be undertaken (“Activities”) pursuant to this Agreement in accordance with the priority-setting and selection process set forth in Schedule A. A list of Developers, Sub-recipients and Activities approved by both the City and the County will be attached to this Agreement as Schedule A-1 once the list is approved by both the City and the County, which Schedule A-1 shall immediately form part of this Agreement. The County shall use the HOPWA Allocation in accordance with the budget set forth in Schedule B. The HOPWA Allocation may only be used for activities (i) identified in Schedule A-1 that are carried out by the corresponding Developers or Sub-recipients identified on Schedule A-1 and (ii) consistent with the activities described in Section 7 – Use of Funds, below. Amounts received from this Agreement may not be used to replace other amounts made available or designated by State or local governments.

Grantee shall designate an individual who shall be responsible for communications with the City for the duration of this Agreement. The Project Manager for the City shall be Kelly Rush, Program Analyst II, Community Housing Services.

3. Agreement Documents and Provisions

Grantee shall perform or arrange for the performance of Work under this Agreement in accordance with conditions of this Agreement including the attached **Schedule A** in addition to City of Oakland rules, regulations and policies to the extent possible without conflicting with County rules, regulations and policies and except as waived herein, and applicable federal and state laws.

The County shall distribute the HOPWA Allocation to Sub-recipients and Developers in the County of Contra Costa.

Prior to the execution of any proposed contract in connection with this Agreement, the County shall submit to City a staff report allocating funds and describing the proposed Activities to be funded. The City reserves the right to review and approve the contract, and will provide any comments within 15 days of receipt. Following the execution of any contract by the County in connection with this Agreement, the City reserves the right to monitor the performance of the Sub-recipient and/or Developer under the contract to ensure that the County appropriately administers and monitors said contracts.

The County is responsible for ensuring that Sub-recipients and Developers comply with all HOPWA Program requirements, as set forth in 24 CFR Part 574, the AIDS Housing Opportunity Act, as amended by the Housing and Community Development Act of 1992, and any other program requirements imposed by HUD. The relevant requirements are hereby incorporated into this Agreement by reference. The County will ensure all Activities are carried out in compliance with the following federal laws and regulations:

- a. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655) and implementing regulations at 49 CFR part 24
- b. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C.

4851- 4856), and implementing regulations at 24 CFR Part 35;

- c. Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.); and
- d. The Coastal Barrier Resources Act, 16 U.S.C. 3501
- e. Applicability of OMB Circulars (24 CFR Part 574, Subpart G, 574.605)
- f. The requirements of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) (Public Law No. 116-136) (3/27/20), as made applicable to thereceipt and use of HOPWA supplemental funds under this Agreement

4. Time of Performance

The Grant term shall begin on April 1, 2020, and shall end on August 15, 2022

5. Method of Payment

Grantee shall be paid for the performance of the Work set forth in the Scope of Work in accordance with the Program Budget included in the Scope of Work. Payments shall be made in the amounts stated in the Scope of Work and shall be based on actual eligible costs, fees and expenses incurred by Grantee for the Work. Payments shall be due upon completion of the Work or as otherwise specified in the Scope of Work. Grantee shall submit an invoice accompanied by an itemization of expenditures submitted for reimbursement prepared on the City’s expense forms. Invoices shall state a description of the Work completed, itemized costs, fees and expense and the amount due.

The County may submit requests for payment to the City no more than once per month and not less than once per quarter. When submitting a request for payment, the County shall use the Request for Payment form. Each Request for Payment form will include a summary of the funds expended, by budget category and Sub-recipients and Developers, for the months for which funds are requested.

The County shall retain, for review by the City, documentation to support the funding requested. In order to receive payment, each request must be substantiated by documentation reasonably sufficient to support the payment requested by the County including documentation of rate and hours for staff and consultant and invoices for non-personnel costs. The County shall grant access to representatives of the City to any supporting documentation within seven days after receipt of a written request by the City.

Any income generated by the County from the use of HOPWA Funds governed by this Agreement shall be considered HOPWA program income. All HOPWA program income shall be retained by the County for the term of this Agreement. The use of all HOPWA program income is reserved specifically for HOPWA-eligible Activities listed in Schedule A-1 and is subject to the terms of this Agreement. Any program income held by the County at the time of the Request for Payment will be used to reduce the total amount disbursed to the County.

Funds disbursed to the County may not exceed the amount set forth in the Budget attached as Schedule B or the amount of the HOPWA Allocation as set forth in section 2 herein. The City shall verify and approve requisitions and required supporting data for accuracy and programmatic compliance prior to payment. Relevant reports and documents are to be

submitted as required within the context of this Agreement. The County's failure to comply with these requirements will cause a delay in payment and could result in termination of the Agreement. The City shall be responsible for the IDIS system, setting up all projects and activities, and tracking budgets in the HUD system. The City shall draw funds as required for timely reimbursement. The County shall assist the City in IDIS management as needed and as requested by City.

All authorized financial obligations incurred in the performance of this Agreement must be reported to the City within sixty (60) days of the expiration of the Performance Period under the Agreement, as such period may be adjusted from time to time. No claims submitted after the sixty-day period shall be recognized as binding upon the City for reimbursement. Any financial obligation and/or debts incurred by the County and not reported to the City within the sixty-day period may become the sole liability of the County, and the City may be relieved of any and all responsibilities unless there is a justifiable cause and valid reason of delayed submission.

Subject to applicable requirements described in HOPWA regulation Title 24 C.F.R. sections 574.310, 574.320, 574.330, and 574.340, HOPWA Allocation is meant to assist all forms of housing designed to assist Low Income Persons with HIV/AIDS, including preventing homelessness, providing emergency housing, shared housing arrangements, apartments, single room occupancy (SRO) dwellings, and community residences. Appropriate supportive services, as required by section 574.310(a), must be provided as part of any HOPWA-assisted housing, but the County may use the HOPWA Allocation to provide services independent of any housing activity. The County shall ensure that the HOPWA Allocation is used only for HOPWA-eligible activities as approved by the City identified in Schedule A-1 and that fall under one or more of the following activity categories:

- a. Housing information services including, but not limited to, providing counseling, information and referral to assist an eligible person to locate, acquire, finance and maintain housing. This may include Fair Housing counseling for eligible persons who may encounter discrimination on the basis of race, color, religion, sex, age, national origin, familial status, or handicap;
- b. Resource identification to establish, coordinate and develop housing assistance resources (preliminary research, determining feasibility of specific housing related initiatives).
- c. Acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing and services.
- d. New construction (SROs and community residences only).
- e. Project or tenant-based rental assistance, including assistance with shared housing arrangements.
- f. Short-term rent, mortgage, and utility payments to prevent homelessness.
- g. Supportive services including, but not limited to health, mental health assessment, permanent housing placement, drug and alcohol abuse treatment and counseling,

day care, personal assistance, nutritional services, intensive care when required, and assistance in gaining access to local State and Federal government benefits and services, except that health services may only be provided to individuals with acquired immunodeficiency syndrome or related diseases and not to family members of these individuals;

- h. Operating costs for housing, including maintenance, security, operation, insurance, utilities, furnishings, equipment and other incidental costs.
- I. Technical assistance in establishing and operating a community residence, including planning and other predevelopment or pre-construction expenses and outreach and education regarding HIV/AIDS to persons residing in close proximity.

The documents submitted shall be reviewed and approved for payment by the Project Manager. The City shall have sole and absolute discretion to determine the sufficiency of supporting documentation for payment. Determination of satisfactory completion of the Scope of Work will be based on an overall assessment of the progress Grantee has made towards achieving the goals of the Agreement and the performance measures.

All authorized obligations incurred in the performance of the terms of this Agreement must be reported to the City within 30 days following the completion or termination of this Agreement. No claims submitted after the 30-day period will be recognized as binding upon the City for payment. Any obligations and/or debts incurred by Grantee and not reported to the City within the 30-day period become the sole liability of Grantee, and the City shall be relieved of any and all responsibilities.

## 6. Prompt Payment

This Agreement is subject to the Prompt Payment Ordinance codified in Chapter 2.06 of the Oakland Municipal Code. Under said Ordinance, the City must disburse Grant funds to Grantee within 20 business days after receipt of an undisputed request for payment. An undisputed request for payment is a request for payment that is not a "disputed invoice" within the meaning of the Prompt Payment Ordinance. Under the Ordinance, a "disputed invoice" is an invoice or request for payment that is either (1) improperly executed by Grantee, (2) contains errors, (3) requires additional evidence to determine its validity, and/or (4) contains expenditures or proposed expenditures that are ineligible or that do not otherwise comply with reimbursement or disbursement requirements of the City or another grant funding source. If a request for payment is "disputed", the payment/disbursement shall not be subject to late penalties until the dispute is resolved. In the event a request for payment is disputed, the City shall notify Grantee and the City's Liaison (as defined in the Prompt Payment Ordinance) in writing within five business days of receiving the disputed request for payment that there is a bona fide dispute, in which case the City shall withhold the disputed amount and may withhold the full amount if the funding source for the Grant requires that the disputed expenditures be fully resolved prior to any disbursement of Grant funds. If the funding source for the Grant requires review and approval before payments are made to Grantee, this period shall be suspended for any period of review by said agency. If any amount due by the City to be disbursed to a Project Sponsor

pursuant to this Agreement is not timely paid in accordance with the Prompt Payment Ordinance, the Project Sponsor is entitled to interest penalty in the amount of 10% of the improperly withheld amount per year for every month that payment is not made, provided that the Project Sponsor agrees to release the City from any and all further claims for interest penalties that may be claimed or collected on the amount due and paid. Grant recipients that receive interest penalties for late payment pursuant to the Prompt Payment Ordinance may not seek further interest penalties on the same late payment in law or equity.

The Prompt Payment Ordinance further requires that, unless specific exemptions apply, Grantee shall pay undisputed invoices of its subcontractors for goods and/or services within 20 business days of submission of invoices unless Grantee notifies the City's Liaison in writing within five business days that there is a bona fide dispute between Grantee and claimant, in which case Grantee may withhold the disputed amount but shall pay the undisputed amount. Disputed payments are subject to investigation by the City's Liaison and, upon the filing of a compliant, Grantee, if opposing payment, shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. If Grantee fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Grant payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims. Grantee is not allowed to retain monies from subcontractor payments for goods as project retention, and is required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five business days of payment. For the purpose of posting on the City's website, Grantee is required to file notice with the City of release of retention and payment of mobilization fees, within five business days of such payment or release; and Grantee is required

to file an affidavit, under penalty of perjury, that he or she has paid all subcontractors, within five business days following receipt of payment from the City. The affidavit shall provide the names and address of all subcontractors and the amount paid to each.

## 7. Evaluation, Monitoring and Reporting

Grantee shall be monitored and evaluated by the City in terms of its effectiveness and timely compliance with the provisions of this Agreement and the effective and efficient achievement of the Scope of Work. Grantee shall undertake continuous quantitative and qualitative evaluation of the Scope of Work as specified in this Agreement and shall make written reports on the results of such evaluation to the Project Manager as reasonably requested by the Project Manager.

In addition to the financial requirements described elsewhere in this Agreement, Grantee agrees that authorized representatives of the City may perform fiscal monitoring of Grantee's record-keeping and reporting to assure compliance with this Agreement.

The County may use up to seven percent (7%) of the funds allocated to a particular project ("Project Activity Funds") for Project Sponsor administrative expenses. The amounts designated as administrative funds in the Budget are to be used as administrative expenditures related to carrying out the HOPWA program activities, housing, and services

described in this Agreement in compliance with 24 C.F.R. § 574.500 and 2 CFR§ 200.

The County shall conduct an ongoing assessment of the housing assistance and supportive services provided by the Sub-recipients and Developers with the HOPWA Allocation. The County shall conduct the reasonable and necessary recordkeeping and reporting activities described below for the purpose of carrying out the City's HOPWA program in an effective and efficient manner. Where appropriate, reports and records shall include client race and ethnic data.

- a. The County shall provide quarterly reports to the City. Quarterly reports shall include all required data and narrative updates of HOPWA activities listed in Schedule A-1 to report to HUD regarding HOPWA activities through the Integrated Disbursement and Information System (IDIS) and the Consolidated Annual Performance & Evaluation Report (CAPER). Quarterly reports are due thirty days following the end of each of the first three quarters of the fiscal year, on October 30, January 30, and April 30.

- b. The County shall submit annual reports to the City not later than July 31 of each year. Annual reports are to be submitted using HUD's HOPWA Consolidated Annual Progress & Evaluation Report-CAPER – *form HUD-40110-D, form HUD-60002*, Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Person and the HOPWA Beneficiary Verification form.

Reporting requirements and the CAPER & Beneficiary Verification forms can be accessed at the following sites:

<https://www.onecpd.info/resource/1011/hopwa-caper-form-hud-40110d/> and <http://www.hudhre.info/documents/HOPWACAPERBeneficiaryVerification.doc>

- c. The County shall assess the service provided by Sub-recipients and Developer no less often than every three years; provided, however, (i) the County may assess the service provided by Sub-recipients and Developers as often as every year, (ii) for any Sub-recipient or Developer who had multiple findings during the initial monitoring, the County shall assess the service provided by such Sub-recipient or Developer every year during the term of the contract, and (iii) for any Sub-recipient or Developer who had one finding during the initial monitoring, the County shall assess the service provided by such Sub-recipient or Developer no less often than every two years. By May 30 of each year, the County shall develop a preliminary monitoring schedule for the next fiscal year. The County shall use a risk assessment tool to determine which Sub-recipients and Developers will be monitored. Existing Sub-recipients and Developers that have the highest number of risk factors, as determined by the County, along with new Sub-recipients and Developers that have never been monitored by the County, will be given the highest priority for monitoring. The City and County shall monitor Sub-recipients and Developers as required by HUD.

- d. The County shall retain all project files, financial records, and any other

documents related to this Agreement for a period of four (4) years from the date of the final annual report of this Agreement, except in the following cases:

- i. If any litigation, claim, or audit concerning the activities subject to this Agreement is started before the expiration of the 4-year period, the relevant records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
  - ii. When the County is notified in writing by the City to extend the retention period.
  - iii. Records for real property and equipment acquired with Federal funds must be retained for three years after final disposition.
- e. The City shall monitor and evaluate County's performance under this Agreement to determine compliance with this Agreement and HOPWA requirements. The County shall cooperate with the City and any federal auditors authorized by the City and shall provide reasonable access to both records and personnel during normal business hours for the purpose of assuring compliance with this Agreement and evaluating performance hereunder. The rights of access in this section are not limited to the required retention period but last as long as the records are retained.

8. Program Income

Any income generated by the County from the use of HOPWA Funds governed by this Agreement shall be considered HOPWA program income. All HOPWA program income shall be retained by the County for the term of this Agreement. The use of all HOPWA program income is reserved specifically for HOPWA-eligible Activities listed in Schedule A-1 and is subject to the terms of this Agreement. Any program income held by the County at the time of the Request for Payment will be used to reduce the total amount disbursed to the County.

9. Proprietary or Confidential Information of the City

Grantee understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Grantee may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. Grantee agrees that all information disclosed by the City to Grantee shall be held in confidence and used only in performance of the Agreement. Grantee shall exercise the same standard of care to protect such information as a reasonably prudent Grantee would use to protect its own proprietary data.

10. Records and Audit

Grantee must maintain (a) a full set of accounting records in accordance with generally accepted accounting principles and procedures for all funds received under this Agreement,

and (b) full and complete documentation of performance related matters such as benchmarks and deliverables associated with this Agreement. Grantee agrees to comply with all audit, inspection, record-keeping and fiscal reporting requirements mandated by the City, and all state and/or federal audit requirements applicable to the funding sources of the Grant. The City shall notify the Grantee of any records it deems in its reasonable judgment to be insufficient. Grantee shall have 15 calendar days from such notice to correct any specified deficiency in the records, or, if more than 15 days shall be reasonably necessary to correct the deficiency, Grantee shall begin to correct the deficiency within 15 days and correct the deficiency as soon as reasonably possible. Grantee must maintain such records for a period of four years following the last fiscal year during which the City paid an invoice to Grantee under this Agreement.

Grantee must make available at Grantee's office for examination at reasonable intervals and during normal business hours to the City's representatives, as well as representatives of agencies providing funding for the Grant, all books, accounts, reports, files, financial records, and other papers or property with respect to all matters covered by this Agreement, as well as the financial condition of Grantee in general, and shall permit these representatives to audit, examine, and make copies, excerpts or transcripts from such records. The City's representatives may make audits of any conditions relating to this Agreement, as well as the financial condition of Grantee in general, throughout the term of this Agreement and for three years following the expiration of the term of this Agreement.

In addition to the reporting requirements listed in Section 8 – Monitoring and Reporting, the County shall commission an independent auditing firm to prepare and file with the City an annual audit report for the County's Department of Conservation and Development (DCD) for each year during the term of this Agreement. The County's failure to submit the audit report may result in the termination of this Agreement.

The audit report shall be submitted to the City by March 30<sup>th</sup> of each year during the term of this Agreement. The audit report shall be made in accordance with the provisions of 200 CFR Subpart F. The City will use the audit report to determine whether:

1. The financial statements of the DCD present fairly its financial position and the results of its operations in accordance with generally accepted accounting principles.
2. The DCD has (i) an internal control structure to provide reasonable assurance that the DCD is managing Federal awards in compliance with applicable laws and regulations, and (ii) controls that ensure compliance with laws and regulations that could have a material impact on the DCD's financial statements.
3. The DCD has complied with laws and regulations for the HOPWA Program that may have a direct and material effect on the DCD's financial statements.

The County shall also submit any internal control monitoring (or audit) conducted for DCD during the term of this Agreement to the City. The County shall require Sub-recipients and Developers with which the County contracts in connection with this

Agreement to meet the same audit requirements set forth in this Section.

11. Fraud, Waste and Abuse

Grantee must immediately inform the City of any information or complaints involving criminal fraud, waste, abuse, or other criminal activity in connection with the Work.

12. Compliance with Federal Standards

Grantee shall be responsible for complying with the terms, conditions, and requirements set forth in 24 C.F.R. Section 574, and all other applicable federal and state laws with respect to federal grants, including but not limited to those awarded under the HOPWA program and the CARES Act (Public Law No. 116-136) (3/27/20).

Subject to applicable requirements described in HOPWA regulation Title 24 C.F.R. sections 574.310, 574.320, 574.330, and 574.340, HOPWA Allocation is meant to assist all forms of housing designed to assist Low Income Persons with HIV/AIDS, including preventing homelessness, providing emergency housing, shared housing arrangements, apartments, single room occupancy (SRO) dwellings, and community residences. Appropriate supportive services, as required by section 574.310(a), must be provided as part of any HOPWA-assisted housing, but the County may use the HOPWA Allocation to provide services independent of any housing activity. The County shall ensure that the HOPWA Allocation is used only for HOPWA-eligible activities as approved by the City identified in Schedule A-1 and that fall under one or more of the following activity categories:

- a. Housing information services including, but not limited to, providing counseling, information and referral to assist an eligible person to locate, acquire, finance and maintain housing. This may include Fair Housing counseling for eligible persons who may encounter discrimination on the basis of race, color, religion, sex, age, national origin, familial status, or handicap;
- b. Resource identification to establish, coordinate and develop housing assistance resources (preliminary research, determining feasibility of specific housing related initiatives).
- c. Acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing and services.
- d. New construction (SROs and community residences only).
- e. Project or tenant-based rental assistance, including assistance with shared housing arrangements.
- f. Short-term rent, mortgage, and utility payments to prevent homelessness.
- g. Supportive services including, but not limited to health, mental health assessment, permanent housing placement, drug and alcohol abuse treatment and counseling,

day care, personal assistance, nutritional services, intensive care when required, and assistance in gaining access to local State and Federal government benefits and services, except that health services may only be provided to individuals with acquired immunodeficiency syndrome or related diseases and not to family members of these individuals;

- h. Operating costs for housing, including maintenance, security, operation, insurance, utilities, furnishings, equipment and other incidental costs.
- i. Technical assistance in establishing and operating a community residence, including planning and other predevelopment or pre-construction expenses and outreach and education regarding HIV/AIDS to persons residing in close proximity.

Grantee understands and agrees that it is Grantee's responsibility, independent of the City, to inform itself of the applicability and contents of all regulations applicable to this Agreement, including but not limited to all of those set forth above, and that this duty is a material condition of accepting this grant.

Grantee has submitted Schedule Z, Certification of Debarment and Suspension, attached hereto and incorporated by reference herein.

Project Sponsor and any and all Sub-recipients and Developers shall submit information concerning any investigations and/or discipline imposed by any state or federal authorities by completing Schedule V – Affidavit of Non-Disciplinary or Investigatory Action and Schedule Z – Certification of Debarment and Suspension.

13. Assignment and Subcontracting

Grantee may not assign, subcontract, or otherwise transfer any rights, duties, obligations or interest in this Grant or Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of the City, and any attempt to assign, subcontract, or transfer without such prior written consent shall be void. Consent to any single assignment, subcontract, or transfer shall not constitute consent to any further assignment, subcontract or transfer.

14. Publicity

Any publicity generated by Grantee for the program funded pursuant to this Agreement, during the term of this Agreement or for one year thereafter, shall make reference to the contribution of the City in making the project possible. The words "City of Oakland" shall be explicitly stated in all pieces of publicity, including but not limited to flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles.

City staff will be available whenever possible at the request of Grantee to assist Grantee in generating publicity for the program funded pursuant to this Agreement. Grantee further agrees to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this program.

15. Insurance

Unless a written waiver or approval of self-certification is obtained from the City's Risk Manager, County must at all times during the term of this Agreement, including for the duration of any amendment to this Agreement, procure and maintain the insurance listed in the policies of insurance identified in **Schedule Q, Insurance Requirements**, attached hereto and incorporated herein. Grantee shall provide proof of insurance, as set forth in the attached **Schedule Q**, prior to execution of this Agreement, and any amendment hereto.

Unless a written waiver is obtained from the City's Risk Manager, Grantee must provide the insurance listed in the City of Oakland **Insurance Requirements** attached hereto as **Schedule Q** and incorporated herein by reference.

16. Indemnification

The County shall indemnify and hold the City, its Councilmembers, officials, directors, employees, and agents harmless from any losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including attorneys' fees) that the City may incur as a result of (i) the improper use of HOPWA Allocation by the County, (ii) the County's failure to perform its obligation to monitor the use of HOPWA Allocation under this Agreement, or (iii) any demand by HUD to the City for reimbursement of any HOPWA Allocation to the extent such demand is based on the negligent acts or omissions or willful misconduct of the County in the performance of its obligations under this Agreement. The duty of the County to indemnify includes the duty to defend the City in any court action, administrative action, or other proceeding brought by any third party, including HUD, to the extent such action or proceeding arises as a result of the County's sole negligence or willful misconduct in the performance of its obligations under this Agreement. The County's duty to indemnify shall survive the term of this Agreement.

The County shall require each Sub-recipient and Developer to indemnify and defend the City to the same extent and in the same manner as described in the first paragraph of this Section 16 from the consequences of the Sub-recipient's and Developer's negligent acts or omissions or willful misconduct in the performance of its obligations under contracts entered into in connection with this Agreement.

The City shall indemnify and defend the County to the same extent and in the same manner as described in the first paragraph of this Section 16 from the consequences of the City's negligent acts or omissions or willful misconduct in the performance of its obligations under this Agreement.

The party with the obligation to indemnify pursuant to this Section 16 shall pay the indemnified parties as soon as practicable following the determination of the amount due.

17. Non-Liability of Individuals

No member, official, officer, director, employee, or agent of the City shall be liable to Grantee for any obligation created under the terms of this Agreement except in the case of

actual fraud or willful misconduct by such person.

No individual member, official, officer, director, employee, or agent of the County shall be liable to City for any obligation created under the terms of this Agreement except in the case of actual fraud or willful misconduct by such person.

18. Right to Offset Claims for Money

All claims for money due or to become due from the City shall be subject to deduction or offset by the City from any monies due Grantee by reason of any claim or counterclaim arising out of this Agreement, any purchase order, or any other transaction with Grantee.

19. Events of Default and Remedies

The occurrence of any of the following shall constitute a material default and breach of this Agreement by Grantee:

- a. Failure to adequately perform the Work set forth in the Scope of Work;
- b. Improper use or reporting of funds provided under this Agreement by Grantee or its employees or agents;
- c. Substantial failure by Grantee to observe and perform any other provision of this Agreement; or
- d. Grantee's (1) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary filing brought by another party before the earlier of final relief or 60 days after the filing; (2) making a general assignment for the benefit of creditors; (3) applying for the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or 60 days after the filing; (4) insolvency; or (5) failure, inability or admission in writing of its inability to pay its debts as they become due.

The City shall give written notice to Grantee or Grantee's agent of any default by specifying (a) the nature of the event or deficiency giving rise to the default, (b) the action required to cure the deficiency, if an action to cure is possible, and (c) a date, which shall be not less than 30 calendar days from the mailing of the notice, by which such action to cure, if a cure is possible, must be undertaken. Grantee shall not be in default if Grantee cures such default within the specified cure period, or, if such default is not reasonably capable of cure within the specified period, Grantee begins to cure the default within the cure period and thereafter diligently pursues the cure to completion. Following any notice of an event of default, the City may suspend payments under this Agreement pending Grantee's cure of the specified breach. Upon an event of default that has not been cured by Grantee, the City, in its discretion, may take any of the following actions:

- A. Terminate this Agreement in whole or in part;
- B. Suspend payments under this Agreement;
- C. Demand immediate reimbursement of any funds disbursed under this Agreement;
- D. Bring an action for equitable relief (a) seeking the specific performance by Grantee of the terms and conditions of the Agreement, and/or (b) enjoining, abating, or preventing any violation of said terms and conditions, and/or (c) seeking declaratory relief;
- E. Bar Grantee from future funding by the City; and/or
- F. Pursue any other remedy allowed at law or in equity.

Unless otherwise terminated as provided in this Agreement, this Agreement will terminate on August 15, 2022

20. Termination or Modification for Lack of Appropriation

This Agreement may be terminated by either party if the City and County mutually agree in writing to its termination and upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated.

If, through any cause, the County shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the County violates any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the County of such termination and specifying the effective date thereof, at least 30 days before the effective date of such termination. In such event, the County shall be entitled to receive reimbursement for any eligible work completed subject to the limitations of this Agreement.

The City's obligations under this Agreement are contingent upon the availability of funds from the funding source for this Grant. The City may terminate this Agreement on 30 days' written notice to Grantee without further obligation if said funding is withdrawn or otherwise becomes unavailable for continued funding of the Work.

21. Litigation and Pending Disputes

Grantee shall promptly give notice in writing to the City of any litigation pending or threatened against Grantee in which the amount claimed is in excess of \$50,000. Grantee shall disclose, prior to execution of this Agreement and any amendment hereto, and represents that it has disclosed, by completing Schedule K, Pending Dispute Disclosure, attached hereto and incorporated herein any and all pending disputes with the City prior to execution of this Agreement. Failure to disclose pending disputes prior to execution of this Agreement, and any amendment hereto, shall be a basis for termination of this Agreement.

The County shall provide written notice to the City within five (5) days of all potential conflicts of interest and violations of criminal law involving fraud, bribery, or gratuity violations potentially affecting this Agreement. Failure to make required disclosures can result in termination of the Agreement and suspension or debarment from future federal awards.

22. Conflict of Interest

- a. Grantee certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.
- b. Grantee warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq., pertaining to conflicts of interest in public contracting. Grantee shall exercise due diligence to ensure that no such official will receive such an interest.
- c. Grantee further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matter already made by Grantee to City, that (1) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Grantee or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. For purposes of this paragraph, an official is deemed to have an "economic interest" in (a) any for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income totaled more than \$500, or value of the gift totaled more than \$500 the previous year. Grantee agrees to promptly disclose to the City in writing any information it may receive concerning any such potential conflict of interest. Grantee's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.).
- d. Grantee shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.

- e. Nothing herein is intended to waive any applicable federal, state or local conflict of interest law or regulation.
- f. In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state and local law, Grantee understands and agrees that, if the City reasonably determines that Grantee has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may (1) suspend payments under this Agreement, (2) terminate this Agreement, and/or (3) require reimbursement by Grantee to the City of any amounts disbursed under this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Grantee is responsible for the conflict of interest situation.

23. Non-Discrimination/Equal Employment Practices

Grantee shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Grantee agrees as follows:

- a. Grantee and Grantee's subgrantees, if any, shall not discriminate against any employee or applicant for employment because of actual or perceived age, marital or familial status, religion, gender, gender identity, gender expression, sexual orientation, race, creed, color, genetic information, ancestry, national origin, physical or mental disability (including but not limited to Acquired-Immune Deficiency Syndrome (AIDS) and AIDS-Related Complex (ARC)), military or military veteran status, or any other legally-protected class. This nondiscrimination policy shall include, but not be limited to, the following: Employment, upgrading, promotion, or failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. Grantee and Grantee's subgrantees shall state in all solicitations or advertisements for employees placed by or on behalf of Grantee that all qualified applicants will receive consideration for employment without regard to actual or perceived age, marital or familial status, religion, gender, gender identity, gender expression, sexual orientation, race, creed, color, genetic information, ancestry, national origin, physical or mental disability (including but not limited to Acquired-Immune Deficiency Syndrome (AIDS) and AIDS-Related Complex (ARC)), military or military veteran status, or any other legally-protected class.
- c. Grantee shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing **Schedule C-1, Declaration of Compliance with the Americans with Disabilities Act**, attached hereto and incorporated herein.
- d. If applicable, Grantee will send to each labor union or representative of workers with whom Grantee has a collective bargaining agreement or contract or

understanding, a notice advising the labor union or workers' representative of Grantee's commitments under this nondiscrimination clause and shall postcopies of the notice in conspicuous places available to employees and applicants for employment.

24. Local/Small Local Enterprise Participation

The City has established requirements for participation by local and small local enterprises, including local nonprofit organizations and small local nonprofit organizations, in publicly-supported projects. Unless otherwise indicated, the City acknowledges that Grantee complies with this requirement.

25. Living Wage Requirements

Grantee will be considered a City Financial Assistance Recipient ("CFAR") and must comply with the Oakland Living Wage Ordinance if it receives \$100,000 or more in financial assistance from the City during a 12-month period. The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to employees of CFARs (OMC 2.28, Ord. 1250 § 1, 1998). The Ordinance also requires submission of the Declaration of Compliance attached and incorporated herein as **Schedule N** and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, that Grantee provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation – Said employees shall be paid an initial hourly wage rate of **\$14.98 with health benefits** and **\$17.19 without health benefits**. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. . **Grantee agrees to pay adjusted living wage rates effective July 1<sup>st</sup> of each year during which this Agreement, as well as any amendment to this Agreement, is in effect.**
- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$2.21 per hour. Grantee shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- c. Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays,

consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.

- d. Federal Earned Income Credit (EIC) – Grantee shall inform employees that he or she may be eligible for EIC and shall provide forms to apply for advance EIC payments to eligible employees.
- e. Grantee shall provide to all employees and to the Office of Contract Compliance, written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- f. Grantee shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.
- g. Reporting – Grantee shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Grantee shall provide a copy of said list to the Office of Contract Compliance, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. Grantee shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.
- h. Grantee shall require subgrantees that provide services under or related to this Agreement to comply with the above Living Wage provisions. Grantee shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to the Office of Contract Compliance.

The parties acknowledge that, in accordance with the requirements of Section XI of the California Constitution and Sections 25300, et seq. of the California Government Code, the wages for County employees are established by County ordinance or similar County action. In the event of a conflict between the provisions of this Agreement and any applicable salary ordinance or similar County action establishing compensation, the salary ordinance or other County action shall take precedence.

## 26. Equal Benefits Ordinance

This Agreement is subject to the Equal Benefits Ordinance codified in Chapter 2.32 of the Oakland Municipal Code and its implementing regulations. The purpose of this Ordinance is to protect and further the public, health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit

discrimination in the provision of employee benefits by City grantees between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees.

The Ordinance shall only apply to those portions of a Grantee's operations that occur (1) within the City of Oakland; (2) on real property outside the City of Oakland if the property is owned by the City or if the City has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the City; and (3) elsewhere in the United States where work related to a City contract is being performed. The requirements of this chapter shall not apply to subcontracts or subgrantees of Grantee.

The Equal Benefits Ordinance requires, among other things, submission of the Equal Benefits Declaration of Nondiscrimination attached hereto as **Schedule N-1** and incorporated herein by reference.

27. Political Prohibition

Subject to applicable State and Federal laws, moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

28. Religious Prohibition

There shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of the Agreement.

29. Abandonment of Grant

The City may abandon or indefinitely postpone the Grant at any time. Should the Grant be abandoned, the City shall pay Grantee for all services performed thereto in accordance with the terms of this Agreement.

30. Relationship of Parties

The relationship of the City and Grantee is solely that of a grantor and grantee of funds, and should not be construed as a joint venture, equity venture, partnership, or any other relationship. The City does not undertake or assume any responsibility or duty to Grantee (except as provided for herein) or to any third party with respect to the Work performed under this Agreement. Except as the City may specify in writing, Grantee has no authority to act as an agent of the City or to bind the City to any obligation.

31. Warranties

Grantee represents and warrants: (1) that it has access to professional advice and support to the extent necessary to enable Grantee to fully comply with the terms of this Agreement and otherwise carry out the Work; (2) that it is duly organized, validly existing and in good

standing under the laws of the State of California; (3) that it has the full power and authority to undertake the Work; (4) that there are no pending of threatened actions or proceedings before any court or administrative agency which may substantially affect the financial condition or operation of the Grantee, other than those already disclosed to the City; and (5) that the persons executing and delivering this Agreement are authorized to execute and deliver such document on behalf of Grantee.

32. Unavoidable Delay in Performance

The time for performance of provisions of this Agreement by either party shall be extended for a period equal to the period of any delay directly affecting this Agreement which is caused by: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of a public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; suits filed by third parties concerning or arising out of this Agreement; or unseasonable weather conditions. An extension of time for any of the above-specified causes will be deemed granted only if written notice by the party claiming such extension is sent to the other party within ten calendar days from the commencement of the cause. Times of performance under this Agreement may also be extended for any cause for any period of time by the mutual written agreement of the City and Grantee.

33. Validity of Contracts

This Agreement shall not be binding or of any force or effect until it is approved for form and legality by the Office of the City Attorney and signed by the City Administrator or his or her designee.

34. Governing Law

This Agreement shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law or those provisions preempted by federal law or expressly governed by federal law.

35. Notice

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, via facsimile and concurrently by prepaid U.S. certified or registered postage, addressed to recipient as follows:

City  
City of Oakland  
Human Services Department  
150 Frank H. Ogawa Plaza, Suite 4340  
Oakland, CA 94612  
Attn: Lara Tannenbaum  
[ltannenbaum@oaklandnet.com](mailto:ltannenbaum@oaklandnet.com)  
DUNS/ HOPWA CFDA: 137137977/ 14.241  
Grantee

County Project Sponsor  
Contra Costa County  
Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attn: Kristin Sherk  
[Kristin.sherk@dcd.cccounty.us](mailto:Kristin.sherk@dcd.cccounty.us)  
DUNS/ HOPWA CFDA: 139441955/ 14.241

Any party to this Agreement may change the name or address of representatives for purpose of this Notice section by providing written notice to all other parties ten (10) business days before the change is effective.

36. Entire Agreement of the Parties

This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to this Grant and contains all of the representations, covenants and agreements between the parties with respect to the Grant. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party which are not contained in this Agreement, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding.

37. Amendments and Modifications

Any amendment to or modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

38. Waiver

Any waiver by the City of an obligation in this Agreement must be in writing and must be executed by an authorized agent of the City. No waiver should be implied from any delay or failure by the City to take action on any breach or event of default of Grantee or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Grantee to perform any obligation under this Agreement will not operate as a waiver or release from any of its obligations under this Agreement. Consent by the City to any act or omission by Grantee should not be construed to be a consent to any other act or omission or to waive the requirement for the City's written consent to future waivers.

39. Other Agreements

Grantee represents that it has not entered into any agreements that are inconsistent with the terms of this Agreement. Grantee may not enter into any agreements that are inconsistent with the terms of this Agreement without an express written waiver by the City.

40. Severability/Partial Invalidity

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

41. Commencement, Completion and Close-out

It shall be the responsibility of Grantee to coordinate and schedule the Work to be performed so that commencement and completion take place in accordance with the provisions of this Agreement. Any time extension granted to Grantee to enable Grantee to complete the Work must be in writing and shall not constitute a waiver of rights the City may have under this Agreement. Should Grantee not complete the Work by the scheduled date or by an extended date, the City shall be released from all of its obligations under this Agreement.

Within thirty (30) days of completion of the performance under this Agreement, Grantee shall make a determination of any and all final costs due under this Agreement and shall submit a requisition for such final and complete payment (including without limitations any and all claims relating to or arising from this Agreement) to the City. Failure of Grantee to timely submit a complete and accurate requisition for final payment shall relieve the City of any further obligations under this Agreement, including without limitation any obligation for payment of work performed or payment of claims by Grantee.

42. Consents and Approvals

Any consent or approval required under this Agreement may not be unreasonably withheld, delayed, or conditioned.

43. Inconsistency

If there is any inconsistency between the main agreement and the attachments/exhibits, the text of the main agreement shall prevail.

44. Counterparts

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute but one

and the same Contract. The parties shall be entitled to electronically sign and transmit this Contract (whether by facsimile, PDF or other email transmission), which signature shall be binding on the signing party or the party on whose behalf the document has been signed. Any party providing an electronic signature agrees to promptly execute and deliver to the other parties an original signed Contract upon request.

45. Incorporated Documents, Certifications & Exhibits

The following exhibits and schedules are attached to this Agreement and are hereby incorporated herein by reference:

- Schedule A: Scope of Work and Budget
- Schedule A-1: Approved Developers, Sub-recipients & Activities
- Schedule B: Budget
- Combined Grants Schedules
  - Schedule C-1: Compliance with ADA
  - Schedule K: Pending Dispute Disclosure Form
  - Schedule N: Declaration of Compliance with Living Wage
  - Schedule N-1: Equal Benefits, Declaration of Nondiscrimination
  - Schedule P: Nuclear Free Zone
  - Schedule V: Non-Disciplinary or Investigatory Action
  - Oakland's Minimum Wage Law Certification
  - Affirmative Action Certification
- Schedule Q: Insurance Requirements
- Schedule Z: Certification regarding Debarment and Suspension

All declarations in the Schedules and Exhibits are made subject to the terms contained herein. In the event of a conflict between the Schedules or Exhibits and the terms in the body of this Agreement, the terms in the body of this Agreement shall take precedence.

46. Authority:

The persons signing below represent and warrant that they have authority to bind their respective party, and all necessary approvals to sign on behalf of their respective party have been obtained.

If the terms of this Agreement are acceptable to County and City, sign and date below.

[SIGNATURES ON NEXT PAGE]

The City and the County are signing this Agreement as of the date set forth in the introductory paragraph.

**CITY OF OAKLAND**  
A Municipal Corporation

By: \_\_\_\_\_  
City Administrator Date

**ADMINISTERING AGENCY APPROVAL FOR FORWARDING**  
Human Services Department

By: \_\_\_\_\_  
Director, Human Services Department Date

Resolution No. 88202 C.M.S.

**APPROVED AS TO FORM AND LEGALITY**

By: \_\_\_\_\_  
City Attorney Date

**COUNTY OF CONTRA COSTA**  
A Political Subdivision of the State of California

By: \_\_\_\_\_  
John Kopchik, Director Date  
Department of Conservation and Development

**APPROVED AS TO FORM**  
Mary Ann McNett Mason, County Counsel

By: \_\_\_\_\_  
Deputy County Counsel Date

2947018.13

## **SCHEDULE A**

### **PRIORITY SETTING AND SELECTION PROCESS**

The County, in consultation with the City as laid out below, shall allocate and award the HOPWA allocation received under this contract to Sub-recipients and Developers to carry out HOPWA-eligible activities within the County's jurisdiction, and shall monitor and report on the results. This work shall be carried out consistent with the following requirements:

#### **1. Consolidated Planning Process**

The City prepares a Consolidated Plan and an annual Action Plan as a requirement for participation in certain federal housing programs funded through the U.S. Department of Housing and Urban Development, including the HOPWA program. The County will coordinate the development of such information as is required to substantially complete all narratives, tables and other sections related to HOPWA funds and activities, unmet HIV/AIDS housing and supportive service needs, and priorities and strategies within the County, and provide this information to the City in a format to be determined by the City. The City shall present the County with a schedule of needed information well in advance of deadlines, and shall closely coordinate on compiling required information.

The City will include the County's HOPWA priorities and contemplated allocation of resources among eligible funding categories in the Consolidated Plan and/or Annual Plan.

#### **2. Establishment of Priorities**

In consultation with the City and other stakeholders in the community, the County will recommend priorities for the HOPWA funds, categories for funding, and a method and schedule for awarding funds within the County.

In preparing these recommendations the County will use, but is not limited to, information from the following sources and planning documents:

- The most recent HOPWA or HIV/AIDS housing needs assessment;
- The most recent Oakland Transitional Grant Area (TGA) HIV/AIDS Health Services Comprehensive Plan (the "Comprehensive Plan"), required for participation in programs funded through the U.S. Department of Health and Human Services' Ryan White Program.
- The Continuum of Care Plan, 10-year Plan or other plans adopted by the Board of Supervisors to address homelessness and housing crises in the County, and any updates or addenda to this Plan.
- Other relevant documents or needs assessments related to housing needs, homelessness, HIV/AIDS prevalence and related matters.

The County's recommendations will take into consideration the priorities of the community as expressed in any comprehensive HIV/AIDS housing needs assessment, and shall endeavor to incorporate recommendations from relevant homeless or housing plans, changes in the

HIV/AIDS epidemic that may change the demand for HIV/AIDS housing and related services, and priorities established by complementary funding streams which HOPWA funds

may be used to leverage.

### 3. Consultation with Local HIV/AIDS Advisory Bodies:

The County shall, either in the creation of a comprehensive needs assessment as referenced above, or through other means of consultation, consult with the following agencies: the County department with responsibility for HIV/AIDS care, the HIV/AIDS Planning Council, which sets priorities for Ryan White funding; with the cities and/or entitlement jurisdictions that participate in county-level housing planning; public and private organizations involved in the provision of housing and services to persons living with HIV/AIDS; and other local interest groups.

### 4. Public Meetings

The County will strive to encourage persons with HIV/AIDS, their families and advocates to express their views and ideas of what they perceive as community development and housing needs in the County through the above mentioned priority-setting processes.

The County will include a discussion of HOPWA in its meetings for its Annual Action Plan. Meeting participants will be provided with information about the HOPWA program, amount of HOPWA funds available, eligible activities, and the application process.

In addition, the County shall cause an annual meeting to be held for coordination of HIV/AIDS programs. County shall ensure that the annual meeting is widely publicized and open to the public. The annual public meeting will be held to advise residents and nonprofit organizations of program requirements and processes to be followed in developing and approving applications for federal grant programs, including HOPWA.

County shall provide meeting participants with information about the HOPWA program, funds available for both housing and community development activities and for planning and administrative activities. County shall make information available to citizens, public agencies, and other interested parties, including the specific amount of assistance the County expects to receive and the range of eligible activities that may be undertaken. County shall publish this information in the non-legal section of one or more newspapers of general circulation at least thirty (30) days prior to the date applications for funding are due. The City may conduct additional public meetings at various stages of the funding process. Meetings will be scheduled at times and locations that permit broad participation by very low and low-income persons. When needed or upon request, translators will be made available for non-English speaking attendees and the hearing-impaired.

### 5. Recommendations for Funding Categories and Allocations

Based on HOPWA priorities established through the consultative process described above, the County will develop recommendations concerning the amount of HOPWA funds to be allocated to each eligible funding category. The County will present these recommendations to the City for its review and comment. City approval will depend on the County's proposal being: (a) consistent with the City's established community priorities, and (b) eligible for receipt of HOPWA funds in accordance with HOPWA regulations and guidance.

## 6. Competitive Application Process

HOPWA funds will be allocated to eligible activities consistent with the established funding priorities through one or more competitive application processes seeking program Sub-recipients and Developers to work directly with people living with HIV/AIDS. The City may participate in this process as an observer and may provide technical assistance. The County will host public meetings to discuss the use of HOPWA funds in the County's jurisdiction and to provide technical assistance to potential applicants in developing eligible projects. City may request additional technical assistance from HUD upon request.

The County is responsible for overall implementation of the competitive application. County will send the Notices of Funding Availability (NOFAs) to all interested parties. The County will convene a review panel consisting of County staff and representatives from a selected number of cities or other parties with knowledge of the community who have declared that they do not have a conflict of interest with respect to the outcomes of the funding recommendations. The funding recommendations from the County will be based on the following established criteria: consistency with established priorities; eligibility under federal regulations; alleviation of identified needs; target population; project feasibility and cost-effectiveness; experience; outreach and affirmative marketing program; and project readiness.

In addition to the conflict of interest requirements in 2 CFR 200.318, no person who is an employee, agent, consultant, officer, or elected or appointed official of the City or County who exercises or has exercised any functions or responsibilities with respect to activities funded by this Agreement, or who participates in a decision making process or gains inside information with regard to such activities, may obtain a 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 himself or herself or for those with whom he or she has close family or significant business ties, during his or her tenure. Any subcontracts awarded pursuant to this section and funded by this Agreement shall include a requirement that the subcontractor shall not use such funds as compensation for any of its employees, consultants or other agents who were engaged by City or County and were subject to the restrictions in paragraph during the year prior to their engagement by subcontractor.

## 7. Funds Awarded and Distributed

Following completion of the competitive application process described above, the County shall submit to the City a description of the priority-setting, selection process and a list of selected Sub-recipients and Developers. No later than thirty days after execution of this Agreement, County shall submit HOPWA County Staff Report for approval by City.

The City will review the proposed projects to confirm eligibility under federal regulations and contracting requirements (24 CFR Part 574). If the proposed projects comply with federal HOPWA regulations, the City will approve the projects and so inform the County. If the City finds that the proposed projects are inconsistent with federal HOPWA regulations, the City will so inform the County and provide a rationale for its finding(s). Unless rejected

by the City in writing within thirty (30) days after receipt of the staff report and budget allocation report, the projects will be deemed accepted.

Following approval by the City, the County will submit the recommended projects and program Sub-recipients and Developers to the County Board of Supervisors for its review and consideration. If approved by the County Board of Supervisors, the County will immediately submit a final Schedule A-1 to the City.

The County, Sub-recipients, Developers, and their agents may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property, which work is to be funded from this Agreement, or commit or expend any funding for such work to be funded from this Agreement, until the City has completed its environmental review process. The City will disallow any project that takes choice-limiting actions before completion of the environmental review.

Any HOPWA eligible Program Delivery costs associated with any of the Developer or Sub-recipient contracts shall be built into the budget line item for Developer or Sub-recipient per 24 CFR 574.3.

#### 8. Contract Renewals

In order to encourage continuity and cost-effectiveness in the provision of services, the County shall consider two-year contracts for housing operations, housing counseling and supportive service projects and/or programs. Projects and/or programs will be evaluated after the first year of performance. Second-year implementation will be contingent upon funds availability and a satisfactory performance evaluation. The County will provide the City with information regarding the second-year funding recommendations.