


**Subrecipient Agreement between
The City of Merced and
Harvest Time
For the
Community Development Block Grant
“Food 4 You” Program**

THIS AGREEMENT, entered this ____ day of _____, 2024, by and between the City of Merced (herein called the “Grantee” and/or “City” and/or “City of Merced Housing Division”) and Harvest Time (herein called the “Subrecipient”).

WHEREAS, the Grantee applied for and received funding from the United States Department of Housing and Urban Development (“HUD”) under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383 (B-23-MC-06-0044) under the Community Development Block Grant (“CDBG”) and administered by the U.S. Department of Housing and Urban Development (“HUD”) (14.218-Entitlement Grant) with a Federal Award Date of August 28, 2023; and,

WHEREAS, the purpose of this Agreement is to set forth the responsibilities of the Grantee and Subrecipient in accomplishing the objectives of the HUD CDBG program, as set forth in the Housing and Community Development Act of 1974. The CDBG program and funds related thereto are referred to from time to time as the “CDBG Program” or “CDBG Funds”; and, 

WHEREAS, Grantee adopted a Five-Year Consolidated Plan on November 16, 2020, which identifies several populations, including extremely low- and low-income households, homeless person, seniors and frail elderly, youth, and persons with disabilities as those in most need, and identifies projects for increased public services to area nonprofit agencies, particularly those programs that provide services for the homeless, youth, and seniors and those that promote and/or create fair and affordable housing, especially targeting extremely low- and low-income households, as essential to the community; and,

WHEREAS, in response to the City’s Notices of Funding Availability published in the Merced Sun-Star and Merced County Times newspapers to solicit public service proposals for 2023 Program Year CDBG assistance, Grantee received an application from Subrecipient, to administer and operate a Food Bank/Food Distribution program to benefit food-insecure individuals and

families that are homeless or at imminent risk of becoming homeless within the City of Merced city limits, specifically requesting assistance with electric/gas utilities, insurance, mileage for pickup/delivery of food, and program staffing costs; and,

WHEREAS, on June 5, 2023, the City approved an allocation of \$61,660 of its CDBG funds, through the Program Year 2023-2024 Annual Action Plan, to provide funding assistance for eligible costs associated with the operation of the Subrecipient's food distribution program, to be carried out during the 2023-24 Program Year; and,

WHEREAS, use of CDBG Funds for operation of a Food Bank/Food Distribution Program benefitting food-insecure individuals and families meets the Goals and Policies found in Chapter 9 (Housing Element) of the Merced Vision 2030 General Plan, adopted on July 18, 2016, by the City Council; and,

WHEREAS, Grantee has determined, and Subrecipient certifies, that the provision and operation of a Food Bank/Food Distribution program pursuant to this Agreement furthers the needs of the City as well as the policy and intent of the City's CDBG Program's Goals and Objectives as identified in the City's 2020-2024 Consolidated Plan and 2023 Annual Action Plan; and,

WHEREAS, Food Bank operation cost assistance, generally for the purpose of providing food to homeless and food-insecure families within the city limits, including costs for direct program staffing, mileage, utilities, and required insurance, is an eligible Public Service activity for the use of CDBG funds, pursuant to 24 CFR 570.201(e) and the exclusions provided in 24 CFR 570.207(b)(2). Public Services are defined by 24 CFR 570.201(e) as allowing for the provision of services (including labor, supplies, and materials) including but not limited to those concerned with employment, crime prevention, homeless support and prevention, childcare, health, education, fair housing counseling, or recreational needs; and,

WHEREAS, Subrecipient's Program acts as an extension of and in partnership with the Merced County Food Bank in storing and distributing perishable and non-perishable food to the area's hungry and is a vital part of Merced's overall efforts to feed the homeless and food-insecure; and,

WHEREAS, Subrecipient represents that it has the necessary experience, expertise, qualifications, and willingness to implement this program, pursuant to

terms and conditions of this Agreement and in a manner satisfactory to Grantee; and,

WHEREAS, Subrecipient shall comply with all applicable HUD and CDBG regulations, included in 24 CFR Part 570 – Community Development Block Grants, as well as other relevant Rules and Regulations governing the use of Federal funds, including, but not limited to 24 CFR 230 et. seq., Cost Principles for Non-Profit Organizations; and,

WHEREAS, Subrecipient is a Non-Profit Organization exempt from Federal income tax under Internal Revenue Code (IRC) Section 501(c)(3) and is classified as a Public Charity under Sections 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code, and will deliver services from Subrecipient's primary business address of 1155 W 10th Street, Merced, California 95341, and EIN: 77-0484441, and Unique Entity ID No. LTE5AVNM8625; and,

WHEREAS, Grantee agrees to engage the services of Subrecipient, and Subrecipient agrees to perform the services for Grantee hereinafter described, for the compensation, during the term, and otherwise subject to the covenants and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, the parties hereto agree as follows:

I. SCOPE OF SERVICE

A. Activities

General Statement: The Subrecipient will be responsible for administering and providing a CDBG Food Bank/Food Distribution Program ("Program") in a manner satisfactory to the Grantee and consistent with any standards and/or alternate standards required by HUD as a condition of providing these funds. The program will be operated within the City limits of Merced, not including County islands, and will deliver an increased capacity to meet the high demand for food distribution services by homeless and food insecure low-income residents.

Such program implementation will include, but not be limited to, the activities eligible under the CDBG Program described in this Agreement. In addition, in compliance with the Primary Objectives contained in 24 CFR 570.200 (a)(3), Subrecipient will ensure that a minimum of seventy percent (70%) of the total

CDBG funding provided shall be expended to benefit low- to moderate-income persons in carrying out one of the three National Objectives described in 24 CFR 570.208 and Section I.B. below.

1. Program Delivery:

CDBG funds totaling \$61,660 referenced above and further herein, shall be directed toward the following deliverables:

Activity #1: Subrecipient must utilize the funds in accordance with the applicable CDBG funding regulations, requirements, and general activity delivery for a Food Bank/Food Distribution Program. Eligible operating cost reimbursements include: direct staff costs, supplies (including those related to the acquisition of food and other materials necessary for distribution), electric and natural gas utilities, mileage to and from food pickups/deliveries within the city limits, and general liability insurance.

Direct payroll hours worked as a percentage of the total hours worked in a day are reimbursable as a direct cost of running the program, as are the direct hours worked percentages of employer-paid expenses for social security, employee health insurance, worker's compensation insurance, and pension plan costs. Federal and State income taxes are not reimbursable. Employee pay stubs or other such records that record rate of pay, payroll deductions, and employer costs, as well as daily/weekly timesheets that record the total hours worked each day and in each pay period that are spent directly administering the Program, shall be submitted with the invoice package as backup documentation, in addition to a payroll summary sheet that summarizes all the direct program charges for each pay period attributed to the Program. No amount of reimbursement will be granted for paid time off such as vacation or sick leave for any employees of the Subrecipient; as such, all amounts and invoices will be related to the Subrecipient's time put directly into the Program.

Proper and thorough backup documentation and itemization of expenses for all requested reimbursements shall be provided, and thorough procedures shall be in place and implemented to prevent duplication of benefits (as per Section I.C.). Accuracy

of all calculations shall be ensured before submittal of all invoices, using form attached hereto as Exhibits B-1 through B-3.

Activity #2: Given the nature and location of the activity, it can be reasonably assumed that more than 51% of all clientele served by the Program are of low- to moderate-income or less. To ensure this, as provided in Section I.B., Subrecipient shall collect Self-Certification of Annual Income forms from low-income family clientele that are directly served, and randomly sample approximately 2% of clientele by requiring provision of source documentation of income and residency, to confirm that self-certification is the reliable and consistent method of ensuring that the use of CDBG funds serves at least 51% low to moderate individuals who live in the City of Merced in meeting one of three CDBG National Objectives, as required in 24 CFR 570.200(a)(2).

Activity #3: Subrecipient shall collect clientele demographic data and submit client demographic summary reports, which includes identifying client income category qualifications, ethnicity, racial group, and head of household gender, which HUD requires with expenditure of CDBG funds. Subrecipient shall use the instructions and forms at Exhibits C-1 through C-4, or their own form that reports the same required statistics in similar format. This reporting shall be performed at calendar year quarter and at year-end.

2. Services Provided:

Services to be provided with this Agreement by the Subrecipient shall include the following:

- a. Food Bank/Food Distribution Services – Provide Merced City homeless and food-insecure low-income residents with continued and increased food distribution benefits and services, including a collaborative effort to deliver lunches to the Merced Rescue Mission for their organization to distribute, by applying this funding to direct staffing costs, liability insurance, mileage, and electric/gas utilities directly attributable to the Program.

- b. Statistical and Income Eligibility Recordkeeping – Collect racial and ethnicity group demographic data, income level, and other HUD-required statistical information on each client for subsequent reporting purposes and to ensure that the primary beneficiaries of CDBG funding are homeless and low- to moderate-income individuals and households living within the City of Merced (refer to forms attached hereto in Exhibits C-1 through C-4).

B. National Objectives

All activities funded with CDBG funds must meet one of the three primary CDBG National Objectives listed below and as further defined in 24 CFR 570.208:

- (a) Activities benefiting low-and moderate-income persons;
- (b) Activities which aid in the prevention or elimination of slums or blight; or
- (c) Activities designed to meet community development needs having a particular urgency.

The Subrecipient certifies that the Program activities that will be carried out under this Agreement will meet the primary National Objective to benefit low- and moderate-income (LMI) persons, under the criteria of Low/Mod Limited Clientele activity listed at 24 CFR 570.208(a)(2)(i)(D), as qualifying, in that the activity is of such nature (food bank/food distribution) and be in such location (located in Eligible Census Tract 15.02 and delivered to homeless encampments in eligible census tract areas) that it may be concluded that the activity's clientele will primarily be low- and moderate-income persons living within the City of Merced (51% or more).

In support of the conclusion that the nature and location of the activity will primarily serve low- to moderate-income, and in lieu of requiring source documentation from 100% of clientele, the Subrecipient shall require each clientele/head of household receiving the food benefit to complete and submit a verifiable Self-Certification of Annual Income Form, as provided in Exhibit C-2, as an acceptable method of ensuring the targeted income limit population is being served.

When accepting Self-Certification forms, the Subrecipient shall randomly require source documentation be provided by an approximate 2% sampling (approximately 2 of every 100 individuals/families served) of the low-income clients served upon registration/intake of the clients in order to verify such income. Source documentation includes paycheck stubs, income tax returns, public assistance documentation, or other proof of income, and shall be calculated based on the number of family members in the household. This serves to consistently ensure that the information being provided on the forms is true and correct as signed and

certified by the beneficiary, and to ensure that at least 51% of the clients served are low to moderate income City of Merced residents, per HUD requirements.

Though some of the clientele served with this Program may also qualify under the “presumed benefit” test (570.208(a)(2)(i)(A)) for this National Objective, mixing of qualifying LMC benefit categories shall not occur within the same Program, per HUD. Therefore, all clients served shall be screened for income eligibility as described above.

C. Levels of Accomplishment – Performance Measures

The purpose of measuring the proposed activities is to gather information that determines how well programs and activities are meeting established needs and goals. Defining program objectives should closely mirror the statutory objective of each program, broadly framed to capture the community impacts that occur as a result of a program’s activities. Further defining each program into expected outcomes helps further refine the objective and is designed to capture the nature of the change or the expected result of the objective the program seeks to achieve.

For this program, HUD’s Outcome Performance Measurement System will measure the following objectives, outcomes, and indicators:

1. Objective – *Creating Suitable Living Environments*: this objective relates to activities that are designed to benefit LMI communities, families, or individuals by addressing issues in their living environment.

The objective of this program is to address food insecurity of the community’s homeless and low-income residents who are unable to afford nutritious food for themselves and their families and to prevent them from having to make the difficult choice between paying for housing or food. The ultimate objective is to prevent hunger within the community.

2. Outcome – *Availability/Accessibility*: this outcome applies to activities that make services, infrastructure, public services, housing, or shelter available or accessible to LMI people, by making the basics of daily living available and accessible to LMI people where they live.

The primary performance outcome of this program is to help meet the demand for food assistance by LMI Merced City residents.

Specifically, the Program is expected to meet all of the following outcomes:

- Provide and meet, to the best of its ability, food demand to homeless persons and low-income families currently experiencing food insecurity.
- Collection and reporting of racial, ethnic, and head of household by gender information to record for fair housing and equal opportunity documentation purposes (refer to data collection and reporting forms in attached Exhibits C-1 through C-4).
- Collection and reporting of income levels by household size of the clientele served by this program for purposes in ensuring that at least 51% of Grantee funds are spent on LMI persons and households residing in the City of Merced (Exhibits C-1 through C-4).
- The Subrecipient is encouraged to use the Homeless Management Information System (HMIS) and Coordinated Entry Self-Assessment (CES) or similar shared databases, as well as in-house assessment and verification tools to capture and record participant information, as needed, to track and coordinate services provided to homeless and LMI individuals between agencies and other service organizations.

The Subrecipient shall set attainable goals showing the number of individuals to be served and the expected success rate. A final report showing the goals created by Subrecipient shall be submitted by the 1st of each June (Year-End) and shall include the outcome of the program including challenges and successes.

3. Indicators: HUD requires reporting of data elements relevant to most HUD-assisted activities that indicate the ability of the Program to carry out the primary objectives of CDBG programs. As such, the Subrecipient shall report the following data in quarterly and yearly reports (refer to forms attached hereto as Exhibits):

- Amount of other funds leveraged for this activity, including other Federal, State, local, or private sources, if any.
- The number of households and persons assisted as separate data points (number of households and the number of people in each household, including children under 18).
- List income levels of persons and/or households assisted by: 30 percent, 50 percent, or 80 percent of area median income (AMI).
- Race, ethnicity, head of household gender, and disability data elements for each individual directly assisted with and benefitting from this Program.

D. Performance Monitoring

The Grantee will monitor the performance of the Subrecipient against goals, performances standards, and expenditure deadlines as stated elsewhere in this Agreement. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, suspension or termination procedures applicable to this Agreement will be initiated.

II. PROGRAM DESCRIPTION

Type of Program: Public Service

HUD CDBG-CV/CDBG Eligible Activity: Food Bank

HUD Matrix Code: 05W Eligibility Citation: 24 CFR 570.201(e)

National Objective: Low/Mod Limited Clientele (LMC), as further described in 24 CFR 570.208(a)(2)(i)(D) – Nature and Location

Accomplishment Type: People

Service Area: Homeless and LMI residents residing within the city limits

Census Tract (business location): 15.02

CPD Performance Measurement System: *Objective:* Creating Suitable Living Environments; *Outcome:* Availability/Accessibility; *Indicators:* 1) Number of persons and household assisted, 2) Income levels of persons/households assisted (30%, 50%, and 80% AMI); 3) Race, ethnicity, and disability data; 4) Pounds of food distributed; and, 5) number of meals delivered to homeless individuals.

III. TERM OF PERFORMANCE

Eligible program expenses for the activities and services carried out by the Subrecipient shall be considered to start on July 1, 2023 (start of 2023 Program Year) and end on June 30, 2024. All invoices for reimbursement of eligible expenses and reporting of participant/beneficiary data for the Program shall be submitted to the City of Merced at the end of each quarter (or other such agreed-upon regular interval). The final invoice for the program shall be submitted for reimbursement at the earliest possible time, but no later than June 1, 2024.

The term of this Agreement shall be extended upon written request to allow the Subrecipient time for any additional final invoicing and/or reporting of remaining participant/beneficiary demographic data for those served through June 30, 2024, and/or any corrections thereof, and to cover any additional time during which the Subrecipient remains in control of CDBG funds or other CDBG assets, including program income, after June 30, 2024.

IV. PROGRAM REPORTING

The Subrecipient shall submit such reports as are required by the City to meet its local obligations and its obligations to HUD. The City will prescribe the report format, as well as the time and location of submission of such reports. Required reports include, but are not limited to, the following:

- A copy and/or description of any distributed materials or advertisements to inform clients of the services.
- Explanation of efforts made to notify special populations (homeless, illiterate, elderly, non-English speaking, including Hmong and Spanish speaking, etc.) of services offered.
- Quarterly reports, due by the 15th of September, December, March, and June until funds are fully expended, which shall include but are not be limited to: progress made, number of individuals served to date, narrative of any notable successes or incidents, and justification for lower or higher than expected clientele counts, in providing the services specified in Section I: Scope of Service, of this Agreement.
- Quarterly reports of the HUD-required ethnic/racial group, head of household, and income level demographic information regarding persons assisted by the Subrecipient through this Agreement, including those forms attached hereto as Exhibits.
- In addition to the monthly/quarterly reporting required, the sub-recipient shall provide the Grantee with an end of year report describing how the Program met/did not meet the anticipated outcomes described in Section I.D. above, using the forms attached hereto as exhibits to this agreement, and any additional forms as requested.

V. BUDGET

<u>Line Item</u>	<u>Amount:</u>
Insurance, Utilities, Mileage, and Direct Staffing Costs	<u>\$ 61,660</u>
TOTAL BUDGET	<u>\$ 61,600</u>

A budget line for indirect administrative costs was not requested by the Subrecipient (Exhibit A).

Indirect costs are generally not allowed with this program, so as to provide maximum services directly to the targeted clientele and the intent of this program. Any indirect costs charged must be consistent with the conditions of Paragraph

IX(C)(2) of this Agreement. In addition, the Grantee may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. Any amendments to the budget must be approved in writing by both the Grantee and the Subrecipient (electronic/email approval acceptable).

VI. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed \$61,660. Drawdowns for the payment of eligible expenses shall be made against the line-item budgets specified in Paragraph V herein, as specified below, and in accordance with performance. Each drawdown request shall be accompanied with (an) invoice(s) for the amount of the requested reimbursement that itemizes all expenses, previously drawn program grant funds, and provides thorough and complete backup documentation, including, but not limited to: payroll time cards, employee paystubs, expense summaries, mileage logs (with correct yearly mileage rates), electronic payments or cancelled checks, and utility provider bills/receipts. The Subrecipient will ensure that all calculations are correct before submitting for reimbursements. No amount of reimbursement will be granted for paid time off for any employees of the Subrecipient; and all amounts and invoices shall be related to the Subrecipient's direct labor, mileage, supplies, and operational costs for this Program. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 24 CFR 84.21.

VII. NOTICES AND STAFFING

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, personal delivery, or sent by facsimile or other electronic means. Any notice delivered or sent as previously mentioned shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communications and details concerning this Agreement shall be directed to the following representatives of the parties:

GRANTEE

Kim Nutt
Housing Program Supervisor
City of Merced
678 West 18th Street
Merced, CA 95340
(209) 388-8988
Nuttk@cityofmerced.org

SUBRECIPIENT

Sheila Garcia
Chairman/CEO
Harvest Time
1251 Weaver Ave. (mailing address)
Merced, CA 95340-5845
(209) 631-4770
SheilaG4770@gmail.com

The Subrecipient will dedicate the following staffing to the Program:

Program Oversight (Overall):	Sheila Garcia, Chairman/CEO
Project Oversight (Alternate):	Leticia Luque, Food Procurement Manager
Financial Oversight:	Sheila Garcia, Chairman/CEO; and, Rick Shelton, Maintenance Manager

VIII. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning CDBG including Subpart K of these regulations), except that:

1. The Subrecipient does not assume the Grantee's environmental responsibilities described in 24 CFR 570.604; and,
2. The Subrecipient does not assume the Grantee's responsibility for initiating the review process under the provisions of 24 CFR Part 52.

The Subrecipient also agrees to comply with all other applicable Federal, State, and local laws, regulations, and policies governing the funds provided under this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Independent Contractor

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA,

retirement,¹ life and/or medical insurance,² and Worker's Compensation Insurance, as the Subrecipient is an independent contractor.

C. Indemnity/Hold Harmless

Except as to the sole negligence or willful misconduct of the City, the Subrecipient shall agree to indemnify, protect, defend (with counsel selected by the City), save, and hold the City, its officers, employees, agents, and volunteers harmless from any and all claims, suits, charges, judgements, actions, damages, or whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement. This indemnification provision shall apply to any acts or omissions, willful misconduct, or negligent conduct, whether active or passive, on the part of the Subrecipient or of Subrecipient's employees, subcontractors, or agents. Subrecipient understands and agrees that it shall defend the City from any claim even if it appears to be without merit. Subrecipient shall also defend, indemnify, and hold the City harmless from any loss, damage, or cost incurred because of any claim by any person or entity, regarding Subrecipient has failed to meet any requirements of HUD. Parties agree that this Section shall survive the expiration or early termination of the Agreement.

D. Insurance and Bonding

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee. The Subrecipient shall comply with the bonding and insurance requirements of 24 CFR 84.31 and 84.48, Bonding and Insurance.

Prior to the City's execution of this Agreement, Subrecipient shall provide copies of insurance policies or original certificates and additional insured endorsements evidencing the coverage required by this Agreement and shall thereafter maintain during the term of this Agreement, such insurance policies and coverages in the types, limits, forms, and ratings as required herein. The rating and required insurance policies and coverages may be modified in writing by the City, or a designee, unless such modification is prohibited by law. The City, and its officers, agents, employees, and volunteers shall be named as additional insureds under all Subrecipient's insurance policies for work done by and on behalf of the named insured for the City of Merced.

¹ Unless the services under this Agreement are provided by a former City employee who is now retired and Grantee is otherwise obligated to pay for the same.

² Unless the services under this Agreement are provided by a former City employee who is now retired and Grantee is otherwise obligated to pay for the same.

Any insurance policy or coverage provided by Subrecipient or subcontractors as required by this Agreement shall be deemed inadequate and a material breach of this Agreement, unless such policy or coverage is issued by insurance companies authorized to transact insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or higher.

1. Limitations. These minimum amounts of coverage shall not constitute any limitation or cap on Subrecipient's indemnification obligations.
2. Cancellation. The policies shall not be canceled unless thirty (30) days prior written notification of intended cancellation has been given to the City by certified or registered mail, postage prepaid.
3. Adequacy. City, its officers, employees, and agents make no representation that the types or limits of insurance specified to be carried by Subrecipient pursuant to this Agreement are adequate to protect Subrecipient. If Subrecipient believes that any required insurance coverage is inadequate, Subrecipient will obtain such additional insurance coverage, as Subrecipient deems adequate, at Subrecipient's sole expense.
4. Workers' Compensation Insurance. By executing this Agreement, Subrecipient represents that Subrecipient is aware of and will comply with Section 3700 of the California Labor Code requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the work. Subrecipient shall carry the insurance or provide for self-insurance required by California law to protect said Subrecipient from claims under the Workers' Compensation Act for all of its employees involved in the performance of this Agreement. Prior to the City's execution of this Agreement, Subrecipient shall file with City either (1) a certificate of insurance showing that such insurance is in effect, or that Subrecipient is self-insured for such coverage, or (2) a certified statement that Subrecipient has no employees, and acknowledging that if Subrecipient does employ any person, the necessary certificate of insurance will immediately be filed with the City. Any certificate filed with the City shall provide that the City will be given at least ten (10) days prior written notice before modification or cancellation thereof. The policy shall be endorsed to waive the insurer's subrogation rights against the City.
5. Commercial General Liability. Prior to the City's execution of this Agreement, Subrecipient shall obtain, and shall thereafter maintain during

the term of this Agreement, commercial general liability insurance as required to insure Subrecipient against damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Subrecipient.

Subrecipient's commercial general liability insurance policy shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products completed operations liability, independent contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000.

Said policies shall be in the usual form of commercial general and automobile liability insurance policies but shall include the following provisions:

- a. Subcontractors' Insurance. Subrecipient shall require all of its subcontractors to carry insurance, in an amount sufficient to cover the risk of injury, damage or loss, which may be caused by the subcontractors' scope of work and activities provided in furtherance of this Agreement, including, but without limitation, the following coverages: Workers' Compensation, Commercial General Liability, Errors and Omissions, and Automobile liability. Upon the City's request, Subrecipient shall provide the City with satisfactory evidence that subcontractors have obtained insurance policies and coverages required by this section.
- b. Commercial Automobile Insurance. Subrecipient is required to provide commercial automobile liability insurance for this Agreement with the exception being those subrecipients that do not require the use of an automobile to meet program requirements as detailed in the Scope of Work.

If Subrecipient requires the use of an automobile or must drive to meet program requirements in the Scope of Work, Subrecipient must submit insurance certificates acceptable to the City that meet the following requirement(s): Subrecipient's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$1,000,000 per occurrence and an aggregate limit of not less than \$1,000,000. All of Subrecipient's automobile and/or commercial general liability insurance policies shall cover all vehicles used in connection with Subrecipient's

performance of this Agreement, which vehicles shall include, but are not limited to, Subrecipient owned vehicles, Subrecipient leased vehicles, Subrecipient's employee vehicles, non-Subrecipient owned vehicles, and hired vehicles.

- c. Cyber Liability Insurance. If Subrecipient stores electronic information on residents served for tax or service reasons, and the risk of loss of such electronic data will not be covered by Subrecipient's general liability insurance, Subrecipient shall maintain cyber liability insurance or such other coverage, sufficiently broad to respond to the duties and obligations as is undertaken by Subrecipient under this Agreement, including, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security. The policy shall provide coverage for breach response costs, as well as regulatory fines and penalties and credit monitoring expenses, with limits sufficient to respond to these obligations. Understanding the technological capacity limitations of non-profit organizations, acceptable policy limits to satisfy this requirement shall be the maximum coverage that Subrecipient can reasonably obtain from an insurance provider.

E. Duplication of Benefits

HUD requires that there are adequate procedures in place to prevent any duplication of benefits, as required by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5155 et seq), as amended by Section 1210 of the Disaster Recovery Reform Act of 2018 (Division D of Public Law 115-254; 42 U.S.C. 51212 et seq.), the framework for HUD's role in preparing for and recovering from a disaster, and which helps to guard against fraud and ineligible uses of taxpayer dollars.

Duplication of service occurs when a person, household, business, government, or entity receives financial assistance from multiple sources for the same purpose, and the total assistance received, available, or forthcoming for that purpose is more than the total need for assistance. As such establishing a process to effectively manage multiple available funding streams and/or other awarded grant funds shall be carried out by the Subrecipient.

The basic method and procedure for determining unmet need is as follows:

1. Assess Need: Determine the total amount of need by collecting all documentation and other data that provided by the beneficiary that has a clear demonstration of financial need.
2. Determine Assistance: Identify all potentially duplicative assistance that has or will be provided from all sources to pay for the costs by collecting documentation of other assistance received, applied for, awarded but not yet received, etc.
3. Calculate Unmet Need: Determine the amount of assistance already provided compared to the need, to determine the maximum award/assistance available (deduct assistance determined to be duplicative).
4. Document Analysis and Recordkeeping: Maintain the resulting calculation of unmet need and related documents in the program record.
5. Total Assistance: The total assistance provided to the beneficiary must be less than or equal to the unmet need.

Subrogation Statement: the Subrecipient, by entering into this Agreement, agrees to repay in full to the Grantee any assistance that is disbursed and later found to be duplicative.

F. Grantee Recognition

The Subrecipient shall ensure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities, and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

G. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, State, or local governmental guidelines, policies, and additional/available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

H. Suspension or Termination

In accordance with 2 CFR part 200 and 24 CFR 85.43, the Grantee may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations, or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies, or directives as may become applicable at any time;
2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or,
4. Submission by the Subrecipient to the Grantee reports that are incorrect or incomplete in any material respect.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the Grantee or the Subrecipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the award in its entirety.

I. Inconsistent or Conflicting Terms in Agreement and Exhibits

In the event of any contradiction or inconsistency between any attached document(s) or exhibit(s) incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City unless specifically agreed to in writing, and initialed by the authorized City representative, as to each additional contractual term or condition.

J. Ambiguities

This Agreement has been negotiated at arms' length between persons knowledgeable in the matters dealt with herein. Accordingly, any rule of law, including, but not limited to, Section 1654 of the Civil Code of California, or any other statutes, legal decisions, or common-law principles of similar effect, that would require interpretation of any ambiguities in this Agreement against the party that drafted this Agreement is of no application and is hereby expressly waived.

K. Venue

This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this agreement shall be held exclusively in a state court in the County of Merced.

L. Authority to Execute

The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

M. Counterparts

This Agreement may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

IX. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Subrecipient agrees to comply with 2 CFR part 200 and 24 CFR 84.21–28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Subrecipient shall administer its program in conformance with OMB Circulars 2 CFR part 200, Subpart E – Cost Principles, as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis. Misuse of program funds is a Federal offense and is subject to reimbursement and immediate cancellation of this Agreement.

B. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include, but not be limited to:

- a. Records providing a full description of each activity undertaken;

- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c. Records that demonstrate the Subrecipient has made the determinations required as a condition of activity(ies) eligibility;
- d. Records which demonstrate compliance with 24 CFR 570.503(b)(7) and 570.505 regarding use of real property acquired or improved in whole or in part with CDBG funds in excess of \$25,000;
- e. Records which demonstrate compliance with the requirements in 24 CFR 570.606 regarding acquisition, displacement, relocation, and replacement housing;
- f. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- g. Financial records as required by 24 CFR 570.502, 2 CFR part 200, and 24 CFR 84.21–28.
- h. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.
- i. If the services of other businesses within the City of Merced are used in the implementation of this program and reimbursement for those services is requested, business license records of such businesses shall be provided. Subrecipient may contact either the Finance Department or Housing Division to verify current business license status.

2. Retention

The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income sources, income certifications, income level, or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

4. Disclosure

The Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The Subrecipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), requirements for retention of assets, and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control over CDBG funds and/or assets, including program income.

6. Audits and Inspections

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Controller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning Subrecipient audits and Uniform Guidance.

As a non-Federal entity, Subrecipient is subject to all applicable provisions under 2 CFR Part 200 Subpart F – Audit Requirements. As such, pursuant to 2 CFR 200.501(d), an exemption from Federal audit requirements is provided to non-Federal entities when expending less than \$750,000 during their fiscal year in total Federal funding. A non-Federal entity (NFE) is defined as “a State, local government, Indian tribe, Institution of Higher Education (IHE), or non-profit organization that carries out a Federal award as a recipient or subrecipient.”

Notwithstanding the above exemption, at any time, the City reserves the right to request a certified audit be performed by an accredited certified public accountant and provided, at Subrecipient's cost, of all Federal funds received or utilized by Subrecipient, including the distribution of CDBG Funds.

C. Reporting and Payment Procedures

1. Program Income

The Subrecipient shall report quarterly all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504(c). By way of further limitations, the Subrecipient may use such income during the Agreement period for activities permitted under this Agreement and as specified in Section VI. above, and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unexpended program income and interest earned over \$100 shall be returned to the Grantee at the end of the Agreement period. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the Grantee.

2. Indirect Costs

HUD defines indirect costs as those "serving common or joint objectives of the organization as a whole," and shared across multiple programs or cost centers, such as: rent, utilities, maintenance, and other expenditures related to shared space; administrative and executive team functions that support multiple program areas; or purchases, transportation, and staff expenses that benefit multiple program areas. Therefore, indirect costs do not directly benefit a particular program or activity. If indirect costs are charged, the Subrecipient shall develop an indirect cost allocation plan per HUD Guidelines, using one of three alternative methods for allocating direct costs ((1) Simplified Allocation Method, (2) Direct Allocation Method, or (3) 'De Minimis' Indirect Cost Rate) for determining the appropriate Subrecipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Subrecipient the funds available under this Agreement based upon information submitted by the Subrecipient and consistent with any approved budget, Grantee policy concerning payments, and specific requirements contained elsewhere in this agreement. With the exception of certain advances as discussed in Section VI., payments will be made for eligible

expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Subrecipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this Agreement for costs incurred by the Grantee on behalf of the Subrecipient.

4. Progress Reports

The Subrecipient shall submit regular Progress Reports to the Grantee in the form, content, and frequency as required by the Grantee.

D. Procurement

1. Compliance

The Subrecipient shall comply with current Grantee policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this Agreement.

2. Office of Management and Budget Standards

Unless specified otherwise within this Agreement, the Subrecipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40–48.

3. Travel

The Subrecipient shall obtain written approval from the Grantee for any travel costs, per Section 2 CFR 200.474 “Travel Costs,” using funds provided under this Agreement. When requesting reimbursement for travel costs, a mileage log showing origination and destination addresses of all trips (including multiple billable destinations in one day), current mileage rate, total mileage, dates of travel, and name(s) of traveler(s) shall be submitted as required backup documentation.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 CFR part 200, 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504 as applicable, which include but are not limited to the following:

1. The Subrecipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.
2. Real property and equipment under the Subrecipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement. If the Subrecipient fails to use CDBG-assisted real property and/or in a manner that meets a CDBG National Objective for the prescribed period of time, the Subrecipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property or equipment. Such payment shall constitute program income to the Grantee. The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period.
3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

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

2. Nondiscrimination

The Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-

discrimination provisions in Section 109 of the Housing and Community Development Act of 1974, prohibiting discrimination on the basis of race, color, national origin, disability, age, religion, or gender, are still applicable.

3. Land Covenants

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Subrecipient agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The Grantee shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. Affirmative Action

1. Approved Plan

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

2. Women- and Minority-Owned Businesses (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms "small business" means a business that meets

the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and “minority and women’s business enterprise” means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are African American, Hispanic, Pacific Islander, Asian, and/or Native American persons. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records, and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker’s representative of the Subrecipient’s commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Subrecipient will include the provisions of Paragraphs X.A - Civil Rights, and X.B. - Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards

- a. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable Federal, State and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.
- b. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by State or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.
- c. Advice of Prevailing Wage: Pursuant to Section 1781 of the Labor Code, Consultant/Contractor is advised that the work contemplated in this Agreement may be subject to the payment of prevailing wages and all other requirements of the Prevailing Wage Law. The prevailing wage of each job classification may be found by inquiry with the California Department of Industrial Relations. Consultant/Contractor shall comply with all laws related to the performance of public work including, but not limited to, the employment of apprentices pursuant to Section 1777.5 of the Labor Code, work day/week hours and overtime rates pursuant to Sections 1813 and 1815 of the Labor Code and the obligation set forth in Sections 1774-1776 of the Labor Code in regards to payment of prevailing

wages and to provide the City of Merced and Department of Industrial Relations certified payrolls when required. A certified copy of all payroll records relative to this project shall be submitted to the City of Merced along with the related invoice. Receipt of certified payroll records is a prerequisite to receiving payment.

- d. No Consultant/Contractor or sub-consultant/contractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5. No Consultant/Contractor or sub-consultant/contractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5. All Consultants/Contractors or sub-consultants/contractors must furnish electronic certified payroll records to the Labor Commissioner. This requirement applies to all public works projects, whether new or ongoing. Consultant/Contractor is further advised that the work contemplated herein is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 75, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the Grantee, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing

and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the City Limits of Merced in which the project is located.”

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the City Limits of Merced in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the City Limits of Merced in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker’s representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that

the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 75 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 84.42 (Codes of Conduct) and 24 CFR 570.611 (Conflict of Interest), which include (but are not limited to) the following:

- a. The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
- b. No employee, officer, or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Subrecipient, or any designated public agency.

5. Lobbying

The Subrecipient hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any

cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly.
- d. Lobbying Certification - This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. Copyright

If this Agreement results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, the work or materials for governmental purposes.

7. Religious Activities

The Subrecipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization, as part of the programs or services funded under this Agreement. If Subrecipient conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this Agreement, and participation must be voluntary for the beneficiaries of HUD-funded programs or services. Additionally, Subrecipient shall not, in providing program assistance, discriminate against a

program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

XI. ENVIRONMENTAL CONDITIONS

Subrecipient shall confirm with the Grantee regarding all project specific locations. The Grantee is considered the responsible entity for the community and is responsible for ensuring all required environmental documents are completed prior to disbursement of Federal funds into a project, including Public Services.

A. Air and Water

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

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

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the

property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

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

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. EXHIBITS

All exhibits referenced herein (A, B-1- B-3, and C-1- C-4) are attached hereto and incorporated by reference fully.

XVI. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Subrecipient with respect to this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

GRANTEE:

CITY OF MERCED

A California Charter Municipal Corporation

BY: _____

D. Scott McBride
City Manager

ATTEST:

D. SCOTT MCBRIDE, CITY CLERK

BY: _____

Assistant/Deputy City Clerk

APPROVED AS TO FORM:

CRAIG J. CORNWELL, CITY ATTORNEY

BY: _____

Craig Cornwell
City Attorney

2/17/2024
Date

ACCOUNT DATA:
M. VENUS RODRIGUEZ, FINANCE OFFICER

BY: _____
Verified by Finance Officer

SUBRECIPIENT:
Harvest Time

BY: Sheila Garcia
(Signature)

Sheila Garcia
(Typed or Printed Name)

Its: Chairman/CEO
(Title of Authorized Person)

Taxpayer I.D. No.: 77-0484441

Address: 1155 W 10th Street
City: Merced, CA 95341
Mailing: 1251 Weaver Ave.
Merced, CA 95341
Phone: 209-631-4770
Email: SheilaG4770@gmail.com

EXHIBIT A
Proposed Project Budget
FY 2023-24 CDBG Project

APPENDIX C-2
FY 2023-24 CDBG PROJECT

AGENCY: Harvest Time

PROJECT NAME: Food 4 YOU

MISCELLANEOUS PROJECT COSTS:

Administrative Costs (not to exceed 10% of total grant)

Supplies

Postage

Consultant Services

Maintenance/Repair

Publications/Printing

Transportation/Travel Required for Business

Rent (portion allocated to this program)

Equipment Rental

Insurance

Utilities

Telephone

Other Expenses (Specify):

STAFF MEMBER Payroll Service - \$480
Payroll - \$18/hr @40 hrs / week - \$3,740
Payroll Taxes - \$4,120
Work Comp - \$2,250

8,000.00

2,370.00

7,000.00

44,290.00

CIP REQUESTS ONLY:

Lead-based paint assessment/abatement

Construction/Renovation

Consultant/Professional Services

Construction Management

Other Expenses (Specify):

TOTAL PROJECT BUDGET:

\$ 61,660.00

EXHIBIT B-1

Invoicing

Invoice Template for Reimbursement Requests

2023 HUD Annual Plan INVOICE		Organization Name: Mailing Address: Program Name: Program Year:		FY 2023-24		Date of Invoice: Invoice Number:	
---	--	--	--	-------------------	--	-------------------------------------	--

Administrative Expenses <i>here & describe in space provided below</i>	(list	Budget	Billed on previous invoices	Billed this invoice	Remaining on Contract
1 Admin Expense 1					-
2 Admin Expense 2					
3 Admin Expense 3					
Total Administrative Expenses:		\$ -	\$ -	\$ -	\$ -

Program Expenses <i>here & describe in space provided below</i>	(list	Budget	Billed on previous invoices	Billed this invoice	Remaining on Contract
1 Activity 1					\$ -
2 Activity 2					
3 Activity 3					
4 Activity 4					
Total Program Expenses:		\$ -	\$ -	\$ -	\$ -
TOTALS FOR THIS PROGRAM:		\$ -	\$ -	\$ -	\$ -

Explanation of Administrative Expenses requested for reimbursement (itemize, and please list backup items attached):

Explanation of Program Expenses requested for reimbursement (itemize, and please list backup items attached):

This information is true and correct to the best of my knowledge. *(Signed)*

Date: _____

Invoicing

Mileage Log for Reimbursement Requests

[illegible]

Payroll Reimbursement Request

(please delete the example above before using the spreadsheet - enter data only in the blue areas)

EXHIBIT C-1
Reporting
General Requirements

1. Progress reports are due each quarter, at a minimum. Each report should contain the information listed below (*an Excel version of this spreadsheet will be emailed to you when execution of the agreement is complete*).
 - a. Database containing service provided; number of participants; male and female breakdown; number of sessions; attendance; copies of entrance and post exams; and absences.
 - b. Furnish a copy of an entrance and post tests for each attendee.
 - c. Copy of sign-in sheets of activity attendees, timecards of employees, etc.
 - d. Photographs of events, special trips, and/or training
 - e. Demographic information:
 - i. Household Size
 - ii. Household Income
 - iii. Are the household members Hispanic or Latino?
 - iv. Race/Ethnicity (see list below)
 - White/Caucasian
 - Black/African American
 - Black/African American and White
 - Asian
 - Asian and White
 - American Indian/Alaskan Native
 - American Indian/Alaskan Native and White
 - American Indian/Alaskan Native and Black/African American
 - Native Hawaiian/Other Pacific Islander
 - Other Multi-Racial
 - v. Household's Average Median Income.
 - vi. Is the Head of Household a Female (yes or no)
2. In addition to the monthly/quarterly reporting required, the sub-recipient shall provide the Grantee with an end of year report, no later than [insert date]. Reporting forms will be emailed to you by City Housing staff to complete and return.
3. Submittal of a six-month outcome report for clients served (beginning with last month of assistance), when possible.

EXHIBIT C-2

Reporting

HUD Self-Certification of Annual Income by Beneficiary Form – City of Merced
(Form may be customized, but at a minimum, must contain the below information)

U.S. Department of Housing and Urban Development
Community Planning and Development
Community Development Block Grant (CDBG)

SELF CERTIFICATION OF ANNUAL INCOME BY BENEFICIARY

Printed on:

Effective Date:

INSTRUCTIONS: This is a written statement from the beneficiary documenting the definition used to determine "Annual (Gross) Income", the number of beneficiary members in the family or household (as applicable based on the activity), and the relevant characteristics of each member for the purposes of income determination. To complete this statement, select the definition of income used, fill in the blank fields below, and check only the boxes that apply to each member. Adult beneficiary members must then sign this statement to certify that the information is complete and accurate, and that source documentation will be provided upon request.

Definition of Income

<input type="checkbox"/> HUD 24 CFR Part 5	<input type="checkbox"/> IRS Form 1040	<input type="checkbox"/> American Community Survey
--	--	--

Beneficiary Information

Last Name:	Beneficiary ID (if applicable):
------------	---------------------------------

Member Information

First Names:	Member IDs (if applicable):	HH	CH	DIS	62+	S≥18	<18	<15
	1							
	2							
	3							
	4							
	5							
	6							

HH = Head of Household; CH = Co-Head of Household; DIS = Person with disabilities; 62+ = Person 62 years of age or older; S≥18 = Fulltime student age 18 or over; <18 = Child under the age of 18 years; <15 = Minor under the age of 15 years

Contact Information

Address Line 1:	City:	
Address Line 2:	State:	Zip Code:

Income Information – Annual income of all household members

Member 1 _____ Member 4 _____ Member 7 _____
Member 2 _____ Member 5 _____ Member 8 _____
Member 3 _____ Member 6 _____ Member 9 _____
Annual household gross income (total of all members) = \$ _____ per Month/Year (circle one)

Certification

I/we certify that this information is complete and accurate. I/we agree to provide, upon request, documentation on all income sources to the HUD Grantee/Program Administrator.

COMPLETE SIGNATURES ON SECOND PAGE

**U.S. Department of Housing and Urban Development
Community Planning and Development
Community Development Block Grant (CDBG)**

I/we certify that this information is complete and accurate. I/we agree to provide, upon request, documentation on all income sources to the HUD Grantee/Program Administrator.

SELF CERTIFICATION OF ANNUAL INCOME BY BENEFICIARY

Printed on:

Effective Date:

Beneficiary ID: _____

HEAD OF HOUSEHOLD		
Signature	Printed Name	Date

OTHER BENEFICIARY ADULTS*		
Signature	Printed Name	Date
Signature	Printed Name	Date
Signature	Printed Name	Date
Signature	Printed Name	Date
Signature	Printed Name	Date
Signature	Printed Name	Date
Signature	Printed Name	Date
Signature	Printed Name	Date

* Attach another copy of this page if additional signature lines are required.

WARNING: The information provided on this form is subject to verification by HUD at any time, and Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony and assistance can be terminated for knowingly and willingly making a false or fraudulent statement to a department of the United States Government.

EXHIBIT C-3

Clientele Data Collection Form

(This or similar form to be used for collection of demographic data)

City of Merced	
HUD Clientele Race and Ethnicity Data Collection Form	
Program Name: _____	
HUD collects this information to ensure nondiscrimination and equal opportunity in its funded programs. Information collected will remain private and confidential.	
<i>Thank you for providing your information.</i>	
TODAY'S DATE: _____	
Client Name (or other assigned identifier): _____	
Is this your first time receiving food assistance?	_____ YES _____ NO
I live in the City or County of Merced	_____ CITY _____ COUNTY
Head of household?	_____ YES _____ NO
I am/identify as:	_____ MALE _____ FEMALE
Household size - include any children:	_____ Persons in household
<u>Ethnicity:</u>	_____ Non-Hispanic _____ Hispanic
<u>Race</u>	
<i>I consider my race as (mark X on all that apply):</i>	
White/Caucasian	_____
Black/African American	_____
Black/African American and White	_____
Asian	_____
Asian and White	_____
American Indian or Alaskan Native	_____
American Indian, Alaskan Native, and White	_____
American Indian, Alaskan Native, and Black/African American	_____
Native Hawaiian/Other Pacific Islander	_____
Other Multi-racial greater than 1% (please specify: _____)	

Reporting

Data entry for activities that met the Low/Mod Limited Clientele (LMC) National Objective

[illegible]