

SUB-RECIPIENT AGREEMENT
Measure H Funding
(Agreement No.)

This Agreement for the Provision of Measure H Funding for homeless services (herein referred to as the "Agreement"), is made and entered into this 1st day of February, 2019, between the City of Pasadena, hereinafter referred to as the "**CITY**" and **XXXXXX**, a California non-profit public benefit corporation organized under the laws of the State of California, hereinafter referred to as the "**SUB-RECIPIENT**," with reference to the following:

WITNESSETH

WHEREAS, the **CITY** has received a grant from the Los Angeles Homeless Services Authority ("LAHSA"), a joint powers authority of the City and County of Los Angeles (the "County"), for the execution of the City's FY 18 and FY 19 County Homeless Initiative.

WHEREAS, the **CITY** has been designated by the County to provide proper planning, coordination and administration of the Measure H program as described in the City's Grant Agreement with LAHSA and the County; and

WHEREAS, the **CITY** has appropriated \$146,230 under Homelessness Prevention for Individuals, of the said grant for hereinafter referred to as the Program, proposed by the Sub-recipient; and

WHEREAS, the **CITY** desires to allocate to the Sub-Recipient a portion of these specific Measure H funds to enable the Sub-Recipient to provide certain homelessness prevention services; and,

WHEREAS, the **CITY** desires to allocate a total sum of **XX thousand dollars (\$XX,000)** to the Sub-Recipient for the **XXXXXX** Program; and

WHEREAS, the **SUB-RECIPIENT** is qualified by virtue of its experience to participate in the Measure H program,

NOW, THEREFORE,

I. SCOPE OF SERVICES

- A. Service Area: The service area is the **CITY** of Pasadena and those communities included in the .
- B. Scope of Services: **XXXXXX**, as the **SUB-RECIPIENT** shall perform all the services described in the project description and Scope of Services set forth as Exhibit "A" to this Agreement, a copy of which is attached hereto and incorporated herein by reference.

II. BUDGET

The **SUB-RECIPIENT** shall comply with the budget specified in Exhibit "B" to this Agreement, a copy of which is attached hereto and incorporated herein by reference.

This **SUB-RECIPIENT AGREEMENT** allocates Measure H funds which come from the County of Los Angeles and are administered to the **CITY** by LAHSA.

III. **TIME OF PERFORMANCE**

The described services of **SUB-RECIPIENT** shall commence as of February 1, 2019 and shall be completed on or before June 30, 2020.

The parties hereto understand that **CITY** has authorized the performance of the scope of services more particularly described in Exhibit "A" attached hereto, commencing February 1, 2019. **SUB-RECIPIENT** hereby agrees to commence said services as of that date and to complete said services on or before June 30, 2020 in accordance with all the terms and provisions of this Agreement.

The total amount of compensation set forth in Section IV of this Agreement may be amended, modified or supplemented by **CITY** in its sole and absolute discretion to reflect such amount as **CITY** deems necessary and appropriate, which determination shall be based on such factors as, including but not limited to, the amount of Measure H funding available for the **CITY** to allocate for homelessness prevention services for this program, as well as any reductions to the amounts granted to the **CITY** as a result of any County action.

IV. **COMPENSATION AND METHOD OF PAYMENT**

CITY shall reimburse for allowable costs incurred under the scope of this Agreement and applicable Federal regulations, which have not been paid for or reimbursed in any other manner by any other Agency or private source of funding. Reimbursement will be made no more than on a monthly basis, with the total of all reimbursements not to exceed \$XXXXXX. Drawdowns for the payment of eligible expenses shall be made against the budget specified in Exhibit "B" and in accordance with performance.

Payments may be contingent upon certification of the **SUB-RECIPIENT**'s financial management system in accordance with the standards specified by OMB Circular A-110.

Disbursement of payment to **SUB-RECIPIENT** shall be made by monthly reimbursements, contingent upon **CITY**'s receipt of a monthly summary statement for all previous month's expenditures. Monthly expenditure reports shall be documented with "Audit Ready" supportive evidence of each expenditure and proof of payment, in accordance with State regulations. Reimbursement shall be limited to the total of approved properly documented expenditures.

SUB-RECIPIENT must submit the monthly expenditure reports by the 15th calendar day of the month following the month of services, regardless of expenditure amount. Within 30 days of receipt by **CITY** of each properly documented and timely submitted expenditure report, **CITY** will draw a warrant in favor of **SUB-RECIPIENT** for approved expenditure amounts. Expenditure reports received after the 15th calendar day of the month in which payment is requested will cause unavoidable delays in payment processing.

If applicable, **CITY** reserves the right to withhold ten percent (10%) of the funding amount authorized by this Agreement on a completed project until **CITY** receives a "Certificate of Completion" for each such completed project, as executed by the property owner.

V. **NOTICES**

Notices: All notices, memoranda, reports, drafts, and communications shall be served in writing. The notices shall be sent to the following addresses:

SUB-RECIPIENT:
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXX.
Attn. Executive Director
Pasadena, CA XXXXX
Telephone #: XXXXXXXX
E-Mail: director@XXXXX.org

CITY:
City of Pasadena
Housing & Career Services Department
Attn: Housing Director
P.O. Box 7115
Pasadena, CA 91109

VI. GENERAL CONDITIONS

- A. City Review: The **CITY** reserves the right to review and approve actions and decisions taken by **SUB-RECIPIENT** regarding operation of the Homeless Prevention Program for compliance with all applicable regulations.
- B. Sub-Recipient Status
1. The **CITY** recognizes **SUB-RECIPIENT** as an independent non-profit organization and agrees to cooperate in protecting its image as a politically neutral organization.
 2. **SUB-RECIPIENT** warrants and agrees that it is not a party listed on the General Service Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension." If the amount of this Agreement exceeds the small purchase threshold as established by 41 U.S.C. 403(11) (currently \$25,000), **SUB-RECIPIENT** agrees to provide the required certification regarding its exclusion status.
- C. Indemnification: **SUB-RECIPIENT** shall indemnify and hold harmless **CITY**, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property, including the payment by **SUB-RECIPIENT** of any and all legal costs and attorney's fees, in any manner arising out of or incidental to the performance by **SUB-RECIPIENT** of this Agreement, including but not limited to, all consequential damages, to the maximum extent permitted by law.
- D. Compliance with Laws and Assurances: **SUB-RECIPIENT** hereby assures and certifies that it has complied and will continue to comply with the ACT and all applicable Federal, State, and local laws, ordinances, regulations, policies, guidelines, and requirements as they relate to acceptance and use of Federal funds for this federally assisted program. This Agreement is subject to all such laws, ordinances, regulations, policies, and guidelines, including without limitation, California Health & Safety Act Sections 33334.2; and 34176.1(a)(2). Notwithstanding any other provision of this Agreement, **CITY** may elect not to make a particular payment on account of this Agreement if:
1. Misrepresentation: **SUB-RECIPIENT**, with or without knowledge, shall have made any misrepresentation of a substantial and material nature with respect to any information furnished to **CITY**.
 2. Litigation: There is then pending litigation with respect to the performance by **SUB-RECIPIENT** of any of its duties or obligations hereunder which may jeopardize or adversely affect carrying out its scope of services including any court action or proceeding involving the Federal Bankruptcy Act.
 3. Default: **SUB-RECIPIENT** is in default under any provision of this Agreement.

- E. Independent Contractor: The parties hereto in the performance of this Agreement will be acting in the independent capacity and not as agents, employees, partners, joint ventures, or associates of one another. The employees or agents of one party shall not be deemed or construed to be the agent or employees of the other party for any purpose whatsoever.
- F. Assignment: This Agreement is not assignable by **SUB-RECIPIENT** without the express prior written consent of **CITY**, which consent shall be given at the **CITY**'s sole discretion. Any attempt by **SUB-RECIPIENT** to assign any performance of the terms of this Agreement shall be null and void and shall constitute a material breach of this Agreement upon which the **CITY** may, among its other remedies, and without limitation, cancel, terminate, or suspend this Agreement.
- G. Suspension or Termination: This Agreement may be terminated in whole or in part at any time by either party upon giving thirty (30) days notice in writing to the other party. The City's Housing Director is hereby empowered to give the notice subject to ratification by the City Council.

CITY may immediately terminate this Agreement upon the termination, suspension, discontinuation, or substantial reduction in Measure H funding for the Contract activity or if for any reason the timely completion of the work under this Agreement is rendered improbable, infeasible, or impossible. If the **SUB-RECIPIENT** materially fails to comply with any term of this Agreement, **CITY** may take one or more of the following actions, which includes temporarily withholding cash, disallowing non-compliant costs, wholly or partly terminating the award, withholding future awards, and other remedies that are legally available. In such event, the **SUB-RECIPIENT** shall be compensated for all services rendered and all necessarily incurred costs performed in good faith in accordance with the terms of this Agreement that have been previously reimbursed, to the date of the termination to the extent that Measure H funds are available from the County.

In the event that this Agreement is terminated, **SUB-RECIPIENT** agrees to immediately return to **CITY**, upon demand, any and all funds not used, and to comply with Section VII.B.3., Reversion of Assets, of this Agreement.

- H. Insurance & Bonding: The **SUB-RECIPIENT** shall neither commence work under this Agreement until it has obtained all insurance required hereunder in a company or companies acceptable to **CITY** nor shall the **SUB-RECIPIENT** allow any subcontractor to commence work on a subcontract until all insurance required of the subcontractor has been obtained. Failure to procure and maintain required insurance at all times shall constitute a default and material breach of this Agreement.

Each insurance policy included in this Subparagraph H shall be endorsed to state that coverage shall not be canceled except after thirty (30) days prior written notice to the **CITY**. Insurance shall be placed with insurers with a Best's rating of no less than B:VIII. Prior to commencement of performance and as a condition precedent to the disbursement of funds hereunder by **CITY** to or on behalf of **SUB-RECIPIENT**, **SUB-RECIPIENT** shall furnish **CITY** with a certificate of insurance for each policy. Each certificate is to be signed by a person authorized by that insurer to bind coverage on its behalf. **CITY** may require complete, certified copies of any or all policies at any time.

The **SUB-RECIPIENT** shall take out and maintain at all times during the terms of this Agreement the following policies of insurance:

1. Workers' Compensation Insurance. Before beginning work, the **SUB-RECIPIENT** shall furnish to **CITY** a certificate of insurance as proof that it has taken out full Workers' Compensation Insurance for all persons who it may employ directly or through

subcontractors in carrying out the work specified herein, in accordance with the laws of the State of California.

In accordance with the provisions of California Labor Code Section 3700, every employer shall secure the payment of compensation to its employees. The **SUB-RECIPIENT**, prior to commencing work, shall sign and file with **CITY** a certification as follows (Exhibit "C"):

"I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Agreement."

2. Public Liability and Property Damage: Throughout the term of this Agreement, at **SUB-RECIPIENT**'s sole cost and expense, the **SUB-RECIPIENT** shall keep, or cause to be kept, in full force and effect, for the mutual benefit of the **CITY** and **SUB-RECIPIENT**, comprehensive, broad form, general public liability and automobile insurance against claims and liabilities for personal injury, death, or property damage arising from the **SUB-RECIPIENT**'s activities, providing protection of at least two hundred fifty thousand dollars (\$250,000.00) for bodily injury or death to any one person, five hundred thousand dollars (\$500,000) for the death or injury to more than one person, one hundred thousand dollars (\$100,000) for property damage in any one accident, or a combined single limit of one million dollars (\$1,000,000).
3. General Insurance Requirements: All insurance required by express provision of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of California; and policies required under paragraphs (c) to (e) and of Subpart C of the OMB Circular A-110 shall name as additional insured **CITY**, its elected officials, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that: (1) the insurer waives the right of subrogation against **CITY** and **CITY**'s elected officials, officers, employees, and agents; (2) the policies are primary and non-contributing with any insurance that may be carried by **CITY**; and (3) they cannot be canceled or materially changed except after thirty (30) days notice by the insurer to **CITY** by certified mail. **SUB-RECIPIENT** may effect for its own account insurance not required under this Agreement.
4. Automobile: If motor vehicles are used in performing services hereunder, automobile insurance coverage must be obtained in amounts equal to those required for general liability.
5. The **SUB-RECIPIENT** shall comply with the bonding and insurance requirements as required by Attachment B of OMB Circular A-102, OMB Circular A-110, and other relevant regulations.
- I. Amendments; Variations: The **CITY** or **SUB-RECIPIENT** 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 both organizations, and approved by the **CITY**'s governing body, or City Manager if under \$75,000. Such amendments shall not invalidate this Agreement, nor relieve or release the **CITY** or **SUB-RECIPIENT** from its obligations under this Agreement.

The **CITY** may, in its discretion, amend this Agreement to conform with Federal, State, or local governmental guidelines, policies, and available funding amounts, budget modifications or for other reasons. If such amendments result in a change in the funding, 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 **CITY** and **SUB-RECIPIENT**.

The City Manager, the Housing Director, or designee is authorized to modify the budget of this Agreement in the form of a written amendment or written document hereto for the movement of funds within the budget categories identified in Exhibit "B" on behalf of the **CITY**, when such modifications:

- 1) Are at least ten percent (10%) of the total agreement;
- 2) Are specifically requested by the **SUB-RECIPIENT** or the **CITY** in writing prior to March 15th of the Program Year;
- 3) Do not alter the total amount of compensation under this Agreement;
- 4) Will not change the project goals or scope of services;
- 5) Are in the best interests of the **CITY**, the State and the **SUB-RECIPIENT** in performing the scope of services under this Agreement;
- 6) If related to salaries, are in accordance with any applicable salary ordinances or laws; and
- 7) Do not exceed two (2) requests for Budget Amendments/Modifications during the program year.

J. Changes in Grant Allocation: **CITY** reserves the right to reduce the grant allocation when **CITY**'s fiscal monitoring indicates that **SUB-RECIPIENT**'s rate of expenditure will result in unspent funds at the end of the program year. Changes in the grant allocation will be done after consultation with the **SUB-RECIPIENT**. Such changes shall be incorporated into this Agreement by written amendments.

K. Fiscal Limitations: The County through Measure H funding may in the future place programmatic or fiscal limitation(s) on homeless services funds not presently anticipated. Accordingly, **CITY** reserves the right to revise this Agreement in order to take account of actions affecting homeless services funding. In the event of funding reduction, **CITY** may reduce the budget of Agreement as a whole or as to cost category, and may at its sole discretion, limit the **SUB-RECIPIENT**'s authority to commit and spend funds, and may restrict the **SUB-RECIPIENT**'s use of both its uncommitted and its unspent funds. Where the County has directed or requested **CITY** to implement a reduction in funding that affects funding for this Agreement, the Housing Director or his/her designee may act for **CITY** in implementing and effecting such a reduction in revising the Agreement for such purpose. Housing Director or his/her designee may act for **CITY** in suspending the operation of the Agreement for up to sixty (60) days, upon three (3) days written notice to the **SUB-RECIPIENT** of his/her intention to so act. In no event, however, shall any revision made by **CITY** affect expenditures and legally binding commitments made by the **SUB-RECIPIENT** before it received notice of such revision, provided that such amounts have been committed in good faith and are otherwise allowable and that such commitments are consistent with State cash withdrawal guidelines.

L. Program Monitoring: The **CITY** will conduct periodic program monitoring reviews. These reviews will focus on the extent to which the planned program has been implemented and measurable objectives achieved effectiveness of program management, and impact of the program. Authorized representatives of **CITY** and State shall have the right of access to all activities and facilities operated by the **SUB-RECIPIENT** under this Agreement. Facilities include all files, records, and other documents related to the performance of this Agreement. Activities include attendance at staff, board of directors, advisory committee, and advisory board meetings and inspection by **CITY** and State representatives, and ensure that its employees and board members furnish such information, as in the judgment of **CITY** and State representatives, may be relevant to the question of compliance with contractual conditions and State directives, or the effectiveness, legality, and achievements of the program.

- M. Business License: **SUB-RECIPIENT** shall obtain at its expense, and keep in full force and effect during the duration of this Agreement, a business license as required pursuant to the Pasadena Municipal Code.

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards: The **SUB-RECIPIENT** agrees to comply with OMB Circular A-110, Subpart C, Standards for Financial Management, 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 **SUB-RECIPIENT** shall administer its program in conformance with OMB Circular A-122 "Cost Principles for Non-Profit Organizations." These principles shall be applied for all costs whether charged on a direct or indirect basis.
3. Joint Funding: For programs in which there are sources of funds in addition to Measure H funds, the **SUB-RECIPIENT** shall provide proof of such funding. The **CITY** shall not pay for any services provided by the **SUB-RECIPIENT** which are funded by other sources. All restrictions and/or requirements provided in this agreement relative to accounting, budgeting, and reporting apply to the total program regardless of funding sources.

B. Documentation & Record Keeping

1. Records to be Maintained: The **SUB-RECIPIENT** shall maintain all records required by the State Regulations specified in 24 CFR Part 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 the requirements of ;
 - c. Records required to determine the eligibility of activities;
 - d. Records required to document the acquisitions, improvements, and use of disposition of real property acquired or improved with Measure H assistance;
 - e. Financial records as required by 24 CFR Part 570.502, and OMB Circular A-110; and
 - f. Other records necessary to document compliance with Subpart K of 24 CFR 570.
2. Records Retention: The **SUB-RECIPIENT** shall maintain all records required by the Federal regulations specified in 24 CFR, Part 570.506, that are pertinent to the activities funded under this Agreement, and as further described in Exhibit "A."

Financial records, supporting documents, statistical records, and all other records pertaining to the use of the funds provided under this Agreement shall be retained by the **SUB-RECIPIENT** for a period of five (5) years, at a minimum, and in the event of litigation, claim, or audit, the records shall be retained until all litigation, claims, and audit findings involving the records have been fully resolved. Records for non-expendable

property acquired with Federal funds provided under this Agreement shall be retained for three (3) years after the final disposition of such property.

3. **Reversion of Assets:** Upon the expiration or termination of this Agreement, for any reason whatsoever, the **SUB-RECIPIENT** shall forthwith transfer to **CITY**, any Measure H funds on hand at the time of such expiration or termination and any accounts receivable attributable to the use of Measure H funds including, without limitation, program income. Further, any real property under the control of **SUB-RECIPIENT** that was acquired or improved in whole or in part with Measure H funds in excess of twenty-five thousand dollars (\$25,000) shall either be: (a) used to meet one of the national objectives set forth in Title 24, Code of Regulations, Section 570.208, or any successor statute, until five (5) years after the expiration or termination of the Agreement, or for such longer period of time as determined to be appropriate by the **CITY** at its sole discretion; or (b) disposed of in a manner that results in the **CITY's** being reimbursed in the amount of the current fair market value of real property less any portion of the value attributable to expenditures of non-Measure H funds for acquisition of, or improvement to, such real property.
4. **Close Outs:** The **SUB-RECIPIENT's** obligation to the **CITY** 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 **CITY**), and determining the custodianship of records.
5. **Audits:** The **SUB-RECIPIENT** is required to arrange for an independent financial and compliance audit annually for each fiscal year Federal funds are received under this Contract. Audits must be in compliance with OMB Circular A-133. An audit may be conducted by Federal, State, or local funding source agencies as part of the **CITY's** audit responsibilities. The results of the independent audit must be submitted to the **CITY** within thirty (30) days of completion. Within thirty (30) days of the submittal of the audit report, the **SUB-RECIPIENT** shall provide a written response to all conditions of findings reported in the audit report. The response must examine each condition or finding and explain a proposed resolution, including a schedule for correcting any deficiency. All conditions or finding correction actions shall take place within six (6) months after receipt of the audit report. **CITY** and its authorized representatives shall at all times, have access for the purpose of audit or inspection, to any and all books, documents, papers, records, property, and premises of the **SUB-RECIPIENT**. The **SUB-RECIPIENT's** staff will cooperate fully with authorized auditors when they conduct audits and examinations of the **SUB-RECIPIENT's** program. If indications of misappropriation or misapplication of the funds of this Contract cause **CITY** to require a special audit, the cost of the audit will be encumbered and deducted from this Contract budget. Should **CITY** subsequently determine that the special audit was not warranted, the amount encumbered will be restored to the Contract budget. Should the special audit confirm misappropriation or misapplication of funds, the **SUB-RECIPIENT** shall reimburse **CITY** the amount of misappropriate or misapplication. In the event **CITY** uses the judicial system to recover misappropriated or misapplied funds, the **SUB-RECIPIENT** shall reimburse **CITY** legal fees and court costs in addition to awards.

C. Reporting

1. **Program Reporting & HMIS:** The **SUB-RECIPIENT** agrees to prepare and submit to the Housing Department, monthly program progress/activity reports, evaluations, and other reports as required by the State or **CITY**. Client-level data shall be entered into the Homeless Management Information System ("HMIS") electronic data collection system in accordance with the HMIS Data and Technical Standards Final Notice as published in

the Federal Register Volume 69, Number 146, and this data from HMIS shall be used for quarterly program reports. The **SUB-RECIPIENT** shall maintain such property, personnel, financial, and other records and accounts as are considered necessary by State or **CITY** to assure proper accounting for all Contract funds, as specified in Exhibit "B." All the **SUB-RECIPIENT**'s records, with the exception of confidential client information, shall be made available to representatives of **CITY** and the appropriate Federal agencies. The **SUB-RECIPIENT** is required to submit data necessary to complete the housing Element Annual Performance Report in accordance with State regulations in the format and at the time designated by the **CITY**.

D. Procurement

1. OMB Standards: The **SUB-RECIPIENT** shall procure all materials, property, or services in accordance with the requirements of OMB Circular A-110, Subpart C, Procurement Standards.
2. Purchase and Invoice Deadlines: Purchase of equipment or property must be completed before the last three (3) months of the initial performance period and all equipment bills are to be paid before the last two (2) months of this period. No expendable or non-expendable property or equipment is to be purchased during the final three (3) months of the initial performance period unless approved by **CITY** in writing. Invoices for all obligations incurred under this Contract must be submitted to City's Housing Department within sixty (60) days after the initial performance period termination date or they may not be honored. Exceptions to the preceding limitations require prior written approval by the **CITY**.
3. Non-Expendable Property A record shall be maintained by the **SUB-RECIPIENT** for each item of non-expendable property acquired for this program with Measure H funds. This record shall be provided to **CITY** as well as being available for inspection and audit upon reasonable notice by the **CITY** at the request of the **CITY**. Non-expendable property means tangible personal property having a useful life of more than one (1) year and an acquisition cost of Three Hundred Dollars (\$300.00) or more per unit. The **SUB-RECIPIENT** shall not purchase or agree to purchase non-expendable property without the prior written approval from the **CITY**. Upon completion or early termination of this Agreement, **CITY** reserves the right to determine the final disposition of the non-expendable property acquired for this program and Measure H funds in compliance with applicable laws and regulations. The disposition may include, but is not limited to, **CITY** taking possession of the non-expendable property.
4. Expendable Personal Property: Expendable personal property refers to all tangible personal property other than non-expendable personal property. The **SUB-RECIPIENT** shall not purchase or agree to purchase expendable personal property with a unit value of three hundred dollars (\$300.00) or more per unit without the prior written approval of the **CITY**.
5. Purchase or Lease of Non-Expendable Property or Equipment: **RECIPIENT** shall purchase or lease from the lowest responsive and responsible bidder. All equipment that has a purchase or lease price of over fifty dollars (\$50.00) in unit value and life expectancy of more than one (1) year shall be properly identified and inventoried and shall be charged at its actual price. This inventory shall be provided to **CITY** as well as being available for inspection and audit upon reasonable notice by the **CITY** at the request of **CITY**.
6. Travel and Conference Restrictions: The **SUB-RECIPIENT** certifies and agrees that prior approval for travel and conference expenses will be obtained from the City's Interim

Housing Manager for travel outside of Los Angeles County. These expenses must be specifically provided for in Exhibit "B" hereto.

7. Procurement and Construction Contracts: All procurement and construction contracts shall comply with all relevant portions of OMB Circular A-110, including, but not limited to, the provisions required by Appendix A of OMB Circular A-110 as described below:
- a. Provisions or conditions that allow for administrative, contractual, or legal remedies for breach of contract, and sanctions and penalties for the breach; this condition applies only to procurement contracts in excess of the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently \$25,000);
 - b. Provisions for termination for cause and for convenience by **SUB-RECIPIENT**, the manner that such termination will be effected, and the basis for settlement; this condition applies only to procurement contracts in excess of the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently \$25,000);
 - c. Provisions requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity" and as supplemented in Department of Labor Regulations (41 CFR Part 60). (This Order provides, in part, that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federally assisted construction contracts);
 - d. Provisions evidencing compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 74 as supplemented in Department of Labor regulations 29 CFR Part 3). (This Act makes it a criminal offense for any person to induce, by any manner whatsoever, any person employed in the construction, prosecution, completion, or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment.); this condition is required of all contracts and subgrants in excess of two thousand dollars (\$2,000) for construction or repair.
 - e. Provisions evidencing compliance with the Davis-Bacon Act (40 U.S.C. 276 a to a-7) as supplemented by Department of Labor regulations 29 CFR Part 6, (this Act requires provisions regarding minimum wages, fringe benefits, payments with deductions or rebates, withholding funds from contractors to ensure compliance with the wage provision, and termination of the contract or debarment for failure to adhere to the required priority); this condition is required only for construction contracts in excess of two thousand dollars (\$2,000);
 - f. Notice of any **CITY** requirements and regulations pertaining to reporting copyrights in accordance with 29 CFR 8534; and patents in accordance with 37 CFR Part 401;
 - g. Access by **SUB-RECIPIENT**, the **CITY**, the Federal grantor agency, the Comptroller General of the United States, or documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions;
 - h. Provisions requiring retention of all required records for three years after **CITY** makes final payments and all other pending matters are closed;
 - i. For contracts in excess of one hundred thousand dollars (\$100,000), provisions requiring compliance with all applicable standards, orders, or requirements of the

Clear Air Act (42 U.S.C. 7401 et. seq. and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et. seq.); and provisions requiring that violations of the Clean Air Act and the Federal Water Pollution Control Act be reported to the Federal grant awarding agency and the Regional Office of the U.S. Environmental Protection Agency (EPA);

- j. Mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).
- k. Where applicable, all contracts in excess of \$2,000 for construction contracts and in excess of \$25,000 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333). as supplemented by Department of Labor regulations (29 CFR part 5).
- l. Contracts or agreements for the performance of experimental, development, or research work shall provide for the rights of the Federal Government and the recipient in a resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."
- m. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification in compliance with 31 U.S.C. 1352, "Byrd Anti-Lobbying Amendment."
- n. No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension." Contractors with awards in excess of the small purchase threshold shall provide the required certification regarding exclusion status.

VIII. PERSONNEL AND PARTICIPANT CONDITIONS

- A. Equal Employment Opportunities Practices: The **SUB-RECIPIENT** shall make every effort to ensure that all projects funded wholly or in part by Measure H funds shall provide equal employment and career advancement opportunities for minorities and women. In addition, the **SUB-RECIPIENT** shall make every effort to employ residents of the area and shall keep a record of the positions that have been created directly or as a result of this program. Further, **SUB-RECIPIENT** shall comply in full with **CITY's** Equal Employment Opportunities Practices in Contracting Ordinance (Pasadena Municipal Code, Chapter 4.08), as amended from time to time.
 - 1. Provision of Program Services
 - a. The **SUB-RECIPIENT** shall not on the ground of race, color, religion, national origin, sex, handicap or familial status exclude any person from participation in, deny any person the benefits of, or subject any person to discrimination under any program or activity funded in whole or in part with Measure H funds.
 - b. The **SUB-RECIPIENT** shall not under any program or activity funded in whole or in part with Measure H funds, on the ground of race, color, religion, national origin, sex, handicap or familial status:
 - (1) Deny any facilities, services, financial aid or other benefits provided under the program or activity.

- (2) Provide any facilities, services, financial aid or other benefits which are different or are provided in a different form from that provided to others under the program or activity.
 - (3) Subject a client to segregated or separate treatment in any facility in, or in any manner of process related to receipt of any service or benefit under the program or activity.
 - (4) Restrict in any way access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid, or other benefits under the program or activity.
 - (5) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which the individual must meet in order to be provided any facilities, services, or other benefit provided under the program or activity.
 - (6) Deny a client an opportunity to participate in a program or activity as an employee.
- c. The **SUB-RECIPIENT** may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, religion, national origin, sex, handicap, or familial status or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity for individuals of a particular race, color, religion, national origin, sex, handicap or familial status.
- d. The **SUB-RECIPIENT**, in determining the site or location of housing or facilities provided in whole or in part with Measure H funds, may not make selections of such site or location which have the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the grounds of race, color, religion, national origin, sex, handicap, or familial status or which have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Civil Rights Act of 1964 and amendments thereto.
- e. (1) In administering a program or activity funded in whole or in part with Measure H funds regarding which the **SUB-RECIPIENT** has previously discriminated against persons on the grounds of race, color, religion, national origin, sex, handicap, or familial status, the **SUB-RECIPIENT** must take affirmative action to overcome the effects of prior discrimination.
- (2) Even in the absence of such prior discrimination, the **SUB-RECIPIENT**, in administering a program or activity funded in whole or in part with Measure H funds, should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, religion, national origin, sex, handicap, or familial status. Where previous discriminatory practice or usage tends, on the grounds of race, color, national origin, sex, handicap, or familial status, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which Measure H funding applies, the **SUB-RECIPIENT** has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the Civil Rights Act of 1964.

- (3) The **SUB-RECIPIENT** shall not be prohibited by this part from taking any eligible action to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction where the purpose of such action is to overcome prior discriminatory practice or usage.
- f. Notwithstanding anything to the contrary in the provisions under Section VIII.A.(1)(b)(1)-(5), nothing contained herein shall be construed to prohibit the **SUB-RECIPIENT** from maintaining or constructing separate living facilities or rest room facilities for the different sexes. Furthermore, selectivity on the basis of sex is not prohibited when institutional or custodial services can properly be performed only by a member of the same sex as the recipients of the services.

2. Employment Discrimination

- a. The **SUB-RECIPIENT** shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, handicap, or familial status. The **SUB-RECIPIENT** shall take affirmative action to ensure that applicants are employed, and that employees are treated, during employment, without regard to their race, color, religion, sex, national origin, age, handicap, or familial status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training including apprenticeship. The **SUB-RECIPIENT** agrees to post in conspicuous place available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The **SUB-RECIPIENT** shall, in all solicitations or advertisements for employees placed by or on behalf of the **SUB-RECIPIENT**, state that all qualified applicants will receive consideration for employment without regards to race, color, religion, sex, national origin, age, handicap, or familial status.
- c. The **SUB-RECIPIENT** shall 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 **CITY's** contracting officers advising the labor union or workers' representative of the **SUB-RECIPIENT's** commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.
- d. The **SUB-RECIPIENT** shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The **SUB-RECIPIENT** shall furnish to the **CITY** all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the related rules, regulations, and orders.
- f. In the event of the **SUB-RECIPIENT's** failure to comply with any rules, regulations, or orders required to be complied with pursuant to this Agreement, the **CITY** may cancel, terminate, or suspend in whole or in part its performance and the **SUB-RECIPIENT** may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as

provided in Executive Order No. 11245 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- g. The **SUB-RECIPIENT** shall include the provisions of the "Equal Employment Opportunities Practices," Section VIII.A. and all relevant subsections, in every sub-contract or purchase order unless exempted by rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each sub-contractor or vendor. The **SUB-RECIPIENT** shall take such action for any sub-contract or purchase order as the **CITY** may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that, in the event the **SUB-RECIPIENT** becomes involved in, or is threatened with, litigation with a sub-contractor or vendor as a result of such direction by the **CITY**, the **SUB-RECIPIENT** may request the United States to enter into such litigation to protect the interests of the United States.
- h. The **SUB-RECIPIENT** shall not discriminate on the basis of age in violation of any provision of the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or regarding any otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).
- i. The **SUB-RECIPIENT** shall also provide ready access to and use of all Measure H-fund assisted buildings to physically handicapped persons in compliance with the standards established in the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.) and the Americans with Disabilities Act (42 U.S.C. §12101 et. seq.).
 - (1) Remedies: In the event of **SUB-RECIPIENT**'s failure to comply with any rules, regulations, or orders required to be complied with pursuant to this Agreement, the **CITY** may cancel, terminate, or suspend in whole or in part its performance and **SUB-RECIPIENT** may be declared ineligible for further Government contracts and any such other sanctions as may be imposed and remedies invoked as provided by law.

B. Personnel Policies: **CITY** may review **SUB-RECIPIENT**'s personnel policies and may make available to **SUB-RECIPIENT** personnel policies developed by **CITY**. **CITY**'s personnel policies are optional with **SUB-RECIPIENT**, unless (a) at the time of negotiations of this Agreement, **CITY** mandates **SUB-RECIPIENT** to use the **CITY**-developed personnel policies, in which case the requirement is attached hereto under special provisions, or (b) **CITY** verifies personnel management problems during the program year, in which instance the **CITY** Manager may require use of the **CITY**-developed personnel practices, including use of a **CITY** Personnel Policies Manual, as a condition of continued funding of future contract awards. Personnel policies include, but are not limited to, staff size and levels, salaries, supervisory-subordinate ratios, consultant fees, fringe benefits and other related matters.

C. Nepotism: **SUB-RECIPIENT** hereby agrees not to hire or permit the hiring of any person to fill a position funded through this Agreement if a member of that person's immediate family is employed in an administrative capacity by **SUB-RECIPIENT**. For the purposes of this section, the term "immediate family" means spouse, child, mother, father, brother, sister, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, stepparent and stepchild. The term "administrative capacity " means having selection, hiring, supervisory or management responsibilities including serving on the governing body of **SUB-RECIPIENT**.

- D. Outside Employment: In its written personnel policies, **SUB-RECIPIENT** shall include the following provisions governing outside employment of its employees:
1. Such employment shall not interfere with the efficient performance of the employee's duties in the implementation of this Agreement.
 2. Such employment shall not involve a conflict of interest or an appearance of impropriety with the employee's duties in the implementation of this Agreement.
 3. Such employment shall not involve the performance of duties which the employee should perform as part of his or her employment in the implementation of this Agreement; and
 4. Such employment shall not occur during the employee's regular or assigned working hours in the implementation of this Agreement, unless, during the entire day on which such employment occurs, the employee is on vacation, compensatory leave or leave without pay.
 5. **SUB-RECIPIENT** shall establish effective procedures to enforce these provisions and must provide specific procedures regarding outside employment of its full-time personnel whose duties are not readily confined to a standard work-day or work-week. This personnel includes, but is not limited to, Executive Directors, neighborhood workers and other employees whose responsibilities may require them to be available for duty during evenings or on weekends.

E. Conduct

1. Subcontracts

- a. Approvals: The **SUB-RECIPIENT** shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the **CITY**, prior to the execution of such agreement.
- b. Monitoring: The **SUB-RECIPIENT** 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 non-compliance.
- c. Content: The **SUB-RECIPIENT** shall cause all of the provisions of this contract, 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 **SUB-RECIPIENT** shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the **CITY** along with documentation concerning the selection process.

2. Conflict of Interest: The **SUB-RECIPIENT** agrees to abide by the provisions of 24 CFR, Part 570.611 regarding conflicts of interest. The **SUB-RECIPIENT** certifies that no member, officer, or employee of the **SUB-RECIPIENT** is an officer or employee of the **CITY**, or a member of any of its boards, commissions, or committees or has any interest or holding which could be affected by any actions taken in execution of this agreement.

3. Lobbying & Lobbying Certification: The **SUB-RECIPIENT** certifies, to the best of its knowledge and belief, that no State appropriated funds have been paid or will be paid, by

or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, any government official, an officer or employee of the State Legislature in connection with the awarding of any State contract, the making of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State contract, grant, loan, or cooperative agreement.

4. No Benefit to Arise to Local Employee: No member, officer, or employee of the **CITY**, or its designees or agents, no member of the governing body of **CITY**, and no other public official who exercises any functions or responsibilities regarding the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement.
5. Use of Funds for Entertainment or Gifts: The **SUB-RECIPIENT** certifies and agrees that it will not use funds provided through this Contract to pay for entertainment or gifts.
6. Copyright: If this contract results in any copyrightable material or inventions, the **CITY** 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 government purposes. The **SUB-RECIPIENT** agrees to comply with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contract and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
7. Religious Proselytizing or Political Activities: The **SUB-RECIPIENT** agrees that it will not perform or permit any religious proselytizing or political activities in connection with the performance of this Agreement. Funds under this agreement will be used exclusively for performance of the services required under this Agreement and no funds shall be used to promote any religious or political activities.
8. Equal Employment Opportunity: In addition to the Equal Employment Opportunities Practices described in Section VIII.A. of this Agreement, **SUB-RECIPIENT** agrees to comply with all applicable provisions of Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
9. Clean Air Act and Federal Water Pollution Control Act Compliance as amended (33 U.S.C. 1251 et. seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the U.S. Environmental Protection Agency.
10. Copeland "Anti-Kickback" Act Compliance: **SUB-RECIPIENT** agrees to comply with all relevant portions of the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c), which prohibits contractors and **SUB-RECIPIENT**s from inducing, by any means, any person employed in construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. **SUB-RECIPIENT** agrees to report any and all suspected or reported violations to the Federal awarding agency.
12. Contract Work Hours and Safety Standards Act Compliance: **SUB-RECIPIENT** agrees to comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5), which governs the standard work week and overtime provisions.

IX. SEVERABILITY

If any provision of this Agreement is found to be invalid, void, or unenforceable, the remaining provisions shall, insofar as reasonably possible, continue in full force in effect without being impaired or invalidated in any way.

X. COUNTERPARTS

This Agreement may be executed in counterparts. When executed, each counterpart shall be deemed an original, irrespective of date of execution. The counterparts shall together constitute one and the same Agreement.

XI. WAIVER

CITY's waiver of one term or condition of this Agreement is not a waiver or breach of any other term or condition, nor of a subsequent breach of the term or condition waived.

XII. INTERPRETATION

A. Order of Precedence. In the event there are inconsistencies or conflicts in this Agreement or any exhibits or attachments hereto, unless otherwise provided herein, the inconsistencies shall be resolved by giving precedence in the following order:

1. The Regulations pursuant to California Health and Safety Code Section 34176.1(a)(2) as approved by the State; and any additional regulations codified in the in relation to the allocation of Measure H funding for homeless services;
2. The provisions of this Agreement and exhibits and attachments thereto.
3. In case of conflict between the terms of this Agreement and the terms contained in any document attached as an exhibit, the terms of the Agreement will strictly prevail unless said terms are in conflict with federal, state or local law, in which case said law shall strictly prevail.

B. Applicable Law: This Agreement, and the rights and duties of the parties hereunder (both procedural and substantive), shall be governed by the laws of the State of California, except where superseded by federal law.

C. Entire Agreement: This Agreement constitutes the entire agreement and understanding between the parties regarding its subject matter and supersedes all prior or contemporaneous negotiations, representations, understandings and agreements, written or oral.

XIII. EXHIBITS

The Exhibits to this Agreement are an integral part of this Agreement and have each been incorporated herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first written above.

**“CITY”
CITY OF PASADENA**

ATTEST:

MARK JOMSKY, CMC
City Clerk

BY: _____
STEVE MERMELL
City Manager

DATED: _____

DATED: _____

Approved As To Form:

“Sub-Recipient”
XXXXXXXXXXXXXXXXXX

BRAD L. FULLER **DATE**
Assistant City Attorney

BY: _____
XXXXXXXXXXXXXXXXXX **DATE**
Chief Executive Officer

- cc: City Clerk (original)
 Sub-Recipient (original)
 Project File
 City Attorney
 Finance Department:
 Grants Accounting Division
 Purchasing Section