

AGREEMENT NO. \_\_\_\_\_

## CONTRIBUTION AGREEMENT

**THIS AGREEMENT** is made and entered into on \_\_\_\_\_, by and between the **CITY OF BAKERSFIELD**, a municipal corporation ("CITY" herein), and the **COUNTY OF KERN**, a political subdivision of the State of California ("RECIPIENT" herein).

### RECITALS

**WHEREAS**, In November 2018, City Council passed Resolution No. 143-18 declaring a shelter crisis within the City in response to the local 2017 "Point in Time Count" showing 643 "un-sheltered" homeless persons within the Metropolitan Bakersfield area, or individuals out on the streets, without access to an "Emergency Shelter bed;" and

**WHEREAS**, CITY and RECIPIENT have partnered to address the crisis by funding the new Bakersfield-Kern Regional Homeless Collaborative serving as the "continuum of care" to get homeless individuals off the street, connect them to resources, and create a path to permanent housing; and

**WHEREAS**, CITY and RECIPIENT jointly recognize the need to address the shelter crisis by expediently bringing online facilities that adequately house the area's growing unsheltered population with the CITY having approved construction of a 150-bed low barrier shelter at 1900 East Brundage Avenue and the COUNTY having approved a 150-bed low barrier shelter at 2900 M Street ("FACILITY" herein); and

**WHEREAS**, on January 14, 2020 RECIPIENT awarded a contract to an independent contractor ("COUNTY CONTRACTOR" herein) to professionally operate the FACILITY; and

**WHEREAS**, RECIPIENT has requested and the Bakersfield City Council has approved a contribution to support expenses related to the operation of the FACILITY; and,

**NOW, THEREFORE**, incorporating the foregoing recitals herein, CITY and RECIPIENT mutually agree as follows:

**1. CONTRIBUTION.** CITY shall make a single contribution to RECIPIENT of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) (the "CONTRIBUTION") to be used for the operation of the COUNTY low barrier shelter at 2900 M Street. Additional CONTRIBUTION can be requested by the County per section 5.

2. **USE OF CONTRIBUTION.** The RECIPIENT shall use CONTRIBUTION solely for FACILITY operating costs and in accordance with procedures, processes and metrics that are geared toward the overall health of clients and the transition of clients to permanent housing.

3. **RECORDS MAINTAINANCE.** The RECIPIENT shall maintain records in compliance with all applicable laws and require that the COUNTY CONTRACTOR request each incoming client to provide "Location Data" that lists the address or of their last known residence and/or the nearest street intersection where they last spent a night unsheltered prior to being admitted to the FACILITY.

4. **REPORTING DUTIES OF RECIPIENT.** The RECIPIENT shall provide the following to the CITY:

4.1 An Initial Report to the City Council within 90 days of the first day of FACILITY operation or no later than August 31, 2020. The Initial Report shall include detailed Accounting Report of expenditures for the CONTRIBUTION and the "Location Data."

4.2 A Final Report to the City Council in February 2021. The Final Report shall include detailed Accounting Report of expenditures for the CONTRIBUTION and the "Location Data" from initial operating through January 2021.

5. **FUTURE CONTRIBUTIONS.** Requests from the COUNTY for future contributions, if needed, shall be made as a part the Final Report in February 2021, with the requested future CONTRIBUTION to be included in the CITY's FY 21/22 Budget, effective July 1, 2021.

6. **NO WAIVER OF DEFAULT.** The failure of any party to enforce against another party any provision of this Agreement shall not constitute a waiver of that party's right to enforce such a provision at a later time, and shall not serve to vary the terms of this Agreement.

7. **MERGER AND MODIFICATION.** This contract sets forth the entire Agreement between the parties and supersedes all other oral or written representations. This contract may be modified only in writing and signed by all the parties. If any modification of this Agreement results in total compensation which exceeds Five Hundred Thousand Dollars (\$500,000.00), such modification must be approved by the City Council.

8. **COMPLIANCE WITH ALL LAWS.** RECIPIENT shall, at RECIPIENT's sole cost, comply with all of the requirements of State and Federal authorities now in force, or which may hereafter be in force, pertaining to this Agreement, and shall faithfully observe in all activities relating to or growing out of this Agreement all State and Federal statutes, rules or regulations now in force or which may hereafter be in force.

9. **NEGATION OF PARTNERSHIP.** CITY shall not become or be deemed a partner or joint venturer with RECIPIENT or associate in any such relationship with RECIPIENT by reason of the provisions of this Agreement. RECIPIENT shall not for any purpose be considered an agent, officer or employee of CITY.

10. **EQUIPMENT.** RECIPIENT and will supply all equipment, tools, materials and supplies necessary to perform the services under this Agreement.

11. **HOLD HARMLESS.** No Party, nor any officer or employee of a Party, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by another Party under or in connection with this Agreement.

12. **EXECUTION.** This Agreement is effective upon execution. It is the product of negotiation and all parties are equally responsible for authorship of this Agreement. Section 1654 of the California Civil Code shall not apply to the interpretation of this Agreement.

13. **NOTICES.** All notices relative to this Agreement shall be given in writing and shall be personally served or sent by certified or registered mail and be effective upon actual personal service or depositing in the United States mail. The parties shall be addressed as follows, or at any other address designated by notice:

CITY: CITY OF BAKERSFIELD  
CITY HALL  
1600 Truxtun Avenue  
Bakersfield, California 93301

RECIPIENT: COUNTY OF KERN  
COUNTY ADMINISTRATIVE OFFICE  
1115 Truxton Avenue, 5<sup>th</sup> Floor  
Bakersfield, California 93301

14. **GOVERNING LAW.** The laws of the State of California will govern the validity of this Agreement, its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in Kern County, California.

15. **FURTHER ASSURANCES.** Each party shall execute and deliver such papers, documents, and instruments, and perform such acts as are necessary or appropriate, to implement the terms of this Agreement and the intent of the parties to this Agreement.

16. **ASSIGNMENT.** Neither this Agreement nor any rights, interests, duties, liabilities, obligations or responsibilities arising out of, concerning or related in any way to this Agreement (including, but not limited to, accounts, actions, causes of action, claims, damages, demands, liabilities, losses, obligations, or reckonings of any kind or nature whatsoever, for compensatory or exemplary and punitive damages, or declaratory, equitable or injunctive relief, whether based on contract, equity, tort or other theories of recovery provided for by the common or statutory law) may be assigned or transferred by any party. Any such assignment is prohibited, and shall be unenforceable and otherwise null and void without the need for further action by the non-assigning party or parties.

17. **BINDING EFFECT.** The rights and obligations of this Agreement shall inure to the benefit of, and be binding upon, the parties to the Agreement and their heirs, administrators, executors, personal representatives, successors and assigns.

18. **COUNTERPARTS.** This Agreement may be executed simultaneously or in one or more counterparts, each of which shall be deemed an original but all of which together constitute one and the same instrument.

19. **CORPORATE AUTHORITY.** Each individual signing this Agreement on behalf of entities represents and warrants that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

20. **TAX NUMBERS.**

RECIPIENT's Federal Tax ID Number: \_\_\_\_\_  
RECIPIENT is a corporation? Yes   X   No \_\_\_\_\_  
(Please check one.)

21. **NON-INTEREST.** No officer or employee of the CITY shall hold any interest in this Agreement (California Government Code section 1090).

22. **RESOURCE ALLOCATION.** All obligations of CITY under the terms of this Agreement are subject to the appropriation and allocation of resources by the City Council.

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

"CITY"  
**CITY OF BAKERSFIELD**

"RECIPIENT"  
**COUNTY OF KERN**

By:\_\_\_\_\_  
**KAREN GOH**  
Mayor

By:\_\_\_\_\_  
**LETICIA PEREZ**  
Chairman, Board of Supervisors

APPROVED AS TO CONTENT:  
**VIRGINA GENNARO**  
Interim City Manager

By:\_\_\_\_\_  
**JACQUI KITCHEN**  
Assistant City Manager

APPROVED AS TO FORM:  
**VIRGINIA GENNARO**  
City Attorney

By:\_\_\_\_\_  
**RICHARD IGER**  
Deputy City Attorney  
Insurance:\_\_\_\_\_

COUNTERSIGNED:

By:\_\_\_\_\_  
**RANDY MCKEEGAN**  
Finance Director

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