

AGREEMENT NO. _____

**COUNTY OF KERN PUBLIC HEALTH DEPARTMENT
AGREEMENT FOR HOUSING OPPORTUNITIES FOR
PERSONS WITH AIDS (HOPWA-CV) CARES FUNDING**

THIS AGREEMENT is made on _____, by and between the **CITY OF BAKERSFIELD**, a California charter city and municipal corporation ("CITY") and **COUNTY OF KERN, PUBLIC HEALTH DEPARTMENT**, a political subdivision of the State of California ("COUNTY").

RECITALS

WHEREAS, the Congress of the United States has enacted the "AIDS Housing Opportunity Act" at 42 USC 12901 et. seq. of the Cranston-Gonzalez "National Affordable Housing Act" and amendments (hereinafter called the "the Act"); and

WHEREAS, the Housing Opportunities for Persons With AIDS (HOPWA) program was authorized by the Department of Housing and Urban Development ("HUD") to provide States and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome (AIDS); and

WHEREAS, it is HUD's goal to increase access to decent, stable, and affordable housing for low-income persons living with HIV and AIDS and their families; and

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-9"); and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help state prepare for broader spread of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 17, 2020, the first case of COVID-19 in Kern County was confirmed; and

WHEREAS, on March 19, 2020, the Governor of the State of California, Gavin Newsom, issued Executive Order N-33-20, ordering all individuals in the State of California to stay home except as needed to maintain continuity of operations of the federal critical infrastructure sections; and

WHEREAS, on March 19, 2020, City Manager acting as the Director of Emergency Services proclaimed the existence of a local emergency as a result of the threat of COVID-19; and

WHEREAS, on March 25, 2020, the City Council ratified the proclamation of the existence of a local emergency in response to the COVID-19 pandemic at its March 25, 2020 meeting; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health and the Kern County Health Officer have all issued shelter in place orders to enforce social distancing, prohibited group events, and taken other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many residents and businesses in Bakersfield will experience sudden and unexpected income loss; and

WHEREAS, CITY has submitted required documents to the Department of Housing and Urban Development ("HUD") for receipt of a HOPWA Grant ("Grant") and CITY was awarded a Grant; and

WHEREAS, California Government Code Section 53703 authorizes cities to participate in federally-funded health, welfare, public works, and community-improvement programs, and empowers cities to contract with public and private agencies; and

WHEREAS, CITY shall not be obligated to disburse, or pay to, COUNTY or any third party, any funds until and after CITY receives Grant funds from the federal government; and

WHEREAS, COUNTY has operated the HOPWA program for the CITY, through the State of California since 2008 by providing grant services on behalf of the CITY for use in the Bakersfield Eligible Metropolitan Statistical Area (EMSA); and

WHEREAS, CITY desires to assist COUNTY by making grant funding available for a portion of the costs associated with certain activities as are permitted for citizens in the Bakersfield EMSA.

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

1. DEFINITIONS. Except as modified or supplemented by the Grant Agreement, entered into by CITY and HUD, any term defined in the Act, or HOPWA Program regulations at 24 CFR 574 et. seq., shall have the same meaning in this Agreement.

1.1 "Program" means CITY's Community Development Program, and its

administration.

1.2 "Project" refers to activities to be carried out by COUNTY and COUNTY's subrecipients under the HOPWA Program, as more fully described in Schedule "A" attached hereto and incorporated herein by this reference as if stated in full.

1.3 "Program Income" as defined in 24 CFR 84.2 shall mean: "[Gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award (see exclusions in section 84.24(e) and (h)). Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in HUD regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them."

1.4 "Fiscal Year" means a twelve-month period beginning July 1, and ending June 30 to coincide with the CITY's budget year.

1.5 "HOPWA Program" as defined in 24 CFR 574 et. seq. means "activities or programs designed to provide services and increase access to decent, stable, and affordable housing for low-income persons living with HIV and AIDS and their families, including (but not limited to):

1.5.1 Short-term rent subsidies to defray rent and emergency utility assistance for families;

1.5.2 Hotel/motel voucher assistance;

1.5.3 Care plan to address need for services, food, transportation as well as linkages into treatment and care for HIV/AIDS disease and other associated medical issues;

1.5.4 Emergency mortgage assistance;

1.5.5 Tenant Based Rental Assistance (TBRA) vouchers; and

1.5.6 Staff salaries necessary to provide the above services.

1.6 "Eligible Metropolitan Statistical Area (EMSA) means a metropolitan statistical area that has a population of more than 500,000 and has more than 1,500 cumulative cases of AIDS.

1.7 "Eligible Person" shall mean a person with acquired immunodeficiency syndrome or related diseases who is a low-income individual and the person's

family.

2. SCOPE OF WORK. COUNTY will be responsible for administering the Project in a manner satisfactory to CITY and consistent with any standards required as a condition of providing these funds. The Scope of Work of the Project will include the activities as set out in **Schedule "A"** attached hereto and incorporated by reference herein.

2.1 That portion of the scope of work related to the development and implementation of eligible HOPWA grant activities shall specifically comply with the requirements set forth in 24 CFR 574.300.

3. PAYMENT. It is expressly agreed and understood that the total amount to be paid by CITY under this Agreement shall not exceed EIGHTY-NINE THOUSAND ONE HUNDRED FIFTY-EIGHT DOLLARS AND FIFTY TWO CENTS (\$89,158.52).

3.1 Disbursement of Funds. CITY shall not be obligated to disburse, or pay to, COUNTY or any third party, any funds until and after CITY receives HOPWA funds from the federal government. If CITY does not receive such funds, CITY, at its option, may terminate or suspend this Agreement without any liability to COUNTY or its subrecipients until CITY receives such funds. COUNTY shall not be entitled to any damages from CITY if CITY refuses to disburse funds until CITY receives funds, even if COUNTY or any third party has detrimentally relied upon this Agreement.

3.1.1 COUNTY shall conform to the "time frame" as set forth in **Schedule "A"**, for reporting purposes which references the fiscal year beginning July 1 and ending June 30 of the following year, attached hereto and incorporated herein by reference. COUNTY shall pay for any and all costs greater than EIGHTY-NINE THOUSAND ONE HUNDRED FIFTY EIGHT AND FIFTY TWO CENTS (\$89,158.52).

3.2 Method of Payment.

3.2.1 Services, Maintenance, and/or Operations Grants. CITY agrees to pay "claims for payment" directly to COUNTY within thirty (30) days after CITY receives a satisfactory "claim for payment." COUNTY shall properly itemize and document claims for payment to show clearly the items, tasks, or services for which COUNTY claims reimbursement. COUNTY shall also describe the basis for computation: cost per hour, cost per weight, cost per task, or other measurement as CITY may specify. CITY may review the claim for completeness and accuracy, and may refuse to pay any claim until explained to CITY's satisfaction.

3.2.2 HOPWA-CV Activities. CITY agrees to pay "claims for payment" directly to COUNTY within thirty (30) days after CITY receives a satisfactory "claim for payment". COUNTY shall properly itemize and document claims for payment to show clearly the items, tasks, or services for which COUNTY claims reimbursement (see **Exhibit "A"**). COUNTY shall also provide copies of receipts, invoices or other documentation as appropriate to substantiate claim for payment of HOPWA Activities.

3.2.2.1. All amounts requested by COUNTY shall conform to the restrictions of 24 CFR 574.300 et. seq.

3.2.3 Term. The term of this Agreement shall begin July 1, 2020, and end January 1, 2022. This term may be extended for up to six months in accordance with Section 9.3 of this Agreement, in the event all funds are not expended by January 1, 2022. Notwithstanding the term of this Agreement, HUD allows for the reimbursement of COUNTY'S eligible costs of HOPWA activities incurred since January 20, 2020.

4. COUNTY'S OBLIGATIONS. In addition to the terms stated herein, COUNTY shall comply with the following Federal and State laws and regulations:

4.1 Laws and Regulations

4.1.1 Federal. COUNTY shall obey the Act, any amendments, Federal regulations and guidelines now or hereafter enacted pursuant to the Act, terms of the Grant to CITY now or hereafter in effect, and CITY's regulations now or hereafter enacted to facilitate administration of the Grant, or any other statute, regulation, or guideline applicable to the Program. COUNTY shall become familiar with the appropriate statutes, regulations, and guidelines governing the Grant program.

4.1.2 California. COUNTY shall comply with all provisions of California law applicable to this Agreement.

4.1.3 Independent Contractor. This Agreement calls for the performance of the services of COUNTY and its subrecipients as an independent

contractor. COUNTY and its subrecipients are not an agent or employee of the CITY for any purpose and is not entitled to any of the benefits provided by CITY to its employees. This Agreement shall not be construed as forming a partnership or any other association with COUNTY or its subrecipients other than that of an independent contractor.

4.2 Insurance. Both parties warrant that they participate in a program of self-insurance, or carry policies of insurance placed with reputable insurance companies licensed to do the business of insurance in the state of California with a Best's rating of at least "A-; VII," which insures against the perils of bodily injury, personal injury, malpractice liability, and property damage, and covers such liabilities and claims as are imposed by law. Both parties shall continue to maintain such insurance or self-insurance in full force and effect during the term of this Agreement and carry limits of liability of not less than one million dollars (\$1,000,000) per claim and three million dollars (\$3,000,000) policy aggregate. Proof of this insurance coverage is to be provided upon request.

4.3 Indemnification. Both parties to this Agreement agree to indemnify, defend and hold harmless the other party and their officers, agents, and employees from any and all claims, demands, judgments, damages, costs, liabilities or losses arising from, or in any way relating to, their respective acts or omissions, and the acts or omissions of their officers, agents and employees, under this Agreement.

5. CITY's OBLIGATIONS.

5.1 Copy of Regulations and Statutes. CITY will make available to COUNTY a copy of any regulation CITY enacts to facilitate administration of said Program.

6. ADMINISTRATIVE REQUIREMENTS.

6.1 Records and Administration. COUNTY agrees to comply with the policies, guidelines, and requirements of 24 CFR 574 et. seq. as they relate to the acceptance and use of HOPWA-CV grant amounts.

6.1.1 COUNTY agrees to maintain Project documents, records and accounts, personnel and financial records, and submit such financial and performance reports as are required by assuring a proper accounting of all Project funds, as required by the regulations adopted pursuant to the Act. Methods used to determine costs assigned to the Project must conform to 24 CFR Part 84 and must not differ substantially from the methods used by COUNTY to determine costs for other aspects of its operations or programs. Project records will be available for audit purposes to CITY, HUD of the Controller General of the United States, or any authorized representative thereof, and will be retained for five (5) years after completion of the Project, or resolution of any applicable audit issues, whichever comes last.

6.1.2 COUNTY shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, ethnicity and description of service provided. Such information shall be made available to CITY or its designees for review upon request.

6.2 Close-Outs. COUNTY's obligation to 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 the CITY), and determining the custodianship of records.

6.3 Audits and Inspections. All COUNTY records with respect to any matters covered by this Agreement shall be made available to CITY, its designee or the Federal Government, at any time during normal business hours, as often as CITY deems 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 COUNTY within 30 days after receipt by it. Failure of COUNTY to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The COUNTY hereby agrees to have an annual audit conducted in accordance with current CITY policy concerning subrecipient audits and, as applicable, 24 CFR Part 84.

6.4 Reports and Payment Procedures.

6.4.1 Program Income. COUNTY shall report annually all program income as defined at 24 CFR 84.2 generated by activities carried out with HOPWA-CV Program funds made available under this Agreement. The use of program income by COUNTY shall comply with the requirements set forth at 24 CFR 84.2. All unused program income shall be returned to CITY at the end of the Agreement period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be remitted promptly to CITY.

6.5 Personnel and Participant Conditions.

6.5.1 Non-discrimination Requirements. Under any related agreements or contracts, COUNTY shall provide that no person, on the grounds of race, color, national origin, religion, or sex shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with HOPWA-CV Program funds. In addition, HOPWA-CV Program funds must be made available in accordance with the following:

6.5.1.1. The requirements of the Fair Housing Act and implementing regulations at 24 CFR 100.

6.5.1.2. Executive Order 11063 (Equal Opportunity in Housing).

6.5.1.3. Through the Coronavirus Relief Fund, the CARES Act provides for payments to State, Local, and Tribal governments navigating the impact of the COVID-19 outbreak.

6.5.1.4. COUNTY shall adopt and implement procedures designed to make available to interested persons information concerning the existence and location of services and facilities to persons who are eligible for such services, but are unlikely to be made aware of them. COUNTY shall adopt a policy of non-discrimination which complies with the laws listed under the above paragraphs F(1)(a), F(1)(b) and F(1)(c) of this title with respect to the provision of services to any person within 60 days from the date of the execution of this Agreement. COUNTY shall further provide training to its employees regarding the enacted policy and applicable federal and state law regarding the federal and state fair housing acts within 90 days from the date of the execution of this Agreement.

6.5.2 Rehabilitation Act of 1973 and Americans with Disabilities Act. This Agreement is subject to the provisions of Section 503 and 504 of the Rehabilitation Act of 1973 (PL 930112), 29 USC 706, and attendant regulations at 24 CFR, Part 8, which provide that no otherwise qualified, disabled individual shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance. This Agreement is also subject to the Americans with Disabilities Act of 1990 (Public Law 101-336), as amended, 42 USC 12101, et. seq. COUNTY shall, through its board of directors, adopt a policy of non-discrimination on the basis of disability with respect to the provision of services to any person and which complies with applicable federal and state law within 60 days from the date of the execution of this Agreement. COUNTY shall further provide training to its employees regarding the enacted policy and applicable federal and state laws regarding the Rehabilitation Act of 1973 within 90 days from the date of the execution of this Agreement.

6.5.3 Non-discrimination Because of Age. This Agreement is subject to the Age Discrimination Act of 1975, as amended, (Title III of Public Law 94-135) and attendant Code of Federal Regulations at 48 CFR, Part 22, Subpart 22.9. That Act sets forth that, except as otherwise provided, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

6.5.4 Equal Employment Opportunity (Non-discrimination Clause). COUNTY shall not discriminate against any employee, or applicant for employment, because of race, color, religion, sex, national origin, age, disability, or sexual orientation. COUNTY shall take affirmative action to insure that applicants for employment and employees are treated during employment, without regard to race, color, religion, sex, national origin, age, disability, or sexual orientation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation;

and selection for training, including apprenticeship. COUNTY shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by CITY or HUD setting forth the provisions of this nondiscrimination clause. COUNTY shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, disability, or sexual orientation.

6.6 Women- and Minority-Owned Business Enterprises. COUNTY agrees to abide by the requirements of Executive Orders 11625, 12432 and 12138, the HUD regulations issued pursuant thereto at 41 CFR Part 24, 41 CFR Subpart 1-1.13, and any applicable rules and orders of HUD. The foregoing require the maximum practicable opportunity to participate, in contracts funded in whole or in part with federal funds, be provided to women- and minority-owned business enterprises, as subcontractors and suppliers to contractors performing work, or rendering services as prime contractors or subcontractors, under federally-funded procurement contracts.

6.6.1 Affirmative Action for the Vietnam-Era Veterans. COUNTY shall comply with 48 CFR, Chapter 1, Subpart 22.13 and shall take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam Era without discrimination based on disability or veteran's status in all employment practices such as employment, upgrading, demotion, transfer, recruitment, advertising, layoff, or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

6.6.2 Federal Labor Standards Provisions. COUNTY shall comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provision of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a5; 40 U.S.C. 327 and 40 U.S.C. 276c) 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 contract. COUNTY shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to CITY for review upon request.

6.6.2.1. Except with respect to the rehabilitation of residential property designed for residential use for less than eight families, COUNTY, and all contractors engaged under contracts in excess of \$2,000 for the construction, alteration, and/or repair of any building or work financed in whole or in part with Federal funds provided under this Agreement, shall comply with HUD requirements pertaining to such contracts and the applicable requirements of the regulations of the Department of Labor under 29 CFR parts 3, 5, and 5.5a, governing the payment of wages and the ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under such regulations are imposed by state or local law, nothing hereunder is intended to relieve COUNTY of its obligation, if any, to require payment of higher rates. COUNTY shall cause or require to be inserted in full, in all such contracts subject

to such regulations, the clause, or any modification thereof, set out in 29 CFR parts 3, 5, and 5.5a. COUNTY shall comply with the procedures set out in the HUD handbook 1344.1, "Federal Labor Standards Compliance in Housing and Community Development Programs" (as amended).

6.6.2.2. COUNTY shall make no awards of contracts under this Agreement to any contractor ineligible under any applicable regulations of the Department of Labor.

6.6.3 Use of Grant Funds for Religious Purpose. COUNTY shall permit no HOPWA Program funds to be expended for the design, construction, operation, or maintenance of any facility to be used for sectarian instruction or as a place for religious worship, except in situations where such use is incidental and does not favor one religious group over another, as further described at 24 CFR 576.22.

6.6.4 Prohibited Interest of Officials and Employees. No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from it. No member, officer or employee of COUNTY, or its designees or agents, no member of CITY's Council or any other public official who exercises any functions or responsibilities with respect to the HOPWA Program during the above-described person's tenure, or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this Agreement.

6.6.4.1. The requirements of Executive Order 11246 and the regulations issued under the Order at 41 CFR Chapter 60.

6.6.5 Political Activity. COUNTY shall expend no Grant funds to finance any political activity in contravention of the Hatch Act (Chapter 15 of Title 5 of the United States Code).

6.6.6 Lobbying. COUNTY certifies, to the best of its knowledge and belief, no Federally-appropriated funds have been paid or will be paid, by or on behalf of COUNTY, 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.

6.6.6.1. If funds, other than Federally-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, COUNTY shall complete and submit, in accordance with its instruction, Certification Regarding

Lobbying, **Exhibit "B"** attached hereto.

6.7 Drug-Free Workplace Act of 1988. COUNTY, in executing this Agreement, certifies that it and any of its agents or subcontractors will maintain a drug-free workplace in accordance with the requirements of 24 CFR Part 24, Subpart F. COUNTY shall complete and submit, in accordance with its instruction, Certification Regarding Drug Free Workplace.

6.8 Environmental Conditions.

6.8.1 Environmental Considerations. CITY and COUNTY want to assure that the policies of the National Environmental Policy Act of 1969 (NEPA), as amended, and the California Environmental Quality Act of 1970 (CEQA), as amended, are most effectively implemented, CITY shall comply with HUD Environmental Review Procedures (24 CFR Part 58) leading to certification of release of funds for particular projects, and the CEQA review procedures (Title 14, Section 15000 et. seq. of the California Administrative Code) in connection with this Project.

6.8.2 Clean Air and Water Acts. This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., Executive Order 11738, dated September 10, 1973, and the regulations of the Environmental Protection Agency at 40 CFR Part 15, as amended.

6.8.2.1. COUNTY shall cause or require to be inserted in full in all contracts and subcontracts with respect to any nonexempt (exceed \$100,000, or involve a facility the subject of a conviction under the Clean Air Act, or the Federal Waste Pollution Control Act, and listed by the Environmental Protection Agency, or not otherwise exempt) transaction, the clause set out in 48 CFR 52.223-2.

6.8.2.2. COUNTY shall also cause or require to be inserted in full, the certification set forth in 48 CFR 52.223-1, in each solicitation and resulting contract and contracts it awards without a solicitation.

6.8.2.3. COUNTY shall not use any funds under this Agreement for a facility which has a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

6.8.3 Architectural Barriers Act of 1968. This Agreement is subject to the requirements of the Architectural Barriers Act of 1968, as amended (42 USC 4151, et. seq.) and its regulations (41 CFR Subpart 101-19.6).

6.8.4 Historic Preservation. COUNTY shall take into account the effect of the Project on any COUNTY, site, building, structure or object listed in or found by the Secretary of Interior, pursuant to 36 CFR 800, to be eligible for inclusion by the National Park Service. COUNTY shall eliminate or minimize any adverse impact on

a historic property. Activities affecting such properties must comply with Section 106 of the National Historic Preservation Act of 1966 (16 USC 470f), P.L. 89-665, Executive Order 11593, May 13, 1971, the Preservation of Archaeological and Historical Data Act of 1960 (16 USC 469a-1, et. seq.), the Archaeological and Historic Preservation Act of 1974 (P.L. 93-291), and their implementing regulations.

6.8.5 Lead-Based Paint. This Agreement is subject to the Lead-Based Paint Poisoning Prevention Act (42 USC 4821, et. seq.) and its implementing regulations at 24 CFR Part 35.

7. SUBCONTRACTS. COUNTY shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of CITY prior to the execution of such contract.

7.1 COUNTY 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.

7.2 COUNTY 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.

7.3 COUNTY agrees that assistance provided under this Agreement shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services or, or fund any contractor during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

7.4 COUNTY shall undertake to insure 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 CITY along with documentation concerning the selection process.

8. CITY'S REMEDIES. If COUNTY fails to complete the Project within the time set forth in **Schedule "A,"** or fails to use the facility for the specified purpose, for the required time period, or fails to materially comply with the terms of this Agreement, CITY, at its option, may suspend or terminate this Agreement and/or require COUNTY to reimburse the total amount of the grant funds provided pursuant to this Agreement.

8.1 Concurrent Remedy. No right or remedy herein conferred on or reserved to CITY is exclusive of any other right or remedy herein or by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time.

9. **MISCELLANEOUS.**

9.1 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.

9.2 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.

9.3 Merger And Modification. All prior agreements between the parties are incorporated in this Agreement which constitutes the entire agreement. Its terms are intended by the parties as a final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. The parties further intend this Agreement constitutes the complete and exclusive statement of its terms and no extrinsic evidence whatsoever may be introduced in any judicial or arbitration proceeding involving this Agreement. This Agreement may be modified only in a writing approved by the City Council and signed by all the parties.

9.4 Corporate Authority. Each individual signing this Agreement on behalf of entities represent and warrant 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.

9.5 Assignment. Neither this Agreement, nor any interest in it, may be assigned or transferred by any party without the prior written consent of all the parties. Any such assignment will be subject to such terms and conditions as CITY may choose to impose.

9.6 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.

9.7 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:

If directed to CITY, addressed to:

CITY OF BAKERSFIELD
City Hall
1600 Truxtun Avenue
Bakersfield, CA 93301

or directed to the COUNTY, addressed to:

Kimberly Hernandez, Assistant Division Director
HOPWA Program
Public Health Services Department
1800 Mount Vernon Avenue, 2nd Floor
Bakersfield, CA 93306

9.8 Termination of Agreement. CITY reserves the right to terminate this Agreement upon giving COUNTY notice of intention to terminate at least 30 days prior to the effective date of the termination. CITY shall only convey to COUNTY funds for work done prior to the effective date of termination.

9.9 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.

9.10 Non-Interest. No officer or employee of the CITY shall hold any interest in this Agreement (California Government Code section 1090).

9.11 Tax Numbers.

"COUNTY's" Federal Tax Identification No. 95-60000925.

"COUNTY" is a CORPORATION? Yes X No .

(Please check one.)

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

"CITY"

CITY OF BAKERSFIELD

"COUNTY"

COUNTY OF KERN

By: _____

KAREN K. GOH

Mayor

By: _____

LETICIA PEREZ

Chairwoman, Board of
Supervisors

APPROVED AS TO CONTENT:
DEVELOPMENT SERVICES DEPARTMENT

APPROVED AS TO CONTENT:
PUBLIC HEALTH SERVICES DEPARTMENT

By: _____

CHRISTOPHER BOYLE

Development Services Director

By: _____

MATTHEW CONSTANTINE

Director

APPROVED AS TO FORM

VIRGINIA GENNARO

City Attorney

APPROVED AS TO FORM

GURUJODHA KHALSA

Chief Deputy County Counsel

By: _____

JOSHUA H. RUDNICK

Deputy City Attorney II

By: _____

COUNTERSIGNED

By: _____

RANDY MCKEEGAN

Finance Director

SCHEDULE "A"

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS PROGRAM – CARES FUNDING COUNTY OF KERN PUBLIC HEALTH DEPARTMENT

Purpose of Project

The Housing Opportunities for Persons with AIDS (HOPWA) Program was designed by the U.S. Department of Housing and Community Development (HUD) to provide resources and strategies to alleviate or prevent homelessness among persons living with HIV/AIDS and to ensure these households achieve and/or maintain housing stability and improve their access to HIV/AIDS care, treatment, and support.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was created to respond to the growing effects of this historic public health crisis. The US Congress has authorized the US Department of Housing and Urban Development (HUD) to provide supplemental Housing for Persons with HIV/AIDS (HOPWA-CV). All associated HOPWA-CV waivers issued by HUD will be accepted as part of HOPWA-CV implementation.

Description of Services

A. HOPWA Services

County Public Health (COUNTY) shall ensure funds are utilized through direct service or through subcontracting organizations in accordance with Code of Federal Regulations (CFR) Title 24 – Housing and Urban Development, Part 574); HUD Community Planning and Development Policies; HUD resource guides; current Office of AIDS (OA) HOPWA Application and Guidance; and OA Management Memoranda. The following describes each eligible program activity and its specific requirements:

1. Emergency Short-Term Rent, Mortgage and Utility Assistance (STRMU)
 - a. STRMU is a limited subsidy or payment subject to a limited time period to prevent the homelessness of a household with at least one person living with HIV/AIDS.
 - b. Rent payment, rent subsidy limitations, and housing quality standard requirements do not apply to the STRMU program (Note: If an assessment of the beneficiary's living situation reveals that the unit he/she occupies is substandard or unaffordable, it should be addressed in the beneficiary's Individual Housing and Service Plan.)
 - c. Smoke Detectors. Beneficiaries must self-certify that their housing unit has

a working smoke detector, or a home visit (if possible or via virtual method) must be made to determine whether the unit has an operating smoke detector. COUNTY must maintain records that working smoke detectors were verified either by beneficiary self-certification or a home visit (if possible or via virtual method) conducted by COUNTY.

- d. Lead-based paint requirements apply. Specifically, lead-based paint rules apply when:
 - 1) Housing to be assisted was constructed before 1978
 - 2) Residents will include a pregnant woman or a child 6 years of age or younger, and
 - 3) The rent or mortgage assistance payments will exceed 100 consecutive days.
- e. The household must currently live in rented or mortgaged housing with written documentation verifying tenancy.
- f. In accordance with 24, CFR, Part 574, STRMU assistance may be provided to eligible households for a period of no more than 24 months.
- g. The following are uniform guidelines for establishing caps on STRMU:
 - 1) At a minimum, the annual per household amount for STRMU should be equivalent to at least one-month's HUD Fair Market Rent for a one-bedroom unit for the jurisdiction in which the household resides.
 - 2) A per household cap for utility assistance should not be less than the current utility allowances published by the local jurisdiction's housing authority.
 - 3) The household's ongoing housing needs are assessed in connection with the development of an Individual Housing and Service Plan for the household. The level of assistance is based on the assessed housing need.
 - 4) The time limitation or cap on funds is sufficient to avoid any continuing household housing crisis.
 - 5) The assistance is for actual costs.
 - 6) Other resources, such as household income, are not reasonably available to address the unmet housing need.
 - 7) Any process for waiving a cap or limitation must be expressed in writing and implemented in a uniform manner to all beneficiaries assisted.

2. Facility-Based Housing

a. Hotel/Motel Voucher Assistance

This type of assistance may be provided for up to 30 days, if no appropriate shelter beds are available and subsequent rental housing has been identified but is not immediately available for move-in by program

participants.

3. Supportive Services

All households receiving HOPWA housing assistance must be provided with appropriate supportive services. Supportive services may be funded through other resources or through linkage to other programs. HOPWA funds may also be used but should be limited.

OA policy requires that not more than 20% of COUNTY's annual HOPWA allocation be used for supportive services. CITY will allow a waiver of the 20% cap if the enhanced level of supportive services will help beneficiaries overcome barriers to stable housing (e.g., more intensive housing case management, mental health or alcohol and substance abuse treatment, consumer credit counseling, job training, etc.).

The following are definitions of eligible supportive services. Any definitions provided through future HUD guidance will supersede these definitions.

a. Housing Case Management

Key housing case management duties include, but are not limited to:

- 1) Initial comprehensive assessment of beneficiary needs and personal support systems;
- 2) Development of a comprehensive Individual Housing Service Plan for HOPWA beneficiaries including affordable, stable housing supportive services, and medical care;
- 3) Coordination of the services required to implement the comprehensive Individual Housing Service Plan;
- 4) Beneficiary monitoring to assess the progress and effectiveness of the comprehensive Individual Housing Service Plan;
- 5) Periodic re-evaluation and revision of the Individual Housing Service Plan as necessary;
- 6) Beneficiary-specific advocacy; and
- 7) Coordination of benefits.

b. Meals/Nutritional Services

Food bank/home-delivered meals include the provision of actual food, meals, or nutritional supplements. It does not include financial assistance directly to beneficiaries to purchase food or meals. The provision of essential household supplies, such as hygiene items and household cleaning supplies is in this category.

c. Transportation

Transportation services provided directly by agency vehicles or through gas/taxi vouchers or bus tickets to a beneficiary so that he or she may access health care services or housing. COUNTY will maintain records of all transportation vouchers or bus tickets/passes provided to beneficiaries and utilize all purchased vouchers or passes during the program year in which they were purchased.

d. Other: Cleaning, Disinfectant, and Medical Supplies

Under HOPWA-CV, beneficiaries will be provided with supplies to ensure appropriate infection control to prevent the spread of COVID-19. Personal Protective Equipment (PPE) and cleaning supplies can be provided for beneficiaries and staff to limit the potential exposure to COVID-19. COUNTY will maintain records of all supplies distributed to beneficiaries.

4. Activity Delivery

- a. 24, CFR, Part 574.3 – Costs directly related to carrying out eligible HOPWA activities.
- b. Activity delivery costs are limited by CITY to 15% of HOPWA housing assistance categories and 5% of supportive services, housing information services, and resource identification. Costs must be reasonable and documented expenses.
- c. Activity delivery costs for housing assistance categories may include personnel and operating expenses associated with, but not limited to: publicizing the program; briefing applicants, participants, and rental property owners; receiving and reviewing household applications; determining and verifying household income and eligibility; setting up household files; tracking time limitations, conducting initial unit inspections; and certifying and documenting rent reasonableness, landlord lease negotiations and contracts, waiting list management, collaboration with service provider agencies, processing landlord subsidy payment checks or hotel/motel vouchers, travel and other operating expenses related to delivery of service. Operating expenses may include, but are not limited to office supplies, postage, prorated office rent, copies, and communication services.
- d. Activity delivery personnel costs for salary-based activities such as housing case management, or housing information services, may include the salary and benefits of supervisory staff associated with the delivery of the service and travel related to delivery of the activity. Activity delivery operating expenses include overhead costs such as office supplies, office rent, communication services, copies, etc.

- e. Administrative costs such as bookkeeping, and the compilation and reporting of data are not activity delivery costs.

5. Program Administration

- a. 24, CFR, Part 574.300(10)(ii) – COUNTY may use up to 7% of the amounts received for program administration costs.
- b. 24, CFR, Part 574.300 – Administrative Costs are costs for general management, oversight, coordination, evaluation and reporting on eligible activities.

B. Contractor shall:

1. Ensure at least one employee completes and receives certification for HOPWA financial management online training.
2. Where required by HOPWA regulation, obtain approval to develop a housing project from the local government official in the jurisdiction where the activity is to be carried out (not applicable for beneficiary-based activities such as TBRA, STRMU, ongoing facility operation subsidies, supportive services, housing information, or resource identification).
3. Ensure HOPWA funds are not used to replace other amounts made available or designated by state or local governments through appropriations for use for the purposes of this program
4. Enter into subcontract(s), when necessary, with housing and service agencies/providers for the provisions of HOPWA-eligible services and housing assistance.
5. Establish procedures and document selection criteria for housing and service providers to ensure compliance with all state and federal requirements for those HOPWA activities provided by subcontracting with service providers.
6. Ensure any subcontracted providers have the organizational and administrative capabilities to support the program services and activities. COUNTY is responsible for quality assurance and utilization review activities for subcontracted HOPWA services.
7. Ensure any subcontracted providers have appropriate facilities and resources, including an adequate physical plant and appropriate supplies and equipment available for the provision of services and practical support functions.
8. Establish an application-based intake process to ensure eligible HOPWA beneficiaries will be serviced.
9. Ensure an assessment of need and an Individual Housing and Service Plan is completed for every beneficiary receiving housing assistance.
10. Provide assistance only to households who are homeless or at risk of homelessness, here at least one household member has been diagnosed

with the HIV disease or AIDS, and where the household is low-income as defined by HUD.

11. Make available appropriate supportive services to beneficiaries in HOPWA assisted housing. The supportive services may be funded through HOPWA or any other funding resource.
12. Charge no fee, except rent, to any eligible beneficiary for any housing or services provided with amounts under this program
13. Assure all housing (except for the current residence of an eligible beneficiary seeking short-term rent, mortgage, and utility payments) meets the habitability standards set forth in HOPWA regulation.
14. Assure residents of rental housing assisted under the HOPWA program pay as rent, including utilities, an amount not to exceed the higher of:
 - 30% of monthly adjusted income (adjusted for age, medical expenses, size of household, and child care expenses);
 - 10% of monthly gross annual income; or
 - Welfare payments specifically designated to meet housing costs.

EXCEPTION: These limits do not apply to residents receiving short-term rent, mortgage and utility assistance payments emergency shelter or hotel/motel vouchers or permanent housing placement assistance.
15. Assure the protection of the beneficiary's privacy and confidentiality at all times as required by state and federal laws (including, without limitation, Health and Safety Code sections 120980, 121022 and 121025). COUNTY and its employees (and the employees of any subcontractor as well) who will have access to confidential public health information shall be required to sign confidentiality agreements each year prior to being given access to the confidential information, as required by Health and Safety Code section 121022(f). In addition, federal law requires that individuals have a right of access, to inspect, and obtain a copy of their Protected Health Information (PHI) in a designated record set, for as long as the health information is maintained by a state health plan, state providers or business associates. There are limited exceptions to an individual's right of access PHI (45, CFR, 164.524).
16. Establish a process to ensure the confidentiality of the beneficiaries served under this program.
17. Establish a beneficiary grievance and appeals procedure.
18. Establish program termination policies in accordance with 24, CFR, Part 574.310(e).
19. Maintain a waiting list of applicants for assistance based on date and time of application or other method approved by OA.
20. Cooperate and coordinate in providing assistance with the agencies of the relevant state and local governments responsible for services for eligible persons and other public private organizations providing services for such eligible persons.
21. Maintain records for a four-year period to document compliance with the provisions of the HOPWA program.
22. Collect and report data necessary to complete the HOPWA activity

progress form as required by the HUD Integrated Disbursement and Information System (IDIS) and the HUD Consolidated Annual Performance and Evaluation Report (CAPER).

23. Collect and report financial and invoicing data necessary to complete the HOPWA IDIS fund disbursement process.
24. Comply with federal relocation laws in the event of tenant displacement from housing acquired or rehabilitated with HOPWA funds.
25. Comply with all other federal requirements set forth in the HOPWA Regulations 24, CFR, Part 574.

C. Monitoring Activities

COUNTY shall:

1. Conduct site visits and document/monitor the activities of subcontracted agencies to ensure contractual compliance not less than once every year. For all deficiencies cited in COUNTY's monitoring report, develop a corrective plan, submit to the CITY for approval, and implement the plan.
2. Provide any necessary assistance to CITY in carrying out CITY monitoring activities and inspection rights for both COUNTY and subcontracted agencies, as provided in this agreement.
3. Make available to authorized CITY and/or federal representatives all records, materials, data information, and appropriate staff required for monitoring or inspection activities.
4. For all deficiencies cited in CITY's monitoring report, develop a corrective plan, submit to CITY for approval, and implement the plan. Provide the corrective plan to CITY within 30 days of receipt of the monitoring report.

D. Data Collection and Reporting Requirements

COUNTY must ensure that COUNTY and/or any subcontracting agency(ies) develop an ongoing assessment of the housing assistance and supportive services required by the participants (e.g., Individual Housing and Service Plans), including an annual assessment of their housing situation, an appropriate determination of rental subsidies or other support, and a report on the annual results of program activities under the HOPWA beneficiary outcome goals of achieving stable housing, reducing risk of homelessness and improving access to healthcare and other support for beneficiaries.

E. Additional Reporting Requirements

Acceptance of this agreement indicates COUNTY's agreement to comply with future data and reporting requirements by CITY and/or HUD.

AIDS Regional Information and Evaluation system (ARIES)

ARIES is a centralized HIV/AIDS beneficiary management system that allows for coordination of beneficiary services and provides comprehensive data for program reporting and monitoring. HOPWA intake and assessment screens are available in ARIES, and HOPWA reporting capabilities will be available for ARIES users. All HOPWA contractors shall utilize ARIES for HOPWA.

HMIS

COUNTY or subcontractor organizations with a priority mission to serve homeless persons and receive HOPWA funding are required by federal regulation to participate in their local HMIS. COUNTY or subcontractor organizations with a priority mission to serve persons living with HIV/AIDS and periodically assist beneficiaries that are homeless are encouraged to participate in their local HMIS.

F. Estimated Fiscal Year 2020-21 HOPWA-CV Program activities:

HOPWA Program Activity	Estimated Number of Households to be Assisted with HOPWA-CV in 2020-21
Short-term Rent, Mortgage and/or Utility assistance (STRMU)	15
Tenant-Based Rental Assistance (TBRA)	
Facility-Based Housing – Project Based Rental Assistance (PBRA)	
Facility-Based Housing – Leasing Costs for Hotel/Motel Assistance	10
Transitional Facility-Based Housing – Operational Subsidies	
Permanent Facility-Based Housing – Operational Subsidies	
Facility-Based Housing – Stewardship Units (acquired or rehabbed with HOPWA but no ongoing subsidies being used)	
Permanent Housing Placement Assistance (e.g. security deposits, first month's rent, utility hook-up fees, credit checks.)	
Housing Information Services (housing counseling, referral, outreach)	
Supportive Services	25

EXHIBIT "A"

INVOICING AND BUDGET DETAIL

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, CITY agrees to compensate COUNTY for actual expenditures incurring in accordance with the budget below.
- B. Invoices must include the Agreement Number and program Name and must be submitted not more frequently than monthly.
- C. Request for payment shall require, at a minimum, submittal to CITY of the following completed documents: cover letter on COUNTY letterhead requesting payment; completed payment request form (attached as Exhibit 1); and copies of all applicable invoices.

2. Budget Detail

The following table is the estimated line item budget costs for Fiscal Year 2020-21

A. Personnel	
B. Operating Expenses	
C. Capital Expenditures	
D. Other Costs (list other costs)	
1.	
2.	
3.	
E. Indirect Costs (up to 15% of personnel)	\$89,158.52
TOTALS	

All funds granted to "COUNTY" shall be completely expended within the term of the agreement. The term of this Agreement shall begin July 1, 2020, and end January 1, 2022. This term may be extended for up to six months in accordance with Section 9.3 of this Agreement.

**COUNTY
PAYMENT REQUEST**

Grant Funding: Encircle grant type HOPWA-CV

Grant Agreement No.

Purchase Order No.

Payment No.

To: City of Bakersfield
Attn: Development Services Department
Address: 1715 Chester Avenue, Second Floor
Bakersfield, CA 93301

From: _____

Mailing Address: _____

Grant Agreement Award Amount: **\$89,158.52**

Reimbursement Requested \$_____

Program Income from HOPWA \$_____

I have reviewed and certify the allowable costs associated with this payment request reimbursement submittal were paid for with available funding and any match requirements have been met. In addition, I certify that all financial obligations are met and services are being provided to intended clients.

COUNTY Representative

Date

COUNTY Representative Name (Printed)

EXHIBIT "B"

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No federal 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, 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 cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) 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, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontractors, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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. Code. 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.

Title

Date