THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY

Contract Number _____

SAP Number _____

County Administrative Office

Department Contract Representative	
Telephone Number	
Contractor	
Contractor Representative	
Telephone Number	
Contract Term	Effective Date through June 30, 2021
Original Contract Amount	Based on agreed-upon allocation
Amendment Amount	
Total Contract Amount	Based on agreed-upon allocation
Cost Center	

ALLOCATION AGREEMENT BETWEEN THE COUNTY OF SAN BERNARDINO AND [Insert legal Entity name] RELATED TO THE CARES ACT CORONAVIRUS RELIEF FUND FOR LOCAL GOVERNMENTS

WHEREAS, on March 4, 2020, the State of California declared a state of emergency as a result of the COVID-19 outbreak and on March 10, 2020, the County of San Bernardino (County) proclaimed the existence of a local emergency resulting from Coronavirus Disease 2019 (COVID-19); and

WHEREAS, on March 27, 2020, the United States Congress passed the Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act in response to the COVID-19 pandemic; and

WHEREAS, pursuant to Section 5001 of the CARES Act, the County received a disbursement from the United States Department of the Treasury of money associated with the Coronavirus Relief Fund (Fund) for Local Governments under Section 601(a) of the Social Security Act, some of which may be transferred to other public entities for certain CARES Act purposes; and

WHEREAS, the Federal Catalog of Federal Domestic Assistance (CFDA) number for the Fund is 21.019; and

WHEREAS, the CARES Act provides that payments from the Fund may only be used to cover costs that: i) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; ii) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act); and iii) were incurred during the period that begins March 1, 2020, and ends December 30, 2020; and

WHEREAS, on September 29, 2020, the Board of Supervisors for the County approved the transfer from the Fund in an amount not-to-exceed $[ ], to support the community's response to the COVID-19 pandemic, and

WHEREAS, County desires to transfer and [Insert legal Entity name], hereinafter called Entity, desires to accept an amount of CARES Act Fund dollars to provide COVID-19 emergency response to the residents of the County and Entity.

NOW, THEREFORE, in consideration of the above, the County and Entity agree as follows:

1. **The CARES Act Fund**.
    a. This Agreement applies to the following CARES Act Fund transfers:
        i. The transfer by the County of an amount not-to-exceed $[ ] to the Entity based on [ ] to support the community with responding to the COVID-19 pandemic as defined in and limited by the CARES Act.
        ii. The transfer by the County of an amount not to exceed $[ ] to the Entity on a reimbursement basis. The Entity shall generate a monthly report (Report) of actual cash expenditures to date under this Agreement, and estimated cash expenditures through December 30, 2020. The Report shall provide sufficient information to explain that the requested reimbursement complies with the definitions and limitations in the CARES Act. The Entity shall provide Report to County according to the following schedule: October 31, 2020, November 30, 2020; and any other subsequent report as requested by the County.
        iii. County, through its Chief Executive Officer (CEO), in the CEO's sole discretion, reserves the right to reduce the transfer amount identified in this Agreement with fifteen (15) days advance written notice provided to the Entity. The reduction would be based: A) on Entity's estimated cash expenditures through December 30, 2020 as identified in the October 31, 2020 and November 30, 2020 reports; or B) a later determination by the United States Department of the Treasury, County, or Entity that the costs identified in this Agreement are ineligible for CARES Act funding.
    b. The Entity certifies in this Agreement and shall certify in each Report, that the use of funds submitted for reimbursement from the Fund will be used only to cover those costs that: i) are necessary expenditures incurred due to the public health emergency with respect to the COVID-19; ii) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act); and iii) were incurred during the period that begins March 1, 2020, and ends December 30, 2020. **For purposes of this Agreement and pursuant to federal guidance, a cost is "incurred" when the entity has expended funds to cover the cost**.
    c. The Entity agrees that the funds provided pursuant to this Agreement cannot be used: i) as a revenue replacement for lower than expected tax or other revenue collections; or ii) for expenditures for which the Entity has received any other emergency COVID-19 supplemental funding (whether state, federal or private in nature) for that same expense.
    d. The Entity shall prepare and submit to County an invoice for reimbursement of eligible funding expenses identified in Paragraph 1.a., above. Invoices may be submitted to

County as frequently as monthly. County will review invoices for compliance with existing CARES Act eligibility guidelines. Upon review/approval by County, County shall reimburse to Entity within thirty (30) days of the completion of the County's review, the amount of the invoices submitted. Approval and transfer of funds to Entity does not guarantee or imply U.S. Treasury approval of the use of funds.

2. Both County and the Entity agree to comply with any and all CARES Act requirements, as well as any and all applicable County, Entity, State, and Federal laws, regulations, policies and procedures pertaining to the expenditures and reimbursements described in this Agreement. County and Entity shall comply with 2 CFR Part 200 - *Uniform Administrative requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)*, including, but not limited to 2 CFR §200.303 (internal control), §200.330 thru §200.332 (subrecipient monitoring and management), and subpart F (audit). The reimbursements under this Agreement do not include Research and Development as defined in 2 CFR §200.87, nor do they include indirect costs. The expenditures and reimbursements must also adhere to official federal guidance issued or to be issued on what constitutes a necessary expenditure. Any use of funds provided to the Entity or its subcontractor(s) that do not adhere to official federal guidance or requirements shall be returned to the County. County and the Entity also agree that as additional federal guidance becomes available, an amendment to this Agreement may become necessary.
    a. The Entity shall retain documentation of all uses of the funds reimbursed by the County, including but not limited to invoices and/or sales receipts in a manner consistent with §200.333 Retention requirements for records of 2 CFR Part 200 and/or Memorandum OIG-CA-20-021 issued on July 2, 2020 by U.S. Treasury (https://www.treasury.gov/about/organizational-structure/ig/Pages/CARES-Act-Reporting-and-Record-Keeping-Information.aspx). Such documentation shall be produced to County upon request and may be subject to audit. Unless otherwise provided by Federal or State law (whichever is the most restrictive), the Entity shall maintain all documentation connected with its performance under this Agreement for a minimum of five (5) years from the date of the last payment made by County or until audit resolution is achieved, whichever is later, and to make all such supporting information available for inspection and audit by representatives of the County, the State or the United States Government during normal business hours at Entity. Copies will be made and furnished by the Entity upon written request by County.
    b. The Entity shall establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support Entity's requests for reimbursement which segregate and accumulate costs of Entity and produce the Reports which clearly identify reimbursable costs, matching fund costs, indirect cost allocation, and other allowable expenditures by the Entity.
    c. The Entity shall cooperate in having an audit completed by County, at County's option and expense. Any audit required by the CARES Act will be completed by the Entity at Entity's expense.
    d. The Entity shall repay to County any reimbursement for CARES Act funding that is determined by subsequent audit to be unallowable under the CARES Act within the time period required by the CARES Act, but no later than one hundred twenty (120) days of Entity receiving notice of audit findings, which time shall include an opportunity for the Entity to respond to and/or resolve the findings. Should the findings not be otherwise resolved and the Entity fail to reimburse moneys due County within one hundred twenty (120) days of audit findings, or within such other period as may be agreed between both parties or required by the CARES Act, County reserves the right to withhold future payments due to the Entity from any source under County's control.

3. This Agreement may be terminated by County, through the County's CEO, for any reason, with a thirty (30) day written notice to Entity of termination. Upon such termination, appropriate reimbursements may still be made to the Entity prior to the effective date of termination. This Agreement may also be terminated immediately by County in the event of a breach of the Agreement terms by the Entity. In such event, County shall be entitled to pursue any available remedies authorized by law or regulations.

4. This Agreement is from the Effective Date defined in Paragraph 11 through June 30, 2021. **County shall only reimburse costs incurred through December 30, 2020.** Paragraphs 2a through 2d, 4 and 5 shall survive the termination of this Agreement.

5. County agrees to indemnify, defend (with counsel reasonably approved by ENTITY) and hold harmless the Entity and its officers, employees, agents, and volunteers from any and all claims, actions or losses, damages, and/or liability resulting from the County's negligent acts or omissions which arise from County's performance of its obligations under this Agreement.

   The Entity agrees to indemnify, defend (with counsel reasonably approved by County), and hold harmless County and its officers, employees, agents, and volunteers from any and all claims, actions or losses, damages, and/or liability resulting from the Entity's negligent acts or omissions which arise from Entity's performance of its obligations under this Agreement.

   In the event the County and/or Entity is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under the Agreement, the County and/or Entity shall indemnify the other to the extent of its comparative fault.

6. This Agreement shall be governed by the laws of the State of California. Any action or proceeding between the County and Entity concerning the interpretation or enforcement of this Agreement, or which arises out of or is in any way connected with this Agreement, shall be instituted and tried in the appropriate state court in the County of San Bernardino, California.

7. During the term of the Agreement, the Entity shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. The Entity shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

8. The Entity certifies that neither it nor its principals or subcontracts is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website https://www.sam.gov). Any contracts funded by this Agreement shall be with vendors that meet this certification.

9. If any word, phrase, clause, sentence, paragraph, section, article, part or portion of this Agreement is or shall be invalid for any reason, the same shall be deemed severable from the remainder hereof and shall in no way affect or impair the validity of this Agreement or any other portion thereof.

10. The recitals of this Agreement are incorporated into the body of this Agreement by this reference.

11. This Agreement shall take effect on the latest date it is signed and approved by either party's authorized representatives (Effective Date).

12. Time is of the essence for each and every provision of this Agreement.

13. Since the parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party.

14. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.

15. Nothing contained in this Agreement shall be construed as a relinquishment of any rights now held by the County or Entity.

16. This Agreement and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Agreement and signs the same of its own free will.

17. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

IN WITNESS WHEREOF, the County of San Bernardino and the Entity have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

[Insert legal Entity name]

►

(Print Name and Title – Sign in blue ink)

Dated:

COUNTY OF SAN BERNARDINO

►

(Print Name, Chief Executive Officer)

Dated:

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
►	►	►
County Counsel		
Date	Date	Date