

**SUBRECIPIENT AGREEMENT  
BETWEEN  
COUNTY OF SANTA BARBARA  
AND  
DIGNITYMOVES LA POSADA LLC**

**LA POSADA**

**State of California Encampment Resolution Funding (CERF) - Round 2**

THIS SUBRECIPIENT AGREEMENT (“Agreement”) is made and entered into by and between the County of Santa Barbara (“COUNTY”), a political subdivision of the State of California, and DignityMoves La Posada LLC, a California limited liability company (“SUBRECIPIENT” or “DIGNITY” and, together with COUNTY, collectively, the “Parties” and each individually a “Party”), whose address is 2406 Bush Street, San Francisco, California 94115.

**WITNESSETH THAT:**

**WHEREAS**, The State of California has established the Encampment Resolution Funding Program (“ERF” or “Program”) pursuant to Chapter 7 (commencing with Section 50250) of Part 1 of Division 31 of the Health and Safety Code (Amended by Stats. 2021, Ch. 111, Sec.13. (AB 140) effective July 19, 2021); and

**WHEREAS**, The ERF Program was initially authorized in 2021 through Assembly Bill (AB) 140 (Chapter 111, Statutes of 2021), which allocated \$50 million for what would become the first round of funding. SB 197 (Chapter 70, Statutes of 2022) amended the program and AB 178 (Chapter 45, Statutes of 2022) allocated an additional \$300 million for Round 2 of ERF funding; and

**WHEREAS**, the Program is administered by the California Interagency Council on Homelessness (Cal ICH) in the Business, Consumer Services and Housing Agency (“Agency”);

**WHEREAS**, ERF provides one-time, competitive grant funds to counties and other jurisdictions;

**WHEREAS**, On January 24, 2023, the County of Santa Barbara’s Board of Supervisors passed and adopted Resolution No. 23-00054 allowing the Director of the Community Services Department to apply for, receive, and administer the ERF funds for the County of Santa Barbara; and

**WHEREAS**, the County entered into a Standard Agreement with the State of California for \$6,000,000 (“Standard Agreement”), which provides Program guidelines (the “ERF Program Guidelines”); and

**WHEREAS**, SUBRECIPIENT’s services are eligible activities as outlined in the State’s ERF Program Guidelines as they represent an innovative service delivery model and cross systems collaboration that supports individuals experiencing homelessness in encampments as they move towards a meaningful path to safe and stable housing, using non-punitive, low-barrier, person-centered, Housing First approaches as set forth in Welfare and Institutions Code sections 8255 et seq.; and

**WHEREAS**, COUNTY selected the following eligible activities from the State’s ERF Program Guidelines: Street Outreach, Services Coordination, Delivery of Permanent Housing, Interim Sheltering, and Administrative Costs; and

**NOW**, THEREFORE, the parties agree that the above recitals are true to the best of their knowledge and, in consideration of the mutual covenants and conditions contained herein, it is agreed by and between the parties hereto that they will carry out the Program according to this Agreement.

**I. SCOPE OF SERVICES**

**A. General**

All services (“Services”) described in the Scope of Services attached hereto and incorporated herein as Exhibit A (“Scope of Services”) shall be performed in Santa Barbara County, and shall be provided under the supervision of SUBRECIPIENT’s Executive Director, who shall ensure that the background and qualifications of SUBRECIPIENT’s and subcontractors’ staff providing Services meet the minimum standards established by pertinent licensing bodies, as applicable.

**B. Services**

1. Eligible Activities

SUBRECIPIENT shall provide assembly of modular interim supportive temporary housing units and related facilities for interim housing. Activities funded by this Agreement are limited to the program components and eligible activities as described in the Scope of Services attached hereto as Exhibit A and incorporated herein. Services shall be provided under the supervision of SUBRECIPIENT’s Executive Director, who shall ensure that the background and qualifications of SUBRECIPIENT’s and subcontractors’ staff providing services meet the minimum standards established by pertinent licensing bodies, as applicable. All activities shall operate in a manner consistent with the requirements of Housing First as set forth in Welfare and Institutions Code sections 8255 et seq.

2. Services to be Provided

SUBRECIPIENT shall be responsible for providing Services in accordance with best practices, as set forth in Exhibit A (“Services”).

**C. Staffing**

All Services shall be performed by SUBRECIPIENT or under SUBRECIPIENT’s supervision. SUBRECIPIENT represents that it possesses the professional and technical personnel required to perform the Services required by this Agreement. SUBRECIPIENT and its contractors and subcontractors shall perform all Services in accordance with Federal, State and Local housing and building codes, as applicable, and in a manner commensurate with their own best practices and with no less than the reasonable and ordinary level of care provided by competent practitioners in the same profession.

All Services shall be performed by qualified and experienced personnel who are not employed by COUNTY. SUBRECIPIENT represents and warrants that SUBRECEIPIENT shall comply with, and the Services to be performed shall conform to, (i) the requirements of this Agreement, (ii) all applicable federal, state and local laws, rules, and regulations, including, but not limited to, those that pertain to construction, health and safety, labor, fair employment practices, environmental protection, equal opportunity, fair housing, and all other matters applicable and/or related to the Encampment Resolution program, the County, SUBRECIPIENT, and all eligible activities hereunder, (iii) CERF Program Guidelines, and (iv) the highest professional standards.

SUBRECIPIENT represents and warrants to COUNTY that it and its contractors and subcontractors have, shall obtain, and shall keep in full force and effect during the term hereof, at their sole cost and expense, all licenses, permits, qualifications, insurance and approvals of whatsoever nature that are required to practice their professions and to perform the Services, including, but not limited to, those necessary to perform design, construction, or operation and maintenance of the deliverables required of SUBRECEIPIENT hereunder and under that certain Development Management Agreement by and between COUNTY and SUBRECIPIENT dated May 16, 2023, as amended by that certain first amendment thereto dated on or about the date hereof (as amended, the “DMA”), that certain Temporary Right of Entry Agreement by and between COUNTY and SUBRECIPIENT dated May 16, 2023, as amended by that certain first amendment thereto dated on or about the date hereof (as amended, the “TROE”), and

that certain Ground Lease by and between COUNTY and SUBRECIPIENT dated May 16, 2023, as amended by that certain first amendment thereto on or about the date hereof (as amended, the “Ground Lease” and, together with this Agreement, the TROE, and the DMA, collectively, the “Project Documents”). SUBRECIPIENT shall provide copies of permits and approvals to Cal ICH upon request.

**D. Levels of Accomplishment – Goals and Performance Measures**

SUBRECIPIENT shall report performance data to COUNTY quarterly, in accordance with Sections VII.B.1, VII.B.2, and VII.C of this Agreement, regarding the goals and performance measures set forth in Exhibit A, and as otherwise required by the State.

**E. Performance Monitoring**

SUBRECIPIENT shall provide all Services in a manner satisfactory to COUNTY, including, but not limited to, meeting all performance measures outlined in this Agreement. In addition, COUNTY shall review the performance of SUBRECIPIENT in accord with the applicable provisions of the CERF Program Guidelines and all CERF implementing regulations, guidance, and rules. COUNTY shall monitor the performance of SUBRECIPIENT against the goals and performance measures set forth in Section I.D of this Agreement and Exhibit A. SUBRECIPIENT’s failure to meet any of these goals and performance measures as determined by COUNTY in its sole discretion shall constitute a breach of this Agreement. If action to correct such breach is not taken by SUBRECIPIENT within seven (7) days after being notified by COUNTY of such breach, contract suspension or termination procedures may be initiated by COUNTY pursuant to Section VI.F of this Agreement.

**F. COUNTY Recognition**

SUBRECIPIENT shall ensure recognition of the role of COUNTY in providing CERF funds made available under this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled or provided with signage as to funding source. In addition, SUBRECIPIENT shall include a reference to the support provided by COUNTY that is made possible with CERF Program funds made available under this Agreement.

**II. TERM**

**A. Term and Time of Performance**

The term of this Agreement shall begin on December 1, 2023 (“Effective Date”), and shall terminate on December 31, 2023, subject to annual COUNTY appropriations and budget approval, unless earlier suspended or terminated in accordance with the provisions of this Agreement, or there are no CERF funds available to the COUNTY for any reason (the “Term”). All Services to be performed hereunder as described in the Scope of Services and funded with CERF funds hereunder may commence on the Effective Date, and shall be completed by December 31, 2023 (the “Award Time of Performance”). Any funds not expended by December 31, 2023 shall no longer be available to the SUBRECIPIENT and shall be returned to the COUNTY.

**B. Close-outs**

SUBRECIPIENT’s obligations to COUNTY shall not end until all close-out requirements are completed, including, but not limited to: receipt of final payments from COUNTY under this Agreement, disposing of program assets (including the return of all unused materials, equipment, and accounts receivable to COUNTY), and determining the custodianship of records. The terms of this Agreement shall remain in effect during any period that SUBRECIPIENT has control over CERF funds, including program income. All program assets (unexpended program income, property, equipment, etc.) shall revert to COUNTY upon termination of this Agreement.

**III. BUDGET**

SUBRECIPIENT shall submit requests for reimbursement under this Agreement only for allowable costs and substantiated by invoices and an accurate analysis of costs acceptable under the CERF Program Guidelines and in accordance with the Payment Arrangements attached hereto as Exhibit B and incorporated herein by reference. SUBRECIPIENT shall comply with all requirements of the Program, including, but not limited to, Chapter 7 (commencing with Section 50250) of Part 1 of Division 31 of the Health and Safety Code (amended by Stats. 2021, Ch. 111, Sec.13 (AB 140) Effective July 19, 2021), SB 197 (Chapter 70, Statutes of 2022), AB 178 (Chapter 45, Statutes of 2022), and the Standard Agreement between the State and COUNTY including all Exhibits, Attachments, and Appendices thereto, a true and correct copy of which is attached hereto as Exhibit D and incorporated herein by reference. SUBRECIPIENT shall maintain, and shall provide to COUNTY upon COUNTY's request, documentation evidencing SUBRECIPIENT's compliance with the foregoing requirements in sufficient detail to provide a sound basis for COUNTY to effectively monitor SUBRECIPIENT's performance under this Agreement.

**IV. PAYMENT**

It is expressly agreed and understood that the total amount of funds to be paid by COUNTY under this Agreement shall not exceed **\$800,000**, subject to annual appropriations and budget approval. Periodic reimbursement for eligible expenses will be provided to SUBRECIPIENT in accord with CERF Program Guidelines, no more often than monthly. All SUBRECIPIENT requests for reimbursement hereunder shall be submitted to COUNTY no later than December 31, 2023. COUNTY shall review each SUBRECIPIENT claim and shall reimburse SUBRECIPIENT for allowable costs for eligible expenses within thirty (30) days after receiving SUBRECIPIENT's completed payment request in compliance with the provisions of this Agreement.

**V. NOTICES**

Notices required by this Agreement shall be in writing and delivered via United States Postal Service (postage prepaid), commercial courier, or personal delivery. Notices may be sent by facsimile or other electronic means if the Party to be noticed consents to the delivery of the notice by facsimile or such electronic means, and if the Party required to give notice delivers such notice via United States Postal Service mail (postage prepaid), commercial courier, or personal delivery the next business day. Any notice delivered or sent in accordance with the provisions of this Section V shall be deemed effective as of the date of personal delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Notices and other written communications concerning this Agreement shall be directed to the Parties' respective representatives as follows:

**COUNTY**

George Chapjian, Director  
County of Santa Barbara  
Community Services Department  
123 E. Anapamu St., Second Floor  
Santa Barbara, CA 93101  
Office: (805) 568-2467  
gchapjian@countyofsb.org>

**SUBRECIPIENT**

Elizabeth Funk  
Dignity Moves La Posada LLC  
2406 Bush Street  
San Francisco, VA 94115  
Office: (415) 867-7397  
elizabeth@dignitymoves.org

**VI. GENERAL CONDITIONS**

**A. General Compliance**

SUBRECIPIENT agrees to comply with the requirements of the CERF Program, including the statutes set forth in Health and Safety Code, Div. 31, Part 1, Ch. 7, Sec. 50250-50254, Program guidelines, Welfare and Institutions Code 8255 et seq., and additional regulations and program guidance as may be applicable from time to time. In addition, SUBRECIPIENT agrees to comply with the terms of the award, Title 25 of the California Code of Regulations (CCR), Sections 8400 et seq. ("State Regulations"), including the grant agreement, assurances in applications, notices of award, and all other applicable federal, state, and local laws, regulations, ordinances, orders, rules, guidelines, directives, circulars, bulletins, notices, and policies governing the CERF funds. The judgment of any court of competent jurisdiction, or the admission of SUBRECIPIENT in any action or proceeding against SUBRECIPIENT, whether COUNTY is a party thereto or not, that SUBRECIPIENT has violated any such law, regulation, ordinance or order, shall be conclusive of that fact as between SUBRECIPIENT and COUNTY. SUBRECIPIENT shall be responsible for providing services in a manner consistent with all federal and state requirements and standards required as a condition of receiving and expending CERF funds provided under this Agreement.

**B. Independent Contractor**

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. SUBRECIPIENT shall at all times remain an independent contractor with respect to services to be performed under this Agreement. COUNTY shall not be responsible for paying any taxes on SUBRECIPIENT's behalf, and should COUNTY be required to do so by federal, state, or local taxing agencies, SUBRECIPIENT agrees to promptly reimburse COUNTY for the full value of such paid taxes plus all interest and penalties, if any. Such taxes shall include, but not be limited to, the following: Federal Insurance Contributions Act (FICA) tax, unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance. In addition, SUBRECIPIENT understands and acknowledges that neither it nor its employees or subcontractors shall be entitled to any of the benefits of a COUNTY employee, including, but not limited to, vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation, and protection of tenure.

**C. Insurance and Indemnification**

SUBRECIPIENT shall maintain, as required by law, unemployment insurance, disability insurance, and liability insurance in an amount that is reasonable to compensate any person, firm or corporation who may be injured or damaged by SUBRECIPIENT, and shall comply with the insurance and indemnification provisions set forth in the Standard Indemnification and Insurance Provisions attached hereto as Exhibit C and incorporated herein by this reference.

**D. Workers' Compensation**

SUBRECIPIENT shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of Services and this Agreement as set forth in Exhibit C.

**E. Changes or Amendments**

No change to or modification of this Agreement shall be effective unless made through a written amendment to this Agreement duly executed by each of COUNTY and SUBRECIPIENT. COUNTY and SUBRECIPIENT may amend this Agreement at any time during the Term, provided that such amendment(s) make specific reference to this Agreement, are executed in writing, and signed by a duly authorized representative of each Party. Such amendments shall not invalidate any parts of this Agreement that are not expressly changed by such amendment(s), nor relieve or release either of COUNTY or SUBRECIPIENT from such Party's respective obligations under this Agreement that are not expressly changed by such amendment. SUBRECIPIENT agrees to not unreasonably withhold its approval of any amendment(s) proposed by COUNTY that are necessary in order to conform with

federal, state, or local governmental laws, regulations, ordinances, orders, rules, directives, circulars, bulletins, notices, guidelines, policies, CERF Program Requirements, or available funding amounts.

All amendments to this Agreement must be approved by the COUNTY Board of Supervisors and executed by the Chair of the Board of Supervisors, except that the Director of COUNTY's Community Services Department ("Director"), or the Director's designee, is authorized to approve, in his or her discretion, and execute amendments to this Agreement on behalf of COUNTY as follows:

1. The Director may approve administrative changes to the Agreement that are necessary in order to conform with federal, state or local governmental laws, regulations, ordinances, orders, rules, directives, circulars, bulletins, notices, guidelines, policies, and available funding amounts, subject to concurrence by County Counsel and County Risk Management, provided that no such amendment shall increase the amount of funding hereunder or extend the Term.

#### **F. Suspension or Termination**

COUNTY may suspend or terminate this Agreement if SUBRECIPIENT materially fails to comply with the terms of federal or state regulations or CERF Program Requirements including, but not limited to, the grant agreement, applications, or notices of award or any terms of the Agreement, which include, but are not limited to, the following:

- Failure to comply with any of the laws, rules, regulations, ordinances, provisions, orders, guidelines, policies, circulars, bulletins, notices, or directives referred to herein, or as may become applicable at any time;
- Failure, for any reason, of SUBRECIPIENT to fulfill its obligations under this Agreement;
- Ineffective or improper use of CERF funds provided under this Agreement;
- Actions and behavior by SUBRECIPIENT that undermine the integrity of the Program, including but not limited to client, child and staff endangerment, inappropriate and reckless staff behavior, and health code violations; or
- Submittal of reports that are false or that are incorrect or incomplete in any material respect.

COUNTY may withhold any payments due to SUBRECIPIENT until such time as the exact amount of damages resulting from SUBRECIPIENT's breach is determined.

##### **1. Termination by COUNTY**

COUNTY may, by written notice to SUBRECIPIENT, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of SUBRECIPIENT to fulfill the obligations herein.

- a. **For Convenience.** This Agreement may be terminated for convenience by COUNTY, upon written notification to SUBRECIPIENT, setting forth the effective date and, in the case of partial termination, the portion to be terminated.
- b. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state, or COUNTY governments, or funds are not otherwise available for payments during the term of this Agreement, then COUNTY will notify SUBRECIPIENT of such occurrence and COUNTY may, by written notice to Subrecipient, terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the Term.

- c. **For Cause.** Should SUBRECIPIENT default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, SUBRECIPIENT shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is given by COUNTY, unless the notice directs otherwise.

2. Termination by SUBRECIPIENT

This Agreement may be terminated by SUBRECIPIENT, upon written notification to COUNTY, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, COUNTY determines that the remaining portion of the award will not accomplish the purposes for which the Agreement was made, COUNTY may terminate the Agreement in its entirety.

3. Upon termination, SUBRECIPIENT shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by SUBRECIPIENT in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit SUBRECIPIENT to retain.
4. In the event that SUBRECIPIENT ceases or intends to cease to operate (i.e. dissolution of corporate status, declaration of bankruptcy, etc.), SUBRECIPIENT shall provide COUNTY copies of all records relating to this Agreement prior to taking the first action in furtherance of ceasing operations but in any event no later than prior to ceasing operations.
5. If State of California demands reimbursement from COUNTY for COUNTY's payments to SUBRECIPIENT due to SUBRECIPIENT's failure to comply with the terms of the State's award to COUNTY, including, but not limited to, the grant agreement, assurances in applications, or notices of award, any applicable term of this Agreement, or any applicable law, regulation, ordinance, order, rule, directive, circular, bulletin, notice, guideline, or policy, or as may become applicable at any time, SUBRECIPIENT shall promptly fully and completely reimburse COUNTY in the total amount of such disallowed payments.

**G. STATE and COUNTY Enforcement of CERF Program Requirements**

COUNTY and SUBRECIPIENT acknowledge that the Agency will review the performance of COUNTY and SUBRECIPIENT in carrying out their responsibilities as the recipient of CERF funds, and COUNTY must take actions as prescribed if COUNTY determines that SUBRECIPIENT is not complying with the Agency requirements or this Agreement.

**VII. ADMINISTRATIVE REQUIREMENTS**

**A. Financial Management**

1. Accounting Standards

SUBRECIPIENT agrees to comply with and adhere to the accounting principles and procedures required herein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

SUBRECIPIENT shall administer its program and perform its obligations hereunder in accordance with the State of California Encampment Resolution Funding Program ("CERF"), including, but not limited to, Chapter 7 (commencing with Section 50250) of Part 1 of Division 31 of the Health and

Safety Code (amended by Stats. 2021, Ch. 111, Sec.13 (AB 140) Effective July 19, 2021), SB 197 (Chapter 70, Statutes of 2022), AB 178 (Chapter 45, Statutes of 2022), and the Standard Agreement between the State and COUNTY and all Exhibits, Attachments, and Appendices thereto. These principles shall be applied for all costs incurred hereunder, whether charged on a direct or indirect basis.

3. Indirect Costs

SUBRECIPIENT may charge an indirect cost allocation under this Agreement. The indirect cost allocation shall not exceed ten percent of the allowable direct costs under the CERF activity unless COUNTY approves a higher limit for the indirect cost allocation through a duly executed amendment to the Agreement.

4. Procurement

SUBRECIPIENT shall comply with the procurement requirements in Santa Barbara County Code Chapter 2, Article VI concerning the purchase of services, supplies, or equipment and concerning the required maintenance of inventory and records for all services, equipment and supplies procured with funds provided herein.

5. Travel

SUBRECIPIENT shall not use of any funds provided under this Agreement for the reimbursement of any costs incurred for travel outside the County of Santa Barbara.

**B. Documentation and Record Keeping**

1. Records to Be Maintained

Cal ICH and its designees shall have the right to review, obtain, and copy all records and supporting documentation pertaining to SUBRECIPIENT's performance under this Agreement. SUBRECIPIENT agrees to provide Cal ICH, and its designees, with all relevant information requested. SUBRECIPIENT agrees to give Cal ICH and its designees access to SUBRECIPIENT's premises, upon reasonable notice and during normal business hours, for the purpose of interviewing employees who might reasonably have information related to such records, and of inspecting and copying such books, records, accounts, and other materials that may be relevant to an investigation of compliance with the Encampment Resolution Funding Program laws, guidance, or directives, and this Agreement.

SUBRECIPIENT shall comply with all reporting requirements of COUNTY and shall maintain all records required by and described in State laws including, but not limited to, the CERF and its related implementing regulations, guidance, and rules, and all other records that are pertinent to the activities to be funded under this Agreement. SUBRECIPIENT agrees to maintain accounting books and records in accordance with Generally Accepted Government Auditing Standards. SUBRECIPIENT further agrees that the State and its designated representatives have the right to review and copy any records and supporting documentation pertaining to the performance of this Agreement. Such records shall include, but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records required to determine the eligibility of activities;
- c. Records supporting disbursements of CERF funds for the performance of eligible activities;
- d. Records supporting the sources of costs expended for eligible activities under the CERF Program;



- e. Financial records as required by the State of California Encampment Resolution Funding Program (“CERF”), including, but not limited to, Chapter 7 (commencing with Section 50250) of Part 1 of Division 31 of the Health and Safety Code (amended by Stats. 2021, Ch. 111, Sec.13 (AB 140) Effective July 19, 2021), SB 197 (Chapter 70, Statutes of 2022), AB 178 (Chapter 45, Statutes of 2022), and the Standard Agreement between the State and COUNTY and all Exhibits, Attachments, and Appendices thereto; and
- f. Other records necessary to document compliance with applicable state and federal requirements.

2. Client Data

- a. SUBRECIPIENT shall collect and maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, homeless status or other basis for determining eligibility, and descriptions of services provided.
- b. SUBRECIPIENT shall participate in the Homeless Management Information System and follow all relevant policies and procedures.

3. Retention

SUBRECIPIENT shall retain all records required by or pertinent to this Agreement for five (5) years. The five-year retention period begins on the date that all funds from the Agreement under which a program participant was served are expended and the final payment for eligible expenses has been submitted to COUNTY by SUBRECIPIENT and has been paid by COUNTY. Notwithstanding the above, if there is litigation, claims, demands, audits, negotiations, disputes, or other actions that involve any of the records and that have started before the expiration of the required retention period, then such records must be retained until completion of the actions and final resolution of all issues, or the expiration of the required retention period, whichever occurs later.

4. Ownership of Documents

Each and every report, draft, map, record, plan, document and other writing (hereinafter “Documents”) produced, prepared or caused to be produced or prepared by SUBRECIPIENT, its officers, employees, agents, representatives, contractors, and subcontractors, in the course of performing this Agreement, shall be and become the exclusive property of COUNTY, and COUNTY shall have the sole right to use such materials in its sole discretion without further compensation to SUBRECIPIENT or any other party. SUBRECIPIENT shall, at SUBRECIPIENT’s own expense, provide such Documents to COUNTY upon COUNTY’S written request.

5. Disclosure

SUBRECIPIENT understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of COUNTY or SUBRECIPIENT’s responsibilities with respect to services provided under this Agreement, may be prohibited under federal or state law unless written consent is obtained from such person receiving services and, in the case of a minor, that of a responsible parent/guardian. COUNTY shall disclose any information required by state or federal law, unless there is an applicable exception.

6. Audits and Inspections

All SUBRECIPIENT records with respect to any matters covered by this Agreement shall be made available to the COUNTY, State, and Federal governments or any of their authorized representatives, at any time upon reasonable notice during normal business hours, as often as deemed necessary, to audit, examine, and make copies, excerpts, or transcripts of all relevant

data. Any deficiencies, audit findings, or required corrective actions noted in audit reports must be fully cleared by the SUBRECIPIENT within 30 days after receipt by SUBRECIPIENT unless a longer time period is agreed upon in writing by the COUNTY. SUBRECIPIENT hereby agrees to have an annual program-specific audit conducted by a certified public accounting firm in accordance with the State of California Encampment Resolution Funding Program ("CERF"), including, but not limited to, Chapter 7 (commencing with Section 50250) of Part 1 of Division 31 of the Health and Safety Code (amended by Stats. 2021, Ch. 111, Sec.13 (AB 140) Effective July 19, 2021), SB 197 (Chapter 70, Statutes of 2022), AB 178 (Chapter 45, Statutes of 2022) and the Standard Agreement between the State and COUNTY and all Exhibits, Attachments, and Appendices thereto, and current COUNTY policy and requirements concerning audits.

Since this Agreement exceeds ten thousand dollars (\$10,000.00), SUBRECIPIENT shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under this Agreement (Cal. Govt. Code Section 8546.7). SUBRECIPIENT shall participate in all audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If State or COUNTY audit exceptions are made relating to this Agreement, SUBRECIPIENT shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments, and all other costs of whatever nature. Immediately upon notification from COUNTY, SUBRECIPIENT shall reimburse the amount of the audit exceptions and all other related costs directly to COUNTY as specified by COUNTY in the notification.

SUBRECIPIENT agrees to maintain all records required by or pertinent to this Agreement for possible audit by the State and its designated representatives for possible audit for a minimum of five (5) years from the expiration date of this Agreement.

7. Access to Records

SUBRECIPIENT shall furnish and cause each of its own contractors and subcontractors to furnish all information and reports required hereunder and will permit access to books, records, and accounts by COUNTY, State, and Federal or other authorized officials or their agents, to ascertain compliance with the laws, rules, regulations, executive orders, ordinances, resolutions, guidelines, policies, directives, standards, and provisions stated in this Agreement or CERF.

**C. Reports**

Should the Agency require any reports, SUBRECIPIENT agrees to submit all such reports and requested information in a timely fashion in a manner and format approved by the COUNTY and the Agency.

**VIII. PERSONNEL AND PARTICIPANT CONDITIONS**

**A. Civil Rights**

1. Nondiscrimination

SUBRECIPIENT shall comply with Title VIII of the Civil Rights Act of 1968 (42 U.S.C., § 3601 et seq.); Title I of the Housing and Community Development Act of 1974 (42 U.S.C., § 5301 et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C., § 12101 et seq.); the Age Discrimination Act of 1975 (42 U.S.C., § 6101 et seq.); Executive Order 11063; and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086; and all implementing regulations, and all as may be amended. In addition, COUNTY's Unlawful Discrimination Ordinance (Article XIII of

Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the Ordinance were specifically set out herein and SUBRECIPIENT agrees to comply with said Ordinance.

**B. Affirmative Action**

1. Affirmative Outreach

SUBRECIPIENT shall make known that use of its facilities, assistance, and services are available to all on a nondiscriminatory basis in accord with Federal and State laws and regulations. Pursuant to and in accord with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) and the President’s Executive Order 13166, SUBRECIPIENT is also required to take reasonable steps to ensure meaningful access to programs and activities for Limited English Proficiency (LEP) persons.

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

SUBRECIPIENT shall use its best efforts to afford small businesses, minority business enterprises, and women’s business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms “small business” means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. § 632), and “minority and women’s business enterprise” means a business that is at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are African Americans; Spanish-speaking, Spanish-surnamed, or Spanish-heritage Americans; Asian Americans; and American Indians. SUBRECIPIENT may rely on written representations by businesses regarding their status as minority and women’s business enterprises in lieu of an independent investigation.

3. Subcontract Provisions

SUBRECIPIENT shall include the provisions of Titles VI and VII of the Civil Rights Act of 1964, as amended, in every contract, subcontract, or purchase order, so that such provisions will be binding upon each of its own contractors, subcontractors, and vendors. SUBRECIPIENT shall include and enforce all the terms of the Standard Agreement in each subcontract.

**C. Employment Restrictions**

1. Prohibited Activity

SUBRECIPIENT is prohibited from using CERF funds provided herein or personnel employed in the performance of the activities set out in the Scope of Services under this Agreement for political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards Requirements

SUBRECIPIENT shall comply with federal Fair Labor Standards Act requirements as well as all labor laws and regulations of the State of California and COUNTY. Where funds provided through this Agreement are used for construction work, or in support of construction work, SUBRECIPIENT shall ensure that the requirements of Chapter 1 (commencing with Section 1720) of Part 7, Division 2 of the State of California Labor Code (pertaining to payment of prevailing wages and administered by the California Department of Industrial Relations) are met.

**D. Conduct**

1. Assignability

SUBRECIPIENT shall not assign or otherwise transfer, directly or indirectly, whether by operation of law or otherwise, any interest in this Agreement, or any of SUBRECIPIENT’s rights or obligations hereunder, without the prior written consent of COUNTY thereto in each instance, and any

attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

2. Contracts and Subcontracts

a. Approvals

SUBRECIPIENT shall not enter into any contracts or subcontracts with any agency, entity, or individual to perform services under this Agreement, in whole or in part, without the prior written consent of COUNTY in each instance. A contractor or subcontractor is not eligible to receive CERF funds if the contractor is not licensed and in good standing in the State of California or is listed on the Federal Consolidated List of Debarred, Suspended and Ineligible Contractors.

b. Monitoring

SUBRECIPIENT shall monitor all contracted and subcontracted services on a regular basis to assure compliance with this Agreement. 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. SUBRECIPIENT shall retain all written reports and submit such reports to COUNTY upon COUNTY's request.

c. Content

SUBRECIPIENT shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any contract or subcontract executed by a contractor or subcontractor for that contractor's or subcontractor's performance of this Agreement.

d. Selection Process

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

e. Insurance

SUBRECIPIENT shall ensure that all contracts and subcontracts entered into in connection with this Agreement comply with minimum State-required Worker's Compensation insurance requirements and all insurance and indemnification provisions set forth in the Standard Indemnification and Insurance Provisions attached hereto and incorporated herein as Exhibit C.

3. Hatch Act

SUBRECIPIENT agrees that no funds provided, nor personnel employed, under this Agreement, shall be in any way or to any extent used for or engaged in the conduct of political activities in violation of 5 U.S.C., § 7321 et seq. or 5 CFR Parts 733 and 734, all as may be amended.

4. Conflicts of Interest

SUBRECIPIENT agrees to abide by and keep records to show compliance with the organizational and individual conflicts of interest provisions of the State of California Encampment Resolution Funding Program ("CERF"), including, but not limited to, Chapter 7 (commencing with Section 50250) of Part 1 of Division 31 of the Health and Safety Code (amended by Stats. 2021, Ch. 111, Sec.13 (AB 140) Effective July 19, 2021), SB 197 (Chapter 70, Statutes of 2022), AB 178 (Chapter 45, Statutes of 2022) and the Standard Agreement between the State and COUNTY and all

Exhibits, Attachments, and Appendices thereto, which include, but are not limited to, the following:

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

SUBRECIPIENT must promptly disclose to the COUNTY, in writing, any potential conflict of interest.

5. Copyright

If this Agreement results in any material, works or inventions that may be protected by copyright, trademark, or patent, COUNTY, State, and/or HUD reserves the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the materials, works or inventions for governmental purposes.

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. SUBRECIPIENT shall not release any materials under this section except after prior written approval of COUNTY.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

6. SUBRECIPIENT acknowledges in accordance with Public Contract Code 7110, that:
  - (i) SUBRECIPIENT recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and

- (ii) SUBRECIPIENT, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

7. Subrecipient certifies, under penalty of perjury under the laws of State of California, that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (Gov. Code, § 8350 et seq.) and have or will provide a drug-free workplace by taking the actions set forth in Section 10 of Exhibit D to the Standard Agreement.

**IX. ENVIRONMENTAL CONDITIONS**

**California Environmental Quality Act**

This Agreement is subject to the provisions of the California Environmental Quality Act (CEQA). SUBRECIPIENT assumes responsibility to fully comply with CEQA's requirements regarding the Services. The obligation of funds and incurring of costs is hereby conditioned upon compliance with CEQA and completion by the State of all applicable review and approval requirements.

**X. SEVERABILITY**

If any provision of this Agreement is held invalid, illegal or unenforceable, then such provision shall be deemed severable from the remaining provisions hereof, and, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

**XI. SECTION HEADINGS AND SUBHEADINGS**

The section headings and subheadings contained in this Agreement are included for convenience only and shall not affect the meaning, construction or effect of the terms of this Agreement.

**XII. WAIVER**

COUNTY's delay or failure to act with respect to a breach by the SUBRECIPIENT shall not constitute or be construed as a waiver of COUNTY's rights with respect to subsequent or similar breaches. Any delay or failure of COUNTY to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision, and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

**XIII. ENTIRE AGREEMENT**

This Agreement, together with the other Project Documents, constitutes the entire agreement between the COUNTY and the SUBRECIPIENT with respect to the subject matter hereof and thereof, and supersede all prior and contemporaneous communications and proposals, whether electronic, oral, or written between the COUNTY and the SUBRECIPIENT with respect to the subject matter hereof and thereof. Each Party waives the future right to claim, contest, or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver, or estoppel.

**XIV. REMEDIES NOT EXCLUSIVE**

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

**XV. TIME IS OF THE ESSENCE**

Time is of the essence in this Agreement and each covenant and term is a condition herein.

**XVI. NONEXCLUSIVE AGREEMENT**

SUBRECIPIENT understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by SUBRECIPIENT as COUNTY desires.

**XVII. CALIFORNIA LAW**

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to the County of Santa Barbara, if in federal court.

**XVIII. EXECUTION OF COUNTERPARTS**

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

**XIX. AUTHORITY**

Each Party to this Agreement warrants and represents that such Party has the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, SUBRECIPIENT hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which SUBRECIPIENT is obligated, which breach would have a material effect hereon.

**XX. ORDER OF PRECEDENCE**

In the event of conflict or inconsistency between the provisions contained in the numbered Sections I through XX of this Agreement and the provisions contained in the Exhibits shall be resolved by giving precedence in the following order:

- A. Exhibit D
- B. Exhibit C
- C. The provisions in the foregoing sections I through XX of this Agreement
- D. Exhibit B
- E. Exhibit A
- F. Other exhibits attached hereto to the extent incorporated by reference above.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date.

“COUNTY”  
COUNTY OF SANTA BARBARA

ATTEST:  
MONA MIYASATO  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Das Williams, Chair  
Board of Supervisors

By: \_\_\_\_\_  
Deputy Clerk

Dated: \_\_\_\_\_

APPROVED AS TO ACCOUNTING FORM:  
BETSY M. SCHAFER, CPA  
AUDITOR-CONTROLLER

DocuSigned by:  
*George Chapjian*  
By: \_\_\_\_\_  
George Chapjian  
Director, Community Services

DocuSigned by:  
*[Signature]*  
By: \_\_\_\_\_  
Auditor-Controller

APPROVED AS TO FORM:  
RACHEL VAN MULLEM  
COUNTY COUNSEL

DocuSigned by:  
*Lauren Wideman*  
By: \_\_\_\_\_  
Deputy County Counsel

APPROVED AS TO FORM:  
GREG MILLIGAN  
RISK MANAGEMENT

DocuSigned by:  
*Gregory Milligan*  
By: \_\_\_\_\_  
Risk Manager



“SUBRECIPIENT”

DignityMoves La Posada LLC,  
a California limited liability company

By: DocuSigned by:  
**Elizabeth Funk**  
1FD7AD8FFC2D49E...  
Elizabeth Funk, Chief Executive Officer

## EXHIBIT A

**Scope of Services**

State of CA Encampment Resolution Funding (CERF) – Round 2

<b>Project Title:</b>	La Posada
<b>Agreement Amount:</b>	\$ 800,000
<b>Time of Performance:</b>	December 1, 2023 – December 31, 2023

**A. INTRODUCTION**

This Scope of Services is attached to and incorporated into the Subrecipient Agreement between the County of Santa Barbara (“COUNTY”) and DignityMoves La Posada LLC (“SUBRECIPIENT”) as referenced above in this Agreement. The purpose of this Scope of Services is to further describe the Services requirements referenced in Section I of the Agreement.

**B. PROJECT DESCRIPTION****1. Purpose**

The purpose of the Services is to provide the development of temporary interim supportive housing and related improvements for formerly unhoused individuals in order to assist in addressing the County’s homelessness crisis (the “Project”).

**2. Services****a. General**

SUBRECIPIENT shall provide up to 100 interim housing units for persons moving from near waterways in southern Santa Barbara County. As described in more detail in the DMA, SUBRECIPIENT shall perform Services as the development manager of the Project with respect to the Development Work, for the purpose of managing, arranging, supervising and coordinating the planning, design, entitlement, permitting, construction and completion of the Development Work, all in accordance with the terms and conditions of the Project Documents, including, but not limited to, (i) obtaining and preserving all Entitlements required from time to time for the Project, (ii) negotiating all Third Party Contracts necessary for the completion of the Project, if any, (iii) overseeing and managing construction of the Improvements by Third Parties pursuant to approved Plans and Specifications, (iv) obtaining the acceptance of the Improvements by the relevant Governmental agencies, (v) otherwise providing all Services necessary for completion of the Development Work, all within the Development Budget and Development Schedule as the same may be modified from time to time in accordance with the provisions of this Agreement, (vi) signing documents, agreements, purchase orders, subcontracts, change orders and other instruments and writings related to the Project, (vii) issuing payments in connection with the Development Work on checks drawn against the Project Account(s) (as such term is hereafter defined), and (viii) such other tasks as are necessary to perform or procure the Development Work.

**b. Federal and State Regulatory Information**

<b>Activity</b>	<b>Federal Regulation</b>	<b>State Regulation</b>
Interim Housing		Health and Safety Code, Div. 31, Part 1, Ch. 7, Sec. 50254 et seq.
Emergency Shelter	24 CFR 576.102	25 CCR 8408

		25 CCR 8409
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**3. Levels of Accomplishment**

a. Goals

SUBRECIPIENT will provide the following levels of services during the term of the Agreement:

***Interim Housing***

	Goal
Total number of Units	100

b. Performance Measures

SUBRECIPIENT will meet the following performance measures during the term of the Agreement:

***Interim Housing***

	Goal
Total number of Units	100
Other performance measures as described in the DMA	

**C. DATA COLLECTION AND REPORTING**

**1. General**

Data collection must be completed in accordance with Health and Safety Code, Div. 31, Part 1, Ch. 7, Sec. 50254 et seq., HMIS Policies and Procedures, Fulcrum mapping software, and any additional data collection required by CERF, and in sufficient detail to determine the Project’s progress in meeting the goals and performance measures as set forth herein.

## EXHIBIT B

**Payment Arrangements**

State of CA Encampment Resolution Funding (CERF) – Round 2

<b>Project Title:</b>	La Posada
<b>Agreement Amount:</b>	\$ <b>800,000</b>
<b>Time of Performance:</b>	December 1, 2023 – December 31, 2023

**Reimbursement**

- A. For SUBRECIPIENT services to be rendered under this Agreement, SUBRECIPIENT shall be paid a total contract amount, including cost reimbursements, not to exceed **\$800,000**.
- B. Payment for services and reimbursement of costs shall be made upon SUBRECIPIENT's satisfactory performance of Services, based upon the scope and methodology contained in EXHIBIT A, as determined by COUNTY.
- C. No later than December 31, 2023, SUBRECIPIENT shall submit to the COUNTY representative designated all certified requests for reimbursement for eligible expenses in accordance with the provisions hereof for Services performed between December 1, 2023, and December 31, 2023. Such reimbursement request(s) shall cite the assigned Board Contract Number. The COUNTY representative shall evaluate the quality of the Services performed and if found to be satisfactory shall initiate reimbursement.
- D. COUNTY's failure to discover or object to any unsatisfactory Services or reimbursement requests prior to payment will not constitute a waiver of COUNTY's right to require SUBRECIPIENT to correct such Services or reimbursement requests or seek any other legal remedy.

## **EXHIBIT C**

### **Indemnification and Insurance Requirements**

#### **INDEMNIFICATION**

DIGNITY shall defend (with counsel reasonably approved by the COUNTY), indemnify and hold harmless the COUNTY and its officers, officials, agents, volunteers, and employees from and against any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments and liabilities arising out of this Agreement or the performance or attempted performance of the provisions hereof, whether directly or indirectly (collectively, "Claims"), including, but not limited to, the acts, errors or omissions of DIGNITY, its employees, agents, volunteers, contractors or invitees, other than in the event of a California Environmental Quality Act (CEQA) challenge or where such indemnification is prohibited by law; provided, however, that Claims shall not include any claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities to the extent resulting from the sole or gross negligence or willful misconduct of the COUNTY or from the acts, errors or omissions of SERVICE PROVIDER, its employees, agents, volunteers, contractors or invitees.

#### **NOTIFICATION OF INCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS**

DIGNITY shall immediately notify the COUNTY in the event of any accident, injury, or Claim relating to this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

#### **INSURANCE**

Without limiting DIGNITY's indemnification of the COUNTY as provided in this Agreement, DIGNITY shall procure and maintain: (a) from the Effective Date through issuance of final certificates of occupancy for the Project, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the use of the Property by DIGNITY and its agents, representatives, employees, contractors, and subcontractors, including the following required insurance coverages and (b) after issuance of final certificates of occupancy for the Project, only Property Insurance as described in Section A.4, below, at DIGNITY's sole cost and expense (collectively, "Insurance Coverages"). All Insurance Coverages are to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Failure to comply with the insurance requirements set forth in this Agreement shall constitute default under this Agreement by DIGNITY. Upon request by the COUNTY, DIGNITY shall provide to COUNTY within ten (10) working days a certified copy of the insurance policy or policies evidencing the Insurance Coverage(s) specified in such request.

##### **A. Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Workers’ Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
3. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if DIGNITY has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
4. **Property Insurance:** against all risks of loss to any improvements, at full replacement cost with no coinsurance penalty provision.
5. **Contractor’s Pollution Legal Liability:** with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

If DIGNITY maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by DIGNITY. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

## **B. Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – The COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of DIGNITY including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to DIGNITY’S insurance at (least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).
2. **Primary Coverage** – For any claims related to this contract, DIGNITY’S insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of DIGNITY’S insurance and shall not contribute with it.

3. **Legal Liability Coverage** – The property insurance is to be endorsed to include Legal Liability Coverage (ISO Form CP 00 40 04 02 or equivalent) with a limit equal to the replacement cost of the Property.
4. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
5. **Waiver of Subrogation Rights** –DIGNITY hereby grants to COUNTY a waiver of any right to subrogation which any insurer of DIGNITY may acquire from DIGNITY by virtue of the payment of any loss. DIGNITY agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by DIGNITY, its employees, agents and subcontractors.
6. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require DIGNITY to (i) cause the insurer to reduce or eliminate such deductibles or self-insured retentions with respect to the COUNTY, its officers, officials, employees, agents and volunteers, or (ii) provide a financial guarantee satisfactory to the COUNTY guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
7. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
8. **Verification of Coverage** – DIGNITY shall furnish the COUNTY with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to COUNTY before occupying the premises. However, failure to obtain the required documents prior to the work beginning shall not waive DIGNITY'S obligation to provide them. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.
9. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
10. **Subcontractors** – DIGNITY shall require and verify that its subcontractors and permitted sublessees, if any, maintain insurance meeting all the requirements stated herein, and DIGNITY shall ensure that COUNTY is an additional insured on insurance required from such subcontractors and permitted sublessees, if any. For

CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.

11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. DIGNITY agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements shall not be deemed as a waiver of any rights on the part of COUNTY.