

1 **AGREEMENT**

2 This Agreement is made this ____ day of _____, 2022, by and between the **COUNTY**
3 **OF IMPERIAL**, a political subdivision of the State of California (hereinafter "COUNTY"), through its
4 Department of Social Services ("DSS"), and the _____ (hereinafter
5 "CONTRACTOR"), a (individually, "Party;" collectively, "Parties").

6 **RECITALS**

7 **WHEREAS**, COUNTY hereby engages CONTRACTOR to perform, and CONTRACTOR
8 hereby agrees to perform, the services described in **Exhibit " _ "** in conformity with the terms of this
9 Agreement; and

10 **WHEREAS**, CONTRACTOR warrants that it possesses the competence, expertise and
11 personnel necessary to provide participating individuals with services under this program, and
12 COUNTY desires to engage CONTRACTOR to provide such services due to its qualifications and
13 experience.

14 **NOW, THEREFORE**, in consideration of their mutual covenants, the Parties have and hereby
15 agree to the following:

16 **1. TERM OF AGREEMENT.**

17 The term of this Agreement is from _____ to _____, unless sooner
18 terminated pursuant to the terms of this Agreement. This Agreement is no force or effect until signed by
19 both CONTRACTOR and COUNTY and with COUNTY signing last, and CONTRACTOR may not
20 commence work before COUNTY signs this Agreement.

21 The COUNTY reserves the right to cancel this Agreement, or any extension of this Agreement,
22 without cause, with a thirty (30) day written notice, or with cause immediately.

23 **2. SCOPE OF SERVICES AND ADDITIONAL PROVISIONS.**

24 The following attached exhibits are incorporated herein by reference and constitute a part of this
25 Agreement:

26 **Exhibit A:**

27 **Exhibit B:**

1 **3. COMPENSATION.**

2 **3.1** COUNTY shall pay CONTRACTOR compensation for the services required under this
3 Agreement, in an amount not to exceed _____ as described in Exhibit
4 “_.”

5 **3.2** Except as provided under Paragraph 3.1, COUNTY shall not be responsible to pay
6 CONTRACTOR any other payments, compensation, expenses, fees, or other
7 remuneration.

8 **3.3** CONTRACTOR shall submit its itemized monthly invoices to COUNTY’s Department
9 of Social Services Director by the tenth (10th) of the month for each billing period. The
10 invoice will include a description of services rendered and costs.

11 **3.4** Statements shall be paid within thirty (30) days of COUNTY’s receipt, review, and
12 approval of the same.

13 **3.5** The budgeted amounts to fund the program are contingent upon the COUNTY receiving
14 sufficient local, state, and/or federal appropriations. The COUNTY may, at its discretion,
15 adjust the amounts to be funded for the program accordingly.

16 **4. REPRESENTATIONS BY CONTRACTOR.**

17 **4.1** CONTRACTOR has represented itself to be an expert in these fields and understands that
18 COUNTY is relying upon such representation.

19 **4.2** CONTRACTOR represents and warrants that it is a lawful entity possessing all required
20 licenses and authorities to do business in the State of California and perform all aspects
21 of this Agreement.

22 **4.3** CONTRACTOR shall not commence any work under this Agreement or provide any
23 other services, or materials, in connection therewith until CONTRACTOR has received
24 written authorization from COUNTY to do so.

25 **4.4** CONTRACTOR represents and warrants that any employee, contractor and/or agent who
26 will be performing any of the duties and obligations of CONTRACTOR herein possess all
27 required licenses and authorities, as well as the experience and training, to perform such
28 tasks.

1 **4.5** CONTRACTOR represents and warrants that the allegations contained in its Proposal
2 Narrative and Budget are true and correct.

3 **4.6** Prior to accepting any work under this Agreement, CONTRACTOR shall perform a due
4 diligence review of its files and advise COUNTY of any conflict or potential conflict
5 CONTRACTOR may have with respect to the work requested.

6 **4.7** CONTRACTOR understands and agrees that in the course of performance of this
7 Agreement, DISTRICT may be provided with information or data considered by the
8 owner or the COUNTY to be confidential. COUNTY shall clearly identify such
9 information and/or data as confidential. CONTRACTOR shall take all necessary steps
10 necessary to maintain such confidentiality, including but not limited to restricting the
11 dissemination of all material received to those required to have such data in order for
12 CONTRACTOR to perform under this Agreement.

13 **4.8** CONTRACTOR represents that the personnel dedicated to this project as identified in its
14 Proposal Narrative and Budget will be the people to perform the tasks identified therein.
15 CONTRACTOR will not substitute other personnel or engage any contractors to work on
16 any tasks identified herein without prior written notice to COUNTY.

17 **4.9** CONTRACTOR understands that COUNTY considers the representations made herein to
18 be material and would not enter into this Agreement with CONTRACTOR if such
19 representations were not made.

20 **5. RETENTION AND AVAILABILITY OF RECORDS.**

21 All records and documents prepared and kept by CONTRACTOR in connection with the
22 program shall be retained for a minimum of three (3) calendar years, or as otherwise required by law,
23 following the date of termination of this Agreement. Upon request by COUNTY, COUNTY shall have
24 the right to inspect, and CONTRACTOR shall make available for inspection by COUNTY, all records,
25 documents, and work performed hereunder during CONTRACTOR's normal business hours.

26 **6. INDEMNIFICATION.**

27 **6.1** COUNTY agrees to indemnify, defend, and hold harmless CONTRACTOR their agents,
28 officers, and employees from and against all liability, expense, and claims for damages

1 arising from or in connection with the performance of this Agreement to the extent that
2 such liability, expense, or claims for damages resulted from the sole negligence or willful
3 misconduct of COUNTY, its agents, officers, or employees.

4 **6.2** CONTRACTOR agrees to indemnify, defend, and hold harmless COUNTY, their agents,
5 officers, and employees from and against all liability, expense, and claims for damages
6 arising from or in connection with the performance of this Agreement to the extent that
7 such liability, expense, or claims for damages resulted from the sole negligence or willful
8 misconduct of CONTRACTOR, its agents, officers, or employees.

9 **6.3** Notwithstanding Paragraphs 6.1 and 6.2, in the event that COUNTY and CONTRACTOR
10 are both held to be negligently or willfully responsible, each will bear its proportionate
11 share of liability as determined in any such proceeding. Each side to bear its own costs
12 and attorney fees.

13 **7. INDEPENDENT CONTRACTOR.**

14 **7.1** This Agreement is not intended, and shall not be construed, to create the relationship of
15 agent, servant, employee, partnership, joint venture or association, as between COUNTY
16 and CONTRACTOR. The employees and agents of one Party shall not be, or be
17 construed to be, the employees or agents of the other Party for any purpose whatsoever.

18 **7.2** CONTRACTOR, including its officers, agents, servants, and employees are at all times
19 acting and performing hereunder as independent contractors; and as such, shall determine
20 the method, details, and means of performing services under the program, and are not
21 entitled to the rights and benefits afforded to COUNTY's employees.

22 **7.3** CONTRACTOR shall be solely liable and responsible for providing all compensation and
23 benefits to, or on behalf of, all persons performing work pursuant to this Agreement. The
24 COUNTY shall have no liability or responsibility for the payment of any salaries, wages,
25 unemployment benefits, disability benefits, federal, State, or local taxes, or other
26 compensation, benefits or taxes for any personnel provided by or on behalf of
27 CONTRACTOR.
28

1 **7.4** CONTRACTOR understands and agrees that all persons performing work pursuant to this
2 Agreement are, for purposes of Workers' Compensation liability, solely employees of the
3 CONTRACTOR and not employees of the COUNTY. CONTRACTOR shall be solely
4 liable and responsible for furnishing any and all Workers' Compensation benefits to any
5 person as a result of any injuries arising from or connected with any work performed by
6 or on behalf of the CONTRACTOR pursuant to this Agreement.

7 **8. INSURANCE REQUIREMENTS.**

8 **8.1** CONTRACTOR hereby agrees at its own cost and expense to procure and maintain during
9 the entire term of this Agreement and any extended term thereof, the following types of
10 insurance:

11 **8.1.1** Commercial General Liability coverage in the minimum amount of one million
12 dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00)
13 aggregate for any one accident, including personal injury, death, and property
14 damage.

15 **8.1.2** Automobile Liability coverage in a minimum amount of one million dollars
16 (\$1,000,000.00) combined single limit including owned, non-owned, and hired
17 vehicles.

18 **8.1.3** To the extent required by law, Workers' Compensation coverage in full
19 compliance with California statutory requirements for all employees of
20 CONTRACTOR, and Employer's Liability in the minimum amount of one
21 million dollars (\$1,000,000.00).

22 **8.1.4** Professional liability insurance in the amount of one million dollars
23 (\$1,000,000.00) per claim and annual aggregate.

24 **8.2 SPECIAL INSURANCE REQUIREMENTS.**

25 All insurance required under Paragraph 8 shall:

26 **8.2.1** Be procured from an insurer authorized to do business in California.

27 **8.2.2** Be primary coverage as respects COUNTY and any insurance or self-insurance
28 maintained by COUNTY shall be in excess of CONTRACTOR's insurance

1 coverage and shall not contribute to it.

2 **8.2.3** Name COUNTY as an additional insured on all policies, except for Workers
3 Compensation and Professional Liability, and provide that COUNTY may recover
4 for any loss suffered by COUNTY by reason of CONTRACTOR's negligence.

5 **8.2.4** Not be canceled, non-renewed, or reduced in scope of coverage until after thirty
6 (30) days written notice has been given to the COUNTY. However,
7 CONTRACTOR may not terminate such coverage until it provides COUNTY
8 with proof that equal or better insurance has been secured and is in place.
9 Cancellation or change without the prior written consent of the COUNTY shall, at
10 the option of the COUNTY be grounds for termination of this Agreement.

11 **8.3 ADDITIONAL INSURANCE REQUIREMENTS.**

12 **8.3.1** COUNTY is to be notified immediately of all insurance claims. COUNTY is also
13 to be notified if any aggregate insurance limit is exceeded.

14 **8.3.2** Deposit of Insurance Policy. Promptly on issuance, reissuance, or renewal of any
15 insurance policy required by this Agreement, CONTRACTOR shall, if requested
16 by COUNTY, cause to be given to COUNTY satisfactory evidence that insurance
17 policy premiums have been paid together with a duplicate copy of the policy or a
18 certificate evidencing the policy and executed by the insurance company issuing
19 the policy or its authorized agent.

20 **8.3.3** CONTRACTOR agrees to provide COUNTY with the following insurance
21 documents on or before the effective date of this Agreement:

22 **(a)** Complete copies of certificates of insurance for all required coverages
23 including Additional Insured Endorsements and thirty (30) days Notice of
24 Cancellation Clause endorsements, which shall be attached hereto and
25 incorporated herein as **Exhibit “__.”**

26 **(b)** The documents enumerated in Paragraph 8 shall be sent to the following:

27 (i) County of Imperial
28 Risk Management Department
940 W. Main Street, Ste. 101
El Centro, CA 92243

1
2 and

3 (ii) Imperial County Dept. of Social Services
4 2995 S. Fourth Street, Suite 105
5 El Centro, CA 92243

6 **8.3.4** Nothing in this, or any other provision of this Agreement, shall be construed to
7 preclude CONTRACTOR from obtaining and maintaining any additional
8 insurance policies in addition to those required pursuant to this Agreement.

9 **8.3.5** The comprehensive or commercial general liability shall contain a provision of
10 endorsements stating that such insurance:

11 **8.3.5.1** Includes contractual liability.

12 **8.3.5.2** Does not contain a “pro rata” provision which looks to limit the insurer’s
13 liability to the total proportion that its policy limits bear to the total
14 coverage available to the insured.

15 **8.3.5.3** Does not contain an “excess only” clause which requires the exhaustion of
16 other insurance prior to providing coverage.

17 **8.3.5.4** Does not contain an “escape clause” which extinguishes the insurer’s
18 liability if the loss is covered by other insurance.

19 **8.3.5.5** Includes COUNTY as an additional insured.

20 **8.3.5.6** States that it is primary insurance and regards COUNTY as an additional
21 insured and contains a cross-liability or severability of interest clause.

22 **9. ASSIGNMENT.**

23 Neither this Agreement nor any duties or obligations hereunder shall be assignable by
24 CONTRACTOR without the prior written consent of COUNTY.

25 **10. NON-DISCRIMINATION.**

26 During the performance of this Agreement, CONTRACTOR shall not unlawfully discriminate
27 against any employee or applicant for employment or employee of CONTRACTOR or member of the
28 public because of race, religion, color, national origin, ancestry, physical disability, medical condition,
marital status, age (over 40), or sex. CONTRACTOR shall ensure that the evaluation and treatment of

1 its employees and applicants for employment and employees and members of the public are free of such
2 discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing
3 Act (Government Code Section 12900, et seq.) and the applicable regulations promulgated thereunder
4 (California Administrative Code Title 2, Section 7285 et seq.). The applicable regulations of the Fair
5 Employment Housing Commission implementing Government Code Section 12900, set forth in Chapter
6 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this Agreement by
7 reference and made a part hereof as though set forth in full. CONTRACTOR shall also abide by the
8 Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and
9 regulations issued pursuant to said Act. CONTRACTOR shall give written notice of its obligations
10 under this clause to labor organizations with which it has a collective bargaining or other Agreement.
11 CONTRACTOR shall include the non-discrimination and compliance provision of this paragraph in all
12 subcontracts to perform work under this Agreement.

13 **11. NOTICES AND REPORTS.**

14 All notices and reports required or permitted to be given hereunder shall be in writing and shall
15 be effective when delivered by hand delivery, by courier, or by U.S. Mail, return receipt requested, to
16 the following addresses:

17 **FOR COUNTY:**

18 IMPERIAL COUNTY DEPARTMENT OF SOCIAL SERVICES
19 Attn: Director
20 2995 S. 4th Street, Suite 105
El Centro, California 92243

21 and

22 IMPERIAL COUNTY CLERK OF THE BOARD
23 Attn: Clerk of the Board
24 940 Main Street
El Centro, CA 92243

25 **FOR CONTRACTOR:**

26 [CONTRACTOR ADDRESS]
27
28

1 **12. TERMINATION.**

2 **12.1** Either of the Parties may terminate this Agreement, with or without cause, by giving the
3 other Party written notice at least thirty (30) days prior to the date of termination. Each
4 Party shall fully pay and discharge all obligations in favor of the other occurring prior to
5 the date of such termination. After termination, neither Party shall have any further
6 obligation to the other as a result of this Agreement.

7 **12.2 Funding Authorization**

8 **(a)** This Agreement is valid and enforceable subject to sufficient funds being made
9 available to the COUNTY by the State Department of Social Services for the
10 period of time covered by this contract as stated in the contract term section and
11 subject to authorization and appropriation of sufficient funds pursuant to the
12 State's Budget Act.

13 **(b)** In the event the United States Government and/or the State government do not
14 authorize and appropriate sufficient funds for the State to allocate amounts to the
15 COUNTY pursuant to the payment provisions of the Agreement, it is mutually
16 agreed that:

- 17 **1.** The Agreement shall be amended to reflect any reduction in the payment
18 provisions and the performance provisions.
- 19 **2.** To the extent there is insufficient money for the contract to be considered
20 valid and enforceable pursuant to subdivision 13.2(a), the contract will end
21 immediately.

22 **12.3 Default.** COUNTY shall have the right to immediately terminate this Agreement if
23 COUNTY, in its sole judgment, is dissatisfied with CONTRACTOR's performance under
24 this Agreement. COUNTY shall give written notice to CONTRACTOR specifying the
25 nature of the default.

26 **13. PRIVACY.**

27 The COUNTY and CONTRACTOR hereby agree to the additional privacy terms attached hereto
28 as **Exhibit “__”** and incorporated herein by this reference.

1 **14. ENTIRE AGREEMENT.**

2 This Agreement contains the entire Agreement between the Parties and supersedes all prior
3 Agreement and other communications, both oral and written, between the Parties.

4 **15. MODIFICATION.**

5 No modification, waiver, amendment, discharge, or change of this Agreement shall be valid
6 unless the same is in writing and signed by both Parties.

7 **16. BINDING.**

8 This Agreement shall be binding upon and shall inure to the benefit of the heirs, successors, and
9 assigns of the Parties hereto.

10 **17. WAIVER.**

11 No waiver of any breach or of any of the covenants or conditions of this Agreement shall be
12 construed to be a waiver of any other breach or to be a consent to any further or succeeding breach of
13 the same or any other covenant or condition.

14 **18. CHOICE OF LAW.**

15 This Agreement shall be governed by the laws of the State of California. This Agreement is
16 made and entered into in Imperial County, California. Any action brought by any Party with respect to
17 this Agreement shall be brought in a court of competent jurisdiction within said County.

18 **19. PARTIAL INVALIDITY.**

19 If any provision of this Agreement is held by a court of competent jurisdiction to be invalid,
20 void, or unenforceable, the remaining provisions shall continue in full force and effect.

21 **20. AUTHORITY.**

22 Each individual executing this Agreement on behalf of COUNTY and CONTRACTOR represent
23 and warrant that:

24 **20.1** He/She is duly authorized to execute and deliver this Agreement on behalf of the
25 COUNTY or CONTRACTOR, as applicable; and

26 **20.2** Such execution and delivery is in accordance with the statutory authorities, rules,
27 regulations, by-laws, and/or resolutions of each department, as applicable; and

28 **20.3** This Agreement is binding upon the respective Parties in accordance with its terms.

1 **21. REVIEW OF AGREEMENT TERMS.**

2 **21.1** Each Party has had the opportunity to receive independent legal advice from its
3 attorney(s) with respect to the advisability of making the representations, warranties,
4 covenants and agreements provided for herein, and with respect to the advisability of
5 executing this Agreement.

6 **21.2** No presumption or rule that ambiguities shall be construed against the drafting party shall
7 apply to the interpretation or enforcement of the same or any subsequent amendments
8 thereto.

9 **22. DEBARMENT AND SUSPENSION CERTIFICATION.**

10 **22.1** CONTRACTOR understands that as a subrecipient of federal funds, it must be in good
11 standing with the federal government (see Executive Order 12549 and CDSS CFL No.
12 16/17-75).

13 **22.2** CONTRACTOR represents and warrants that neither it, nor its principals, employees,
14 recipients, contractors, subcontractors, affiliates, and/or agents, are debarred or suspended
15 from participation in any federal or state financial assistance programs (as defined by 42.
16 U.S.C. 1320a-7b(f)), by any federal or state department or agency, including but not
17 limited to Medicare or Medi-Cal, and are not listed on the federal Excluded Parties
18 Listing System prior to the issuance from COUNTY of any federal funds.

19 **22.3** CONTRACTOR shall immediately notice COUNTY if the aforementioned assurances or
20 representations are no longer true during the term of this Agreement or while payment
21 from COUNTY remains outstanding. In no event shall CONTRACTOR's notice to
22 COUNTY exceed fourteen (14) calendar days from the date of notice of any or proposed
23 debarment, suspension, exclusion, or ineligibility. CONTRACTOR shall defend,
24 indemnify, and hold COUNTY harmless for any loss or damage resulting from
25 CONTRACTOR's suspension, debarment, exclusion, or ineligibility.

26 **22.4** By initialing here, DISTRICT certifies that to the best of its knowledge and belief, the
27 assurances and representations contained within Paragraph 22 are true and correct and
28 that CONTRACTOR, its principals or affiliates or any subcontractor utilized under this

1 Agreement, are not debarred or suspended from federal financial assistance programs and
2 activities, nor proposed for debarment, declared ineligible, nor voluntarily excluded from
3 participation in covered transactions by any federal department or agency.
4 CONTRACTOR also certifies that it or any of its subcontractors are not listed on the
5 federal Excluded Parties Listing System (<http://www.sam.gov>) (Executive Order 12549,
6 7 CFR Part 3017, 45 CFR Part 76, and 44 CFR Part 17). **Initials:** _____
7

8 **IN WITNESS WHEREOF**, the Parties have executed this Agreement on the day and year first
9 above written.

10 **COUNTY OF IMPERIAL**

CONSULTANT

11
12
13 By: _____
14 JESUS EDUARDO ESCOBAR, Chairman
15 Board of Supervisors

By: _____
[NAME/TITLE]

16 **ATTEST:**

17
18
19
20 By: _____
21 BLANCA ACOSTA
22 Clerk of the Board of Supervisors,

23 **APPROVED AS TO FORM:**
24 ERIC R. HAVENS
25 County Counsel

26
27 By: _____
28 [XXXXXXXXXX]
Deputy County Counsel

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SAMPLE