

**SUBRECIPIENT AGREEMENT TO USE CORONAVIRUS RELIEF FUNDS FROM
THE AMERICAN RESCUE PLAN ACT BETWEEN THE CITY OF WATSONVILLE
AND
ENCOMPASS COMMUNITY SERVICES.**

WHEREAS, the American Rescue Plan Act of 2021 (ARPA) established the Coronavirus State and Local Fiscal Recovery Funds under sections 602 and 603 of the Social Security Act to help states and localities address the economic and health consequences of the pandemic; and

WHEREAS, the United States Department of Treasury has adopted guidance regarding the use of ARPA funds to respond to the COVID-19 public health emergency and its economic impacts through four categories

- To respond to the public health emergency or its negative economic impacts, including assistance to households, small business, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
- For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
- To make necessary investments in water, sewer, and broadband infrastructure; and

WHEREAS, City of Watsonville (“City”) has received ARPA funding from the State of California as a passthrough from the federal government to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); and

WHEREAS, Encompass Community Services (“Sub-recipient”) has represented and demonstrated to City that Sub-recipient has the appropriate skill, training, qualifications, and experience to render the services called for under this Agreement.

NOW, THEREFORE, in consideration of the foregoing promises, the parties hereto agree that the use of American Rescue Plan Funds be conveyed by the City to the Sub-recipient, subject to the following award information, conditions, and limitations:

A. Award Information

Awarding Agency: City of Watsonville

Subrecipient Names: Encompass Community Services

Subrecipient SAM #: PXU2DF4JJ2U8 (must actively maintain registration)

Federal Awarding Agency: US Dept. of Treasury

CFDA #: 21.019 – American Rescue Plan Funds

Period of Performance: July 1, 2022 – December 30, 2024

Amount of Award and Budget: Total of \$400,000.00 Funding must be spent by the end of calendar year 2024.

B. Grant Amount

The City of Watsonville will award an amount, not to exceed \$400,00.00 in ARPA Funds to ENCOMPASS COMMUNITY SERVICES to support the development and construction of the Si Se Puede Behavioral Health Center in Watsonville to address the community’s urgent, growing need for high quality, accessible behavioral health services in the wake of the COVID-19 pandemic.

C. General Objectives

1. 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. ENCOMPASS COMMUNITY SERVICES shall at all times remain an “independent contractor” with respect to the services to be performed under this Agreement. City of Watsonville shall be exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and Workers’ Compensation Insurance as ENCOMPASS COMMUNITY SERVICES is an independent entity.
2. ENCOMPASS COMMUNITY SERVICES shall hold harmless and indemnify the City of Watsonville from any and all claims, actions, suits, charges and judgments whatsoever that arise out of ENCOMPASS COMMUNITY SERVICES performance or nonperformance of the services or subject matter called for in this Agreement.
3. City of Watsonville or ENCOMPASS COMMUNITY SERVICES may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, and signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this Agreement, nor relieve or release City of Watsonville or ENCOMPASS COMMUNITY SERVICES from its obligations under this Agreement.
 - City of Watsonville may, in its discretion, amend this Agreement to confirm with federal, state, or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City of Watsonville and ENCOMPASS COMMUNITY SERVICES.
4. Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, reports, or other materials prepared by ENCOMPASS COMMUNITY SERVICES under this Agreement shall, at

the option of the City of Watsonville, become the property of the City of Watsonville.

- City of Watsonville may also suspend or terminate this Agreement, in whole or in part, if ENCOMPASS COMMUNITY SERVICES materially fails to comply with any term of this Agreement, or with any of the rules, regulations, or provisions referred to herein; and the City of Watsonville may declare ENCOMPASS COMMUNITY SERVICES ineligible for any further participation in City of Watsonville's award agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe ENCOMPASS COMMUNITY SERVICES is in noncompliance with any applicable rules or regulations, City of Watsonville may withhold funding.

D. Award Assurances

A signature on this Agreement indicates that ENCOMPASS COMMUNITY SERVICES is capable of and agrees to meet the following requirements, and that all information contained in this proposal is true and correct.

1. Adopt and maintain a system of internal controls which results in the fiscal integrity and stability of the organization, including the use of Generally Accepted Accounting Principles (GAAP).
2. Compliance with state insurance requirements for general, professional, and automobile liability; workers' compensation and employer's liability; and, if advance funds are required, commercial crime insurance.
3. These award funds will not be used to supplant existing financial support for current programs.
4. No portion of these award funds will be subcontracted without prior written approval unless expressly identified in the award agreement.
5. Compliance with the requirements of the Civil Rights Act of 1964, as amended, and the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee for employment because of race, national origin, creed, color, sex, religion, age, disability, or handicap condition (including AIDS and AIDS related conditions).
6. Compliance with the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 CFR 26.101-36.999 inclusive, and any relevant program-specific regulations.
7. Compliance with Title 2 of the Code of Federal Regulations (CFR) and any guidance in effect from the Office of Management and Budget (OMB) related (but not limited to) audit requirements for grantees that expend \$750,000 or more in Federal awards during the grantee's fiscal year must have an annual audit prepared by an independent auditor in accordance with the terms and requirements of the appropriate circular. Certifications that neither Court

Appointed Advocates for Children nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. This certification is made pursuant to regulations implementing Executive Order 12549, Department and Suspension, 28 C.F.R. pt. 67 §67.510, as published as pt. VII of May 26, 1988, Federal Register (pp. 19150-19211). No funding associated with this award will be used for lobbying.

8. Disclosure of any existing or potential conflicts of interest relative to the performance of services resulting from this award.
9. Provision of a work environment in which the use of tobacco products, alcohol, and illegal drugs will not be allowed.

All activities funded with ARPA funds must meet one of the ARPA program's National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

The Sub-recipient certifies that the activity (ies) carried out under this Agreement will meet the General Objective of ENCOMPASS COMMUNITY SERVICES construction of the Si Se Puede Behavioral Health Center.

I. SCOPE OF SERVICE

- a. Responding to the far-reaching public health and negative economic impacts of the pandemic, Encompass is building a new, state-of-the-art Sí Se Puede Behavioral Health Center that will significantly expand its Watsonville-based behavioral health treatment programs to address the community's urgent and growing substance use disorder and mental health treatment needs. Through the development of the new Center, ENCOMPASS COMMUNITY SERVICES will operate a 30-bed, bilingual (English and Spanish) residential substance use treatment program with capacity to serve approximately 245 community members experiencing acute substance use disorder (SUD) – including those with co-occurring mental health symptoms – every year. Responding to statewide and locally identified needs, gaps, and disparities, the Center will serve primarily low-income community members and will prioritize services for Latinx community members, justice-involved individuals, and transition-age young adults (ages 18-25) – populations that have been disproportionately impacted by the COVID-19 pandemic.

Through the agency's whole-person approach to treatment, and by leveraging Encompass's other health and human services programs, the residential program will also provide critical linkage to outpatient SUD and mental health treatment for those stepping down from residential treatment to support community members' long-term recovery. The campus is also designed with long-term plans

to integrate an outpatient program facility onsite, which would provide high quality, accessible outpatient substance use disorder (SUD) and mental health treatment services to more than 1,100 community members annually.

ENCOMPASS COMMUNITY SERVICES is co-developing its new behavioral health campus with nonprofit housing developer, MidPen Housing, Inc who is simultaneously building a 72-unit affordable housing community right next door. This partnership will help reduce the stigma around seeking support while increasing access to high quality behavioral health treatment and housing. ARPA funding is contributing to the overall budget of the capital project.

II. TIME OF PERFORMANCE

Services of the Sub-recipient shall start no earlier than the 12th day of July 2022. This Agreement shall expire on December 30, 2024, provided, however, that the term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the Sub-recipient remains in control of ARPA funds.

III. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed \$ 400,000.00. Requests for the payment of eligible expenses incurred after July 12, 2022 and directly related to Covid-19. All payments will be made on a reimbursement basis.

Payments are contingent upon certification that the Sub-recipient's financial management system complies with standards specified in OMB Circular A-110, and Title 2 of the Code of Federal Regulations (CFR), and upon submittal of written justification for Capital Expenditures as outlined in the Final Rule of the Department of the Treasury's Coronavirus State and Local Fiscal Recovery Funds.

Sub-recipient shall submit a request for payment for services on a monthly basis by letter to Director, or said Director's designated representative. Such request for payment shall cover the preceding monthly period during the term hereof, shall note the City's purchase order number for this contract, shall contain a detailed listing of the total number of items or tasks or hours for which payment is requested, the individual dates on which such services were rendered, and invoices for reimbursable expenses, if any. Upon receipt in the Office of Director of said payment request, Director shall cause payment to be initiated to Sub-recipient for appropriate compensation.

IV. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of 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. Communication and details concerning this contract shall be directed to the following contract representatives:

The City

City of Watsonville
City Clerk's Office
275 Main Street, Suite 400
Watsonville, CA 95076
Telephone (831) 768-3040
Fax (831) 761-0736

Encompass Community Services

Encompass Community Services
380 Encinal St. Suite 200
Santa Cruz, CA 95060
Telephone (831) 469-1700

V. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Sub-recipient agrees to comply with OMB Circular A-110, Single Audit-OMB Circular A-131 and Title 2 of the Code of Federal Regulations (CFR) and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Sub-recipient shall administer its program in conformance with OMB Circular A-122, "Cost Principles for Non-Profit Organizations," as applicable for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

The Sub-recipient shall maintain all records required by the federal regulations specified in Title 2 of the Code of Federal Regulations (CFR) that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;

- b. Records demonstrating that each activity undertaken meets one of the categories of the ARPA Funding;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with ARPA funding;
- e. Records documenting compliance with the fair housing and equal opportunity components of the ARPA program;
- f. Financial records as required by Title 2 of the Code of Federal Regulations (CFR).

2. Retention

The Sub-recipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report to ARPA in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Sub-recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

4. Disclosure

The Sub-recipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or the Sub-recipient's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The Sub-recipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of

records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Sub-recipient has control over ARPA funding.

6. Audits and Inspections

All Sub-recipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Sub-recipient within 30 days after receipt by the Sub-recipient. Failure of the Sub-recipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Sub-recipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning sub-recipient audits and OMB Circular A-131 (formerly known as A-133 Audit) if applicable.

C. Reporting and Payment Procedures

1. Budgets

The Sub-recipient will submit a detailed contract budget of a form and content prescribed by the City for approval by the City. The City and the Sub-recipient may agree to revise the budget from time to time in accordance with existing City policies.

2. Indirect Costs

If indirect costs are charged, the Sub-recipient will develop an indirect cost allocation plan for determining the appropriate City share of administrative costs and shall submit such plan to the City for approval, in a form specified by the City.

3. Payment Procedures

The City will pay to the Sub-recipient funds available under this Agreement based upon information submitted by the Sub-recipient and consistent with any approved budget and City policy concerning payments.

ENCOMPASS COMMUNITY SERVICES agrees to:

- To request reimbursement, accompanied by supporting documentation, for the subrecipient's operational costs and personnel salaries and benefits.

4. Progress Reports

The Sub-recipient shall submit quarterly Progress Reports to the Grantee in the form, content, and frequency as required by the City.

5. Levels of Accomplishments – Goals and Performance Measures

The Sub-recipient agrees to provide the levels of program services listed under Paragraph I. A. of this Agreement.

6. Staffing

Any changes in the Key Personnel or their general responsibilities under this project are subject to the prior approval of the City.

7. Performance Monitoring

The City will monitor the performance of the Sub-recipient on a quarterly basis against Activities/Goals and Performance standards as stated above. Substandard performance as determined by the City will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Sub-recipient within a reasonable period of time after being notified by the City, contract suspension or termination procedures will be initiated.

8. ENCOMPASS COMMUNITY SERVICES (Subrecipient) proposed uses of the funds provided as payment under sections 601, 602 and 603 of the Social Security Act will be used only to cover those costs that:

- a. Respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- b. Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
- c. Are for the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
- d. Are necessary investments in water, sewer, or broadband infrastructure.

9. ENCOMPASS COMMUNITY SERVICES understands that any funds provided pursuant to this certification cannot be used for depositing funds into any pension fund.

10. ENCOMPASS COMMUNITY SERVICES understands that funds received pursuant to this certification cannot be used for expenditures for which ENCOMPASS COMMUNITY SERVICES has received any other emergency COVID-19 supplemental funding (whether state, federal or private in nature) for that same expense.

D. Procurement

1. Compliance

The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended ARPA funding, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. OMB Standards

Unless specified otherwise within this Agreement, the Sub-recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40—48.

3. Travel

The Sub-recipient shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this Agreement.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall follow the requirements of Title 2 of the Code of Federal Regulations (CFR), as applicable, which include but are not limited to the following:

1. The Sub-recipient shall transfer to the City any ARPA funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub-recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the categories pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement. If the Sub-recipient fails to use ARPA-assisted real property in a manner that meets an ARPA National Objective for the prescribed period of time, the Sub-recipient shall pay the City an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-ARPA funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the City. The Sub-recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period or such longer period of time as the City deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub-recipient for activities under this Agreement shall be (a) transferred to the City for the ARPA program or (b) retained after compensating the City [an amount equal to the current fair market value of the equipment less the percentage of non-ARPA funds used to acquire the equipment].

VI. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Sub-recipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

2. Nondiscrimination

The Sub-recipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

3. Section 504

The Sub-recipient agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The City shall provide the Sub-recipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. Affirmative Action

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

The Sub-recipient will 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 contract. As used in this contract, 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 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 Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Sub-recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

2. Access to Records

The Sub-recipient shall furnish and cause each of its own sub-recipients or subcontractors to furnish all information and reports required here under and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

3. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Sub-recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Sub-recipient, state that it is an Equal Opportunity or Affirmative Action employer.

C. Employment Restrictions

1. Prohibited Activity

The Sub-recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards

The Sub-recipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C 327 et seq.), and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Sub-recipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 et seq.) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Sub-recipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

The Sub-recipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR, Parts 1, 3, 5 and 7, governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wages rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Sub-recipient of its obligation, if any, to require payment of the higher wage. The Sub-recipient shall cause or require to be inserted in full, in all such

contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with Title 2 of the Code of Federal Regulations (CFR) and any guidance in effect from the Office of Management and Budget (OMB) related (but not limited to) audit requirements for grantees that expend \$750,000 or more in Federal awards during the grantee's fiscal year must have an annual audit prepared by an independent auditor in accordance with the terms and requirements of the appropriate circular. Certifications that neither Court Appointed Advocates for Children nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. This certification is made pursuant to regulations implementing Executive Order 12549, Department and Suspension, 28 C.F.R. pt. 67 §67.510, as published as pt. VII of May 26, 1988, Federal Register (pp. 19150-19211). No funding associated with this award will be used for lobbying.

The Sub-recipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The Sub-recipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Sub-recipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under Title 2 of the Code of Federal Regulations (CFR) and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Sub-recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Hatch Act

The Sub-recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the United States Code (U.S.C.).

3. Conflict of Interest

The Sub-recipient agrees to abide by the provisions of Title 2 of the Code of Federal Regulations (CFR), which include (but are not limited to) the following:

a. The Sub-recipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

b. No employee, officer or agent of the Sub-recipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal 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 ARPA-assisted 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 in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the ARPA-assisted activity, or with respect to the proceeds from the ARPA-assisted activity, either for themselves or those with whom they have business or immediate 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 the Grantee, the Sub-recipient, or any designated public agency.

The Sub-recipient further agrees to avoid all conflicts of interest or appearance of conflicts of interest in the performance of this Agreement. Sub-recipient shall file a FPPC Form 700 disclosure statement, which form shall be filed with the City Clerk within thirty (30) days from the effective date of this Agreement as applicable.

No member, officer, or employee of the City, during their tenure, or for one (1) year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof and Sub-recipient agrees not to allow, permit, grant, transfer, or otherwise do anything which will result in such member, officer, or employee of the City from having such interest.

4. Lobbying

The Sub-recipient hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Sub-recipients shall certify and disclose accordingly:

d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails

to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

5. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work for government purposes.

6. Religious Activities

The Sub-recipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by Title 2 of the Code of Federal Regulations (CFR), such as worship, religious instruction, or proselytization.

VII. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Sub-recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean air Act, 42 U.S.C., 7401, et seq.;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), Sub-recipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Historic Preservation

The Sub-recipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on

Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

VIII. SEVERABILITY

If any provision of this Agreement is held invalid, 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.

IX. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

X. WAIVER

The City's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XI. INDEPENDENT CONSULTANT

It is understood and agreed that Sub-recipient, in the performance of the work and services agreed to be performed by Sub-recipient, shall act as and be an independent Sub-recipient and not an agent or employee of City, and as an independent Sub-recipient, shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Sub-recipient hereby expressly waives any claim it may have to any such rights.

XII. INDEMNIFICATION

Sub-recipient represents that Sub-recipient has the expertise and experience necessary to perform the services and duties agreed to be performed by Sub-recipient under this Contract, and City is relying upon the skill and knowledge of Sub-recipient to perform said services and duties. Sub-recipient agrees to defend, indemnify and hold harmless City, its officers, agents, and employees, against any loss or liability arising out of or resulting in any way from work performed by or on behalf of Sub-recipient under this Contract or the errors or omissions by Sub-recipient.

XIII. INSURANCE

A. Auto and Commercial General Liability Insurance. Sub-recipient shall also maintain in full force and effect for the term of this Contract, automobile insurance and commercial general liability insurance with an insurance carrier satisfactory to City, which insurance shall include protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from any actual occurrence arising out of the performance of this Contract. The amounts of insurance shall not be less than the following:

(1) Commercial general liability insurance, or equivalent form, with a combined single limit of not less than \$1,000,000.00 per occurrence. If such insurance contains a general aggregate limit, such limit shall apply separately to each project Sub-recipient performs for City. Such insurance shall (a) name City, its appointed and elected officials, and its employees as insureds; and (b) be primary with respect to insurance or self-insurance programs maintained by City and (c) contain standard separation of insured's provisions.

(2) Business automobile liability insurance, or equivalent form, with a combined single limit of not less than \$1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

B. Workers' Compensation Insurance. In accordance with the provisions of Section 3700 of the Labor Code, Sub-recipient shall be insured against liability for Workers' Compensation or undertake self-insurance. Sub-recipient agrees to comply with such provisions before commencing performance of any work under this Contract.

C. Proof of Insurance to City before Notice to Proceed to Work. Sub-recipient shall satisfactorily provide certificates and endorsements of insurance to the City Clerk before Notice to Proceed to Work of this Contract will be issued. Certificates and policies shall state that the policy shall not be canceled or reduced in coverage without thirty (30) days written notice to City. Approval of insurance by City shall not relieve or decrease the extent to which Sub-recipient may be held responsible for payment of damages resulting from services or operations performed pursuant to this Contract. Sub-recipient shall not perform any work under this Contract until Sub-recipient has obtained the required insurance and until the required certificates have been submitted to the City and approved by the City Attorney. If Sub-recipient fails or refuses to produce or maintain the insurance required by these provisions, or fails or refuses to furnish City required proof that insurance has been procured and is in force and paid for, City shall have the right at City's election to forthwith terminate this Contract immediately without any financial or contractual obligation to the City. As a result of such termination, the City reserves the right to employ another Sub-recipient to complete the project.

D. Written notice. Sub-recipient shall provide immediate written notice if (1) any insurance policy required by this Agreement is terminated; (2) any policy limit is reduced; (3) or any deductible or self-insured retention is increased.

XIV. TERMINATION

A. City and Sub-recipient shall have the right to terminate this Agreement, without cause, by giving not less than ten (10) days written notice of termination.

- B. If Sub-recipient fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice.
- C. The City Manager is empowered to terminate this Agreement on behalf of City.
- D. In the event of termination, Sub-recipient shall deliver to City copies of all work papers, schedules, reports and other work performed by Sub-recipient and upon receipt thereof, Sub-recipient shall be paid in full for services performed and reimbursable expenses incurred to the date of termination.

XV. COMPLIANCE WITH LAWS

Sub-recipient shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments. Sub-recipient shall obtain and maintain a City of Watsonville business license during the term of this Agreement.

XVI. GOVERNING LAW

City and Sub-recipient agree that the law governing this Agreement shall be that of the State of California. Any suit brought by either party against the other arising out of the performance of this Agreement shall be filed and maintained in the Courts of the County of Santa Cruz.

XVII. PRIOR CONTRACTS AND AMENDMENTS

This Agreement represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by a written amendment.

XVIII. CONFIDENTIAL INFORMATION

Except as may be required by law, all data, documents, discussions, or other information developed or received by or for Sub-recipient in performance of this Agreement are confidential and not to be disclosed to any person except as authorized by the City Manager.

XIX. OWNERSHIP OF MATERIALS

All reports, documents or other materials developed or received by Sub-recipient or any other person engaged directly by Sub-recipient to perform the services required hereunder shall be and remain the property of City without restriction or limitation upon their use.

XX. COVENANT AGAINST CONTINGENT FEES

The Sub-recipient covenants that Sub-recipient has not employed or retained any company or person to solicit or secure the Agreement, and that Sub-recipient has not paid

or agreed to pay any company or person, any fees, commissions, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Agreement. For breach or violation of this covenant, the City shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage fee, gift, or contingency.

XXI. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written between the City and the Sub-recipient with respect to this Agreement.

WITNESS THE EXECUTION HEREOF, on the day and year first hereinabove written.

CITY

SUB-RECIPIENT

CITY OF WATSONVILLE

ENCOMPASS COMMUNITY SERVICES

BY _____
Rene Mendez, City Manager

BY _____
Monica Martinez, Chief Executive Officer

ATTEST:

BY _____
Irwin Ortiz, City Clerk

APPROVED AS TO FORM:

BY _____
Samantha W. Zutler, City Attorney