

FIRST AMENDMENT TO RAPID REHOUSING AGREEMENT WITH SAFE EMBRACE

This FIRST AMENDMENT TO RAPID REHOUSING AGREEMENT WITH SAFE EMBRACE dated February 5, 2021 (“Agreement”), is made as of this ____ day of October, 2022, by and between the City of Reno, a municipal corporation (“City”), and Safe Embrace (“Provider”).

RECITALS

WHEREAS, City wishes to amend section 4 to extend the date for housing services from January 1, 2021 to September 30, 2023; and

WHEREAS, City wishes to amend and include sections 24 and 25, providing additional general terms and conditions; and

WHEREAS, the Emergency Solutions Grants (ESG) Program is authorized by subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371-11378) as amended by the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009; and

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, 2020 [P.L. 116-136] was signed into law on March 27, 2020 to help the Nation respond to the coronavirus outbreak; and

WHEREAS, the Secretary of the U. S. Housing and Urban Development (HUD) distributed award letters notifying city, county, territory, and Emergency Solutions Grants (ESG) Program state recipients of their supplemental allocation of ESG funds as authorized by CARES Act, Public Law 116-136, and

WHEREAS, these ESG-CV funds are to be used to prevent, prepare for, and respond to the coronavirus pandemic (COVID-19) among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19; and

WHEREAS, Subgrantee meets applicable standards as a provider to administer the ESG-CV Funds Program associated with HUD; and

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

AMENDMENT

Section 4 is amended to read as follows:

4. Term

This Agreement shall be effective for housing services from January 1, 2021 to September 30,

2023, unless otherwise terminated or extended.

An additional Section 24 and Section 25 shall be incorporated into the Agreement. Any duplication of subsections included below to the existing terms found in the original Agreement shall be superseded herein as amended to read as follows:

24. GENERAL TERMS AND CONDITIONS

- A. **Required Reports/Audits.** The Provider will generate quarterly reports to City Staff. The Provider must provide City Staff with all incident related reports within 24 hours of the occurrence of an incident. In addition, with 30 days' notice, the Provider shall provide other reports deemed reasonably necessary by City Staff. The Audits are required as follows:
- i. An annual audit covering the fiscal year(s) in this Contract must be submitted to the City within six (6) months of the end of the fiscal year. The annual audit shall specifically cover the implementation of funds used for operations and programs at the Community Assistance Center as separate from any other projects/programs provided by the Provider.
 - ii. If the Provider receives \$500,000 or more in federal assistance during its fiscal year, it must comply with 24 C.F.R. Part 45, 24 C.F.R. PART 84.26, and OMB Circular A-133 audit requirements.
- NOTE: Audits must be completed by a certified public accountant and comply with all applicable generally accepted accounting practices.
- B. **Uniform Administrative Requirements.** The Provider shall comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as outlined in 2 CFR Part 200.
- C. **Single Audit Act Requirements.** In the event that during the period of this Agreement, the Provider expends more than \$750,000.00 in federal funds in an operating year from this and other federal grants, the Provider is subject to the audit requirements contained in 2 CFR Part 200, Subpart F, hereinafter collectively referred to as the "Federal Audit Requirements". Upon completion, such audits shall be made available for public inspection. Audits shall be submitted to the City when completed, but no later than 6 months following the close of the fiscal year. Provider shall take corrective actions on any issues noted during the audit within 6 months of the date of receipt of the reports. The City shall consider sanctions as described in 2 CFR 200.505 if the Provider is not in compliance with these audit requirements.
- D. **Required Project Record Keeping and Bookkeeping.** The Provider agrees to maintain bookkeeping and client record-keeping on a program basis using approved bookkeeping and record-keeping systems and to retain program records for five (5)

years from the termination of this Contract. The bookkeeping and client files and program records shall be open and available for inspection and audit at any time by the City Staff. (24 C.F.R PART 84.20 – Standards for Financial Management systems)

- E. **Personal Property.** All personal property purchased by the Provider using funding available through this Contract, with written prior approval of the City and with funds obtained pursuant to the Contract, shall be the property of the City unless otherwise provided in writing by the City. (24 C.F.R. PART 84.31 THROUGH 84.37)
- F. **Budget Changes.** The Provider shall only make changes in the approved and executed budget with City approval.
- G. **Purchase of Equipment and Supplies.** The Provider shall only acquire or purchase equipment, supplies or services where the estimated cost is more than \$10,000 after requesting bids from two or more vendors or persons capable of performing the contract, if available. If the estimated cost exceeds \$25,000, requests for bids must be submitted to three or more vendors or persons capable of performing the contract, if available. No lead-based paint is to be purchased or used on any project. Provider will notify City prior to purchase. (24 C.F.R. PART 84.31 THROUGH 84.37 and 84.40-84.48)
- F. **Program Income.** If the Provider derives any income as a result of programs provided through the usage of Contract funds, the Provider must identify to the City Staff, upon request, the amount of this income on a timely basis. The income will be used for related program services or to reduce the amount requested from the City for disbursement. (24 C.F.R. 570.504 AND 24 C.F.R 84.24)
- G. **Disposition of Program Income.** At the end of the program year, City may require remittance of all or part of any program income balances (including investments thereof) held by the Provider. (24 C.F.R. 570.504 AND 24 C.F.R 84.24)
- H. **Reversion of Assets.** (24 C.F.R. 570.503(b)(8)) Where Contract funds are distributed pursuant to this Contract, then upon expiration of the Contract, the Provider shall transfer to the City any Contract funds on hand at the time of expiration and any accounts receivable attributable to the use of Contract funds.
- I. **Insurance Requirements.** The City has established specific insurance requirements for agreements/contracts with non-profit agencies to assure that reasonable insurance coverage is maintained.
- J. **Legal Actions Against Provider.** If any legal action is filed against the Provider, the Provider shall immediately notify City staff in writing no later than five (5) business days.

K. **Indemnification Agreement.** The Provider shall indemnify, defend and hold harmless City, its officers, officials, employees, agents, and volunteers, from any and all costs, liabilities, damages, claims, demands, suits, causes of action, attorneys' fees, or expenses of any kind or nature that arise out of, or are in any way related to, in whole or in part, the negligence or misconduct, or acts or omissions, of Provider, its officers, officials, employees, volunteers, agents, contractors and anyone else under the direction or supervision of Provider while performing or failing to perform Provider's duties under this Contract.

- i. In the event of a lawsuit against the City arising out of the activities of the Provider, should the Provider be unable to defend the City, due to the nature of the allegations involved, if at the lawsuit's conclusion, it is determined that the basis for the action was the negligent acts, errors or omissions of the Provider, then the Provider must reimburse the City, its officers, officials, Employees, agents and volunteers, for the reasonable costs of defending such action.
- ii. The indemnity obligations of this Contract shall survive the termination of this Contract and shall be binding upon the parties and the parties' legal representatives, heirs, successors and assigns.

L. **Assignment of Contract.** It is agreed by and between the parties hereto that neither this Contract nor any part thereof may be assigned by the Provider, and that in the event that the Provider does so assign, the City Staff may, at their option, terminate this Contract and be relieved of further obligation to the Provider.

M. **Federal Procurement Eligibility.** The Provider certifies that a non-federal entity, the Provider and its principals have not been themselves or contracted with any entity that has been suspended or debarred by the Federal Government, and are not listed in the list of parties excluded from the Federal procurement or non-procurement programs issued by the General Services Administration. This regulation applies not only to physical improvements and construction, but also services. (24 C.F.R. 84.13 AND 570.609)

N. **Grounds for Reduction of Compensation or Termination of the Contract.** The City Staff reserves the right to terminate this Contract or to reduce the Contract compensation amount upon written notification to the Provider in the event that any one or more of the following has occurred:

- (1) Failure of the Provider to file quarterly reports by the 15th day following the end of each quarter;
- (2) Failure of the Provider to meet 70% of the Contract's program measurable outcomes and/or expend 50% of all Contract funds by the end of the third quarter of the fiscal year;
- (3) Failure of the Provider to meet any standards specified in this Contract;

- (4) Expenditures under this Contract for ineligible activities, services, or items;
- (5) Failure to comply with written notice from City Staff of substandard performance in scope of services under the terms of this Contract;
- (6) Failure of the Provider to comply with the State and Federal Accounting Laws;
- (7) Provider employees, officers or its designees or agents using their positions for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties;
- (8) Where applicable, notification by HUD to the City Staff that said programs funded by the Community Development Block Grant Funds or Emergency Solutions Grant Funds are deficient and that continued support of the programs would not provide an adequate level of services to low income and minority people;
- (9) Failure of the City or the Provider to make a good-faith effort to secure or obtain funding or in-kind contributions from other sources which are needed in combination with the Contract funds provided by the City to completely carry out the programs provided in this Contract;
- (10) Where applicable, written notification from HUD or the State of Nevada to the City Staff that the program funds made available to the City are being curtailed, withdrawn, or otherwise restricted;
- (12) If Provider receives funds from other sources prior to or during the fiscal year to cover costs under this Contract, the City Staff reserves the right to reduce the Contract amount; or
- (13) Failure of the Provider to pay debts owed to the City or other debts when due.

O. Personnel.

- (1) The Provider represents that it has hired or will hire all personnel required in performing the services under this Contract. Such personnel shall not be employees of, or have any contractual relationship with, the City.
- (2) All of the services required hereunder will be performed by the Provider, and all personnel engaged in the work shall be fully qualified.

P. Compliance with Laws. The Provider agrees to follow all federal, state and local laws pertaining to the operation of said programs.

Q. Funding. Funding under this Contract is to be used only for eligible and approved activities.

R. Integration. This Agreement constitutes the complete and integrated agreement between the parties with respect to the matters recited herein, and supersedes any prior or contemporaneous written or oral agreements or understandings with respect thereto.

S. **Amendment; Waiver.** This Contract shall not be modified, amended, rescinded, canceled or waived, in whole or in part, except by written amendment signed by duly authorized representatives of the parties. No additional grants, monetary increase amendments, or time extension amendments will be approved unless all financial and performance reports are current. No waiver of any other provisions of this Contract shall be deemed to be a waiver of any other provisions, regardless of similarity, and no waiver shall constitute a continuing waiver. Forbearance or failure to declare a default or pursue a remedy shall not constitute a waiver except as provided in this Contract.

T. **Drafting Presumption.** The parties acknowledge that this Contract has been agreed to by both parties, that both parties have consulted or have had the opportunity to consult with attorneys with respect to the terms, and that no presumption shall be created against the City as the drafter of this Contract.

25. FEDERAL AND NON-FEDERAL GENERAL CONDITIONS

- A. The Provider shall comply with the following laws and directives as they relate to this specific project:
- (1) The National Environmental Policy Act of 1969 as set forth in P.L. 91-190 and the implementing regulations in 24 CFR, Parts 51 and 58; and
 - (2) Title VI of the Civil Rights Act of 1964, P.L. 88-352, and the regulations of HUD with respect thereto, including 24 CFR, Parts 1 and 2; and
 - (3) Title VIII of the Civil Rights Act of 1968, P.L. 90-284; and
 - (4) Section 109 of the Housing and Community Development Act of 1974; and
 - (5) The Fair Housing Act, as amended; and
 - (6) Section 3 of the Housing and Urban Development Act of 1968, as amended, and the regulations of HUD with respect thereto, including 24 CFR, Part 135; and
 - (7) Executive Order 11063, as amended; and
 - (8) The Age Discrimination Act of 1975; and
 - (9) Section 504 of the Rehabilitation Act of 1973; and
 - (10) Executive Order 11246, as amended, and the regulations which are issued pursuant thereto; and
 - (11) The Fair Labor Standards Act; and
 - (12) Section 202(a) of the Flood Disaster Protection Act of 1973; and
 - (13) 45 CFR, Part 76, Subpart F of the Drug-Free Workplace Act of 1988; and
 - (14) Title 1 of the Housing and Community Development Act of 1974, as amended, which requires that the Provider shall:
 - (a) not discriminate against any employee or applicant for employment on the basis of religion and not limit employment or give preference in employment to persons on the basis of religion; and
 - (b) not discriminate against any person applying for such public services on the basis of religion and not limit such services or give preference to persons on the basis of religion; and

- (c) provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing and exert no other religious influence in the provision of such public services.
 - (15) Financial assistance shall not be used to directly or indirectly employ, award contracts to, or engage the services of any contractor or subcontractor who is currently debarred or suspended.
 - B. None of the personnel employed in the administration of any qualified project shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 Title 5, U.S. Code.
 - C. Provider shall comply with the requirements of Executive Order 11625, 12432, and 12138 which provides for the utilization of MINORITY BUSINESSES and WOMEN BUSINESS ENTERPRISES in all federally assisted contracts. Provider shall provide, upon annual program completion, records and data on Minority Business Enterprise, Women's Business Enterprise, and affirmative marketing efforts. These records shall contain, but are not limited to, the following:
 - (1) Data on the attempts to reach minority-owned and female-owned businesses when announcing business opportunities; and
 - (2) Data on racial/ethnic or gender character of business to whom a contract was awarded and the contract amount; and
 - (3) Data on attempts to affirmatively further fair housing.
- The Provider, in its discretion, may request such other and further information, as from time to time required to ensure compliance with the mandates of the Executive Orders set forth above.
- D. Any uncured material breach of the terms of this section may, in the discretion of the City, result in forfeiture of all funds received by the Provider pursuant to this Agreement, or any part thereof.
 - E. Provider agrees and shall be required to maintain the program funded pursuant to this agreement in accordance with Housing Quality Standards established by HUD, and local housing code requirements for the duration of this Agreement.

During the performance of this Contract, the Provider must also follow:

i.. **Equal Employment Opportunity.**

- (1) The Provider will not discriminate against any employee or applicant for employment or individual receiving the benefit of the Provider's services because of race, creed, religion, color, age, national origin, political affiliation, sex, sexual orientation, familial status, or disability (as provided in Section 504 of the Rehabilitation Act of 1973, as amended). The Provider will take action to ensure that all applicants are considered equally. Such action shall include, but not be limited to, the following: employment,

upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Such action shall include individuals benefitting from program services/activities.

- (2) Vietnam Veterans. The Provider agrees to comply with Section 402 - Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era Act.
- (3) The Provider agrees to comply with any federal regulations issued pursuant to the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended.

- ii. **Business and Employment Opportunities for Lower Income/ Minority Residents.** To the greatest extent feasible, the Provider will provide opportunities for training and employment to lower income/minority residents of the program area, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the area of the project. In all solicitations for bids, a Provider must, before signing the contract, provide a preliminary statement of the work force needs and plans for possible training and employment of lower income persons. When a Provider utilizes the bidding procedure to let a bid, the invitation or solicitation for bids shall advise prospective contractors of the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, regulations. If a Provider solicits or requests for invitation for bids, every effort feasible will be made to contact minority organizations for a response to the solicitations or invitations for bidders.
- iii. **Nondiscrimination in Federally Assisted Programs.** The Provider will not discriminate in the provision of services or benefits to any person on the basis of race, creed, religion, color, age, national origin, political affiliation, sex, sexual orientation, marital status, or disability.
- iv. **Hatch Act.** Neither the Provider program nor the funds provided therefore, nor the personnel employed in the administration of the program shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code.
- v.. **Religious Activities.** In addition to, and not in substitution for, other provisions of this Contract regarding the provision of essential services and/or the payment of operational costs, the Provider:
 - (1) Represents that if it is, or may be deemed to be, a religious or denominational institution or organization or an organization operated for religious purposes which is supervised or controlled by, or in connection with, a religious or denominational institution or organization, in

connection with such essential services and operation costs:

- A. It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;
 - B. It will not discriminate against any persons seeking emergency shelter and related services on the basis of religion and will not limit such services or give preference to persons on the basis of religion; and
 - C. It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing and exert no other religious influence in the provision of services or the use of facilities or furnishings assisted in any way under this Contract.
- vi. **Drug-Free Workplace Requirements.** The Provider agrees to conform to the guidelines set forth in the certification regarding Drug-Free Workplace Requirements. The Provider is required to submit an executed copy of the certification prior to the encumbrance of grant funds
- vii. **Influence/Lobbying Requirements.** The Provider agrees to conform to the guidelines set forth in the certification regarding Influence/Lobbying Requirements. The Provider is required to submit an executed copy of the certification prior to the encumbrance of Contract funds
- viii. **Conflict of Interest.**
- (1) If the Provider has a City Council person or County Commissioner on its Board of Directors, it will not receive Contract funds unless there is a public disclosure of the conflict and approval from the City.
 - (2) The Provider shall prohibit any conflicts of interest as defined in Section 24 CFR 570.611. This section covers employees, agents, consultants, officers or elected or appointed officials of the Provider and relates to procurement of supplies, equipment and services, as well as acquisition or disposition of property.
 - (3) No officer, employee or agent of the Provider shall have any interest, direct or indirect, financial or otherwise, in any contract or subcontract or the proceeds thereof, for any of the work to be performed under this specific Contract during the period of service of such officer, employee or agent, or for one year thereafter.

All other terms of the Agreement shall remain in full force and effect.

Executed as of the day and year first above stated.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be signed and intend to be legally bound thereby.

Executed on this _____ day of _____, 2022.

CITY:

SAFE EMBRACE:

CITY OF RENO, NEVADA

By: Hillary Schieve

Title: Mayor

By:

Afshan West

Title:

Executive Director

Address:

780 East Lincoln Way
Sparks, NV 89434

APPROVED AS TO LEGAL FORM:

Deputy City Attorney