



# Boards of Commissioners Update

July 2017

## **Boards of Commissioners Update – July 2017**

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## BOARD UPDATE

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Fresno, California 93721  
TTY (800) 735-2929

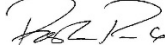
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**TO:** Boards of Commissioners

**DATE:** July 13, 2017

Fresno Housing Authority

**AUTHOR:** Tracewell Hanrahan

**FROM:** Preston Prince, CEO 

**SUBJECT:** Update – HUD Audits and Monitoring

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### Executive Summary

The purpose of this Board Update is to provide the Boards of Commissioners information on the upcoming HUD monitoring visits. HUD has scheduled several regular audits with agency staff during the coming months. The HUD audits we have scheduled are below:

- Labor Standard Monitoring Review: July 17-21
- Office of Public and Indian Housing (PIH) Compliance Monitoring Review: August 14-18
- Community Planning and Development (CPD – Homeless Initiatives) Monitoring Review: August 14-18

Staff has responded to all of the requests for information from HUD and forwarded all of the appropriate data. All of the deadlines for submitting the requested documentation have been met, and staff has the appropriate information available for the HUD Teams' on-site review.

All of these reviews are standard and scheduled from time to time. Fresno Housing hosts many teams from HUD on a regular basis for program reviews, such as these, especially given the size of the agency and the variety of initiatives and programs that are administered by the agency.

The Monitoring Reviews are extensive but HUD officials have indicated there is nothing in the nature of the reviews that is beyond regular compliance monitoring. The PIH audit has required a large amount of advanced preparation by agency staff, as HUD staff will begin the audit in advance of their visit from the HUD Regional offices in San Francisco due to the large size of our programs. Staff forwarded all of the data as requested. The original audit was scheduled in May, but was rescheduled for the week of August 14-18 to accommodate schedules and time needed for preparation.

Staff will provide reports to the Boards following each of the audits.

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**TO:** Boards of Commissioners

Fresno Housing Authority

**FROM:** Preston Prince



CEO/Executive Director

**DATE:** July 13, 2017

**AUTHOR:** Emily De La Guerra

**SUBJECT:** Financial Operating Results through March 31, 2017

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### Executive Summary

The purpose of this update is to present first quarter financial operating results along with a brief summary of variances from the current approved budgets. Projections, based on historical trends and current information, have been utilized to account for the timing of cash flows and known variable expenses.

Attached are summary financial reports by budget and division. The Agency Operations Budget attachment shows the consolidation of all Agency programmatic budgets combined into six divisions, as well as the budget for Housing Assistance Payments (HAP). Each budget, separately and together as a whole, is intended to ensure that the Fresno Housing Authority remain fiscally sound while investing in the Agency's future, and delivering services in accordance with our mission statement.

### Agency Operating Budget

Overall, the Agency performed better than expected for the first half of the year. Total net income is \$650 thousand more than projected, and unrestricted net income is \$338 thousand better than budgeted. These positive variances are mainly attributable to expense decreases across the Agency, particularly in payroll and administrative expenses.

Operating expenses for the Agency are \$1.4 million less than budgeted for the first quarter of the year. This is a normal occurrence for the organization as a majority of the largest administrative expenses (including consulting fees, insurance, software expenses and audit costs) are paid in the third and fourth quarters of the year. This timing delay also results in a first quarter decrease in revenue of \$600 thousand dollars in Core for Other Income and Admin & Management Fee Income. As invoices are received for expenses such as insurance and software costs, the programs' expenses will increase, as well as revenues in Core. The other largest variance in administrative expenses for the first quarter are the consulting fees paid to companies who assist with Low-Income Housing Tax Credit developments. These consulting payments are

normally contingent upon the receipt of developer fees, and as the Agency receives developer fee revenue during the third and fourth quarters, the budgeted consulting expenses will be paid and actuals will normalize during the latter half of 2017. In regards to variances in payroll expenses, the Agency budgets for most new employees to be hired in January for the full year. In reality, hiring and staffing changes happen throughout the year which can result in payroll savings for the first quarter and increasing payroll costs later in the year.

	Q1 2017 Budget	Q1 2017 Actuals	\$ Variance	% Variance
<b>AGENCY OPERATING BUDGET</b>				
TOTAL INCOME	10,423,417	9,715,766	(707,651)	-7%
TOTAL EXPENSES	9,013,329	7,655,663	(1,357,666)	-15%
<b>NET OPERATING INCOME</b>	<b>1,410,088</b>	<b>2,060,103</b>	<b>650,014</b>	<b>46%</b>
TOTAL NON-OPERATING EXPENSES	440,267	356,704	(83,564)	-19%
<b>NET CASH FLOW</b>	<b>969,821</b>	<b>1,703,399</b>	<b>733,578</b>	<b>76%</b>
<b>UNRESTRICTED CASH FLOW</b>	<b>371,409</b>	<b>709,143</b>	<b>337,735</b>	<b>91%</b>

#### **Housing Assistance Payments (HAP) Budget**

Housing Assistance Payments (HAP) are the subsidies paid to landlords on behalf of residents participating in the Housing Choice Voucher program (formerly known as "Section 8") and the Shelter Plus Care program. Revenues and expenses for Housing Assistance Payments are higher than budgeted as of March 31, 2017 due to increased leasing activities during the first three months of the year. Revenues are approximately \$1.3 million more than budgeted due to increased leasing activities at the end of the FY2016. HUD uses prior year leasing and expenditure levels to determine how much funding the program will receive in the current fiscal year. Because staff was able to lease up at the end of the 2016, the Agency will receive additional income in 2017, which will help offset the rising HAP expenses. HAP expenditures are also higher than originally budgeted due to higher voucher utilization rates in the City and increasing Per Unit Costs (PUC) across both programs.

	Q1 2017 Budget	Q1 2017 Actuals	\$ Variance	% Variance
<b>HOUSING ASSISTANCE PAYMENTS</b>				
HAP INCOME	17,925,162	19,259,678	1,334,516	7%
HAP EXPENSES	18,673,744	19,650,197	976,452	5%
<b>NET HAP INCOME</b>	<b>(748,582)</b>	<b>(390,519)</b>	<b>358,063</b>	<b>-48%</b>

**Background Information**

The 2017 Operating Budget was approved by the Boards of Commissioners in December 2016 with revenues of \$41.69 million and expenses of \$37.88 million, resulting in total net income of approximately \$3.81 million, and a utilization of approximately \$322 thousand of unrestricted reserves.

The 2017 Budget for Housing Assistance Payments was approved in December 2016 with \$74.1 million in revenue and \$76.3 million in expenses, thus utilizing approximately \$2.2 million of restricted HAP reserves.

Fresno Housing Authority  
Q1 Financial Results as of March, 2017

	Core Budget	Core Actuals	Instrum. Budget	Instrum. Actuals	P&CD Budget	P&CD Actuals	AHD Budget	AHD Actuals	HSM Budget	HSM Actuals	Aff Hsg Budget	Aff Hsg Actuals	Total YTD Budget	Total YTD Actuals	\$ Variance	% Variance
AGENCY OPERATING BUDGET																
INCOME																
NET TENANT INCOME	-	-	-	-	-	-	-	-	1,384,455	1,362,277	507,968	543,553	1,892,423	1,905,831	13,408	1%
INTEREST INCOME	-	850	212,700	266,486	-	-	35	22,215	19,254	20,944	-	-	231,989	310,494	78,505	34%
OTHER INCOME	235,075	2,240	107,600	60,882	6,438	1,620	229,988	235,817	33,467	(39,124)	6,889	8,703	619,456	270,138	(349,318)	-56%
ADMIN & MANAGEMENT FEE INCOME	2,056,450	1,797,560	37,500	-	-	-	2,740	-	20	808	-	-	2,096,709	1,798,368	(298,341)	-14%
DEVELOPER FEE INCOME	-	-	-	-	1,296,448	1,251,852	-	-	-	-	-	-	1,296,448	1,251,852	(44,596)	-3%
HUD GRANT INCOME	-	-	-	-	-	-	2,283,206	2,450,253	1,242,323	1,375,876	-	-	3,525,528	3,826,129	300,601	9%
OTHER GRANT INCOME	-	-	-	-	-	-	546,347	169,334	206,911	180,550	7,605	3,070	760,863	352,954	(407,909)	-54%
TOTAL INCOME	2,291,524	1,800,650	357,800	327,368	1,302,886	1,253,472	3,062,316	2,877,618	2,886,429	2,901,331	522,462	555,327	10,423,417	9,715,766	(707,651)	-7%
EXPENSES																
PAYROLL EXPENSES	1,485,387	1,102,510	-	-	298,747	287,139	1,667,185	1,346,390	711,992	651,183	68,488	83,461	4,231,799	3,470,683	(761,116)	-18%
ADMINISTRATIVE EXPENSES	853,724	795,856	152,450	126,653	12,500	66,645	1,352,037	1,215,924	596,948	652,140	39,194	46,735	3,006,852	2,903,952	(102,900)	-3%
TENANT SERVICES EXPENSES	-	-	-	-	-	-	424,255	49,823	4,220	3,323	1,209	179	429,684	53,325	(376,358)	-88%
UTILITY EXPENSES	44,213	21,521	-	-	-	-	15,500	47,567	462,223	417,804	49,089	61,447	571,024	548,339	(22,685)	-4%
MAINTENANCE EXPENSES	133,114	128,699	8,750	-	1,673	-	11,696	1,275	373,857	355,011	136,088	100,322	665,177	585,307	(79,870)	-12%
TAXES & INSURANCE EXPENSES	7,471	21,162	4,575	300	646	215	873	1,521	88,339	63,341	6,889	7,517	108,793	94,057	(14,736)	-14%
TOTAL EXPENSES	2,523,909	2,069,749	165,775	126,953	313,565	353,999	3,471,545	2,662,500	2,237,579	2,142,802	300,955	299,660	9,013,329	7,655,663	(1,357,666)	-15%
NET OPERATING INCOME	(232,385)	(269,099)	192,025	200,415	989,321	899,473	(409,229)	215,118	648,850	758,529	221,507	255,667	1,410,088	2,060,103	650,014	46%
NON-OPERATING EXPENSES																
TOTAL NON-OPERATING EXPENSES	-	-	-	-	-	-	55,684	17,143	178,478	233,857	10,925	-	245,087	250,999	5,912	2%
TOTAL FINANCING EXPENSES	43,750	-	-	-	-	-	-	-	63,984	114,815	82,446	50,437	190,180	165,252	(24,928)	-13%
TOTAL ADJUSTMENTS & OPERATING TRANSFERS	5,000	-	-	-	-	-	-	(59,548)	-	-	-	-	5,000	(59,548)	(64,548)	0%
TOTAL NON-OPERATING EXPENSES	48,750	-	-	-	-	-	55,684	(42,405)	242,462	348,672	93,371	50,437	440,267	356,704	(83,564)	-19%
NET CASH FLOW	(281,135)	(269,099)	192,025	200,415	989,321	899,473	(464,914)	257,523	406,388	409,857	128,136	205,230	969,821	1,703,399	733,578	76%
UNRESTRICTED CASH FLOW																
	(281,135)	(269,099)			989,321	899,473	(464,914)	(126,461)			128,136	205,230	371,409	709,143	337,735	91%
HAP REVENUE							17,925,162	19,259,678					17,925,162	19,259,678	1,334,516	7%
HAP EXPENSES							18,673,744	19,650,197					18,673,744	19,650,197	976,452	0%
HAP NET INCOME							(748,582)	(390,519)					(748,582)	(390,519)	358,063	-48%

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**TO:** Boards of Commissioners

Fresno Housing Authority

**FROM:** Preston Prince



CEO / Executive Director

**DATE:** July 13, 2017

**AUTHOR:** Scott Fetterhoff

**SUBJECT:** Update on 2016 Amendment to Contract Between CalPERS and the Boards of Commissioners of the Fresno Housing Authority

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The purpose of this Board Update is to provide Commissioners with information on the status of the analysis that CalPERS is performing regarding the service credit for temporary employees.

In July of 2016, Fresno Housing's Boards of Commissioners approved an amendment to the contract between CalPERS and the Boards of Commissioners of the Fresno Housing Authority. The amendment, which was required by law, removed the CalPERS participation exclusion of "persons compensated on an hourly basis..." (e.g. temporary employees). In turn, the removal of this exclusion now allows an employee to request service credit for a period of time they were employed as "temporary," and will allow for the Agency to cover any corresponding employer pension contributions.

The need for the amendment was discovered while staff was conducting regular general policy reviews, a review of internal controls, and of current staffing levels and succession planning needs. As part of the analysis, staff also determined that some temporary employees at the Agency in CalPERS had not been enrolled appropriately, and are entitled to CalPERS service credit for that time.

### **FISCAL IMPACT**

There will be arrears costs associated with the temporary employees who were not appropriately enrolled in past years. After conversations with CalPERS, our agency staff was informed that the temporary employees and relevant costs associated with this amendment will be calculated by CalPERS analysts. Staff has been waiting for approximately nine months for that information, despite being told by CalPERS that the initial analysis would be complete in four months.

Staff has asked our HR legal counsel, AALRR to draft a letter to CalPERS' legal department to formally request action. Until we have this analysis from CalPERS, staff is unable to determine the fiscal impact to the legally-required amendment.



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**TO:** Boards of Commissioners

**DATE:** July 13, 2017

Fresno Housing Authority

**AUTHOR:** Scott Fetterhoff

**FROM:** Preston Prince, CEO/Executive Director



**SUBJECT:** All Staff Event—Friday, June 23, 2017

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### Summary

On Friday, June 23<sup>rd</sup>, Fresno Housing staff participated in an All Staff Event that celebrated Agency New Hires, Promotions, Educational Achievements, Years of Service Awards presented to staff celebrating 5, 10, 15, 20, 25, 30 & 35 years with the Agency, and Stewardship Awards.

Stewardship Team Awards recognized the Financial Data Schedule (FDS) Submission Team and the Department Restructure Interview Panel Teams. Two Steward of the Year Awards were presented to Nancy Mares, Community Coordinator, Housing Management and Melissa Wagner, HCV Quality Assurance Coordinator.

In addition, Dr. Stephen Pimpare facilitated a conversation on the history of poverty and the contributing factors of poverty in the modern age. This discussion was engaging and relevant to the work our employees do everyday that directly contributes to our mission to create and sustain vibrant communities throughout Fresno County.

### More About Stephen Pimpare

Stephen Pimpare is a professor of the Master in Public Policy program at the University of New Hampshire at Manchester, and a Faculty Fellow of the Carsey School of Public Policy at the University of New Hampshire at Durham. He is the author of three books (*Ghettos, Tramps and Welfare Queens: Down and Out on the Silver Screen*; *A People's History of Poverty in America* and: *The New Victorians: Poverty, Politics, and Propaganda in Two Gilded Ages*), and has served as a senior-level administrator of non-profit direct service and advocacy organizations addressing poverty, hunger and homelessness.

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**TO:** Boards of Commissioners

**DATE:** July 13, 2017

Fresno Housing Authority

**AUTHOR:** Angie Nguyen

**FROM:** Preston Prince, CEO/Executive Director



**SUBJECT:** Boys & Girls Club of Fresno County 2017 Board Agreement

Board Approved December 2016

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The Boards of Commissioners approved Agreements with the Boys & Girls Clubs of Fresno County in December 2016 for services to be provided to Fresno Housing residents in 2017. These agreements are part of a longstanding partnership between the two organizations and included separate agreements for the City Public Housing, County Public Housing, and each corresponding Limited Partnership. Attached is the Agreement specific to the Housing Authority of Fresno County partnership that demonstrates the framework set forth in the other Agreements.

In addition to the Agreement, Resident Services staff have created a “Work Plan” in partnership with the Boys & Girls Club senior staff that delineates an outcome measurement framework around common goals. The framework includes key strategies and objectives in the areas of Employment Readiness/Job Placement, Education, and Health & Wellness. Ongoing communication and a periodic monitoring plan is in place for accountability and outcomes review.

## **INTRODUCTION**

This contract by and between the Housing Authority of Fresno County (hereinafter "the Agency"), and **Boys and Girls Club of Fresno**, (hereinafter "the Contractor") is hereby entered into this **1st day of January, 2017**.

Services pursuant to this contract shall begin on **the 1<sup>st</sup> day of January 2017, and shall end on the 31st day of December, 2017**, unless otherwise extended, modified, terminated or renewed by the parties as provided for within this contract. Unless otherwise detailed herein, all references to "days" shall be calendar days (in the case that the last day referenced falls on a Saturday, Sunday or legal holiday, then the period of time shall be automatically extended to include the next work day). Also, whenever the term "herein" is referred to, such refers to this contract form, the appendices and all listed attachments.

### **1.0 Definitions.**

- 1.1 Fresno Housing Authority or Housing Authority of Fresno County ("the Agency").** Any reference herein or within any Appendix to the "Fresno Housing Authority" or "Housing Authority of Fresno County" shall be interpreted to mean the same as the Agency.
- 1.2 Contracting Officer (CO).** The Agency's Contracting Officer, typically the Executive Director, but may be another person delegated such authority by the ED.
- 1.3 Executive Director (ED).** The Agency's Executive Director/Chief Executive Officer.

### **2.0 Services and Payment.**

- 2.1 Scope of Services.** The services provided pursuant to this contract generally consist of those services for the Agency as described herein. Said services shall be provided on the dates and times determined in collaboration by the Agency and the Contractor at the designated locations. The Contractor agrees to perform social, educational, recreational, and prevention program services for the residents of the following properties within the County of Fresno: Del Rey Apartments (Del Rey), Oak Grove (Parlier), Memorial Village (Sanger), Sunset Terrace (Reedley), Pinedale Apartments (Fresno), Cazares Terrace (Huron),

Huron Apartments (Huron), Cardella Courts (Firebaugh), and Mendoza Terrace (Firebaugh).

The Contractor shall perform services in a satisfactory and proper manner, and activities shall be carried out in group settings. Group size(s) shall be consistent with the adequate of number of residents needed to maximize benefit. Residents shall have access to extended learning opportunities to help them improve or maintain academic proficiency, prevent summer learning loss, and work through other social-emotional barriers that may impact their academic performance or behaviors. The Contractor will also provide opportunities to learn assertiveness techniques, resistance strategies, problem solving, decision-making skills, and stress reduction. Opportunities for parents or other adult caregivers will be included in group activities and invited to influence the overall direction of these activities.

The Contractor agrees to have ongoing efforts to recruit young people living in the above-mentioned housing units to participate in Club programming and activities. One full-time outreach coordinator and one half-time special program assistants will be employed in each community served; to facilitate activities for youth, serve as Contractor Liaison to the Agency, coordinate resident recruitment for participation, and evaluate effectiveness of programming.

Contractor will maintain weekly records containing descriptions of activities, events, and attendance by location. Identifying information such as address and other demographics will be collected by the Contractor and made available to the Agency to ensure that resident youth are being served. Adjustments to the contract may result if the funding is not proportionate to the attendance and participation.

## **2.2 Cost/Value of Services.**

**2.2.1 Contract Value.** The total Not-To-Exceed (NTE) value of this contract is:

**\$246,509**

The Contractor exceeds the NTE amount at his/her own risk. The Contractor is under no obligation to provide additional services that

would cause the Contractor's fees to exceed the NTE amount without prior revision of this amount by written change order.

**2.2.2** The Contractor shall be reimbursed for services delivered to youth engaged in Club activities within the County of Fresno. Activities offered to youth will have a key focus in Education, Health and Wellness, and/or Wage Progression (Employment Skills). Efforts will be made to align activities with community initiatives and the Agency's Resident Services Goals. These Goals and Metrics will be provided on a work plan and periodic reviews will be scheduled to re-evaluate targets and objectives. Services rendered will be briefly summarized and attached to monthly invoices. The Chief of Staff will be copied on all reports.

**2.3 Renewal Options.** This contract is initially executed for the period of one (1) year with the option, at the Agency's discretion and upon the availability of funding, of additional one-year option periods, with a five-percent (5%) decrease in funding upon renewal, unless the parties agree otherwise.

**2.4 Time Performance.** The Contractor will complete each assigned task as assigned by the Agency to reach benchmark goals and meet budget guidelines.

**2.5 Billing Method.**

**2.5.1** To receive payment for services rendered pursuant to this contract the Contractor shall submit a fully completed invoice for work previously performed to:

**Fresno Housing Authority  
Attention: Mary Caggianelli, Programs Analyst  
Housing Programs Department  
1331 Fulton Mall, Fresno, California 93721**

**2.5.2** At a minimum, the invoice shall detail the following information:

**2.5.2.1** Unique invoice number;

2.5.2.2 Contractor's name, address and telephone number;

2.5.2.3 Date of invoice and/or billing period;

2.5.2.4 Brief description of services rendered, including applicable time frame, total hours and activities being billed for each service at each detailed site, and at the approved rate (may be submitted in the form of a report):

2.5.2.5 Total dollar amount being billed.

2.5.3 The Agency will pay each such properly completed invoice received on a Net/30 basis. Any invoice received not properly completed will not be paid unless and/or until the Contractor complies with the applicable provisions of this contract.

3.0 **Agency's Obligations.** Pursuant to this contract, the Agency agrees to provide the specific services detailed herein and also shall be responsible for the following:

3.1 The Agency agrees to not provide to the Contractor any Task Order assigning work to the Contractor without the prior written approval of an authorized Agency representative.

4.0 **Contractor's Obligations.** Pursuant to this contract, the Contractor agrees to provide the specific services detailed herein and also shall be responsible for the following:

4.1 **Supervision and Oversight.** The Contractor shall be solely responsible for providing supervision and oversight to all of the Contractor's personnel.

4.2 **Qualified Personnel.** The Contractor warrants and represents that it will assign only qualified personnel to perform the services outlined herein and within the appendices. For the purposes of this contract, the term "qualified personnel" shall mean those personnel and volunteers that have been investigated, tested and trained to carry out the activities described within this contract and as provided by the Contractor during the Contractor's normal conduct of business.

4.3 **Compliance with Federal and State Laws:** All work performed by the Contractor, pursuant to this contract, shall be done in accordance with all applicable Federal, State and local laws, regulations, codes and ordinances.

**4.4 Confidentiality.** The Contractor, in connection with performing services hereunder, will have access to or may be provided certain confidential information concerning the Agency and agrees that any information concerning the finances, accounting practices, business, client, client lists, property information, client data, records of the Agency or any other information which a reasonable person could conclude that should remain confidential (collectively Confidential Information), will not be disclosed to any party and without limitation, any employee of the Agency or any client or potential client of the Agency at any time, except for the Contractor's legal counsel, accounts, or financial advisors, who will also hold such Confidential Information in confidence. The Independent Contractor acknowledges that the information is being provided with the sole understanding that all Confidential Information will remain confidential and will be held in the strictest confidence. The Independent Contractor further acknowledges that any disclosure of the Confidential Information, whether intentional or inadvertent, may harm the Agency. The Agency will have the right to enforce this Contract by specific performance, as well as hold the Independent Contractor liable for any damages caused by any disclosure of any Confidential Information whether intentional or inadvertent. The Independent Contractor agrees that he has received valuable consideration for the entering into of this Contract and agrees to be bound all of its terms and conditions. This Contract will be binding on the Independent Contractor and any attorney, accountant, financial advisor who also may be provided Confidential Information.

**4.5 Insurance Requirements.**

**4.5.1 Insurances.** In this regard, the Contractor shall maintain the following insurance coverage during the effective term(s) of this contract:

**4.5.1.1 General Liability Insurance.** Policy of General Liability Insurance, \$1,000,000 per occurrence, \$1,000,000 aggregate together with damage to premises and fire damage of \$50,000 and medical expenses for any one person of \$5,000 with a deductible not greater than \$1,000. The Agency shall be named upon the certificate issued as an "additional insured," together with providing a copy of the corresponding endorsement evidencing the same.

- 4.5.1.2 Professional Liability Insurance.** Policy of Professional Liability Insurance or Errors & Omissions coverage, minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000 with a deductible of not greater than \$1,000;
- 4.5.1.3 Automobile Liability Insurance.** Automobile Liability coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this contract, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$50,000/\$100,000 and medical pay of \$5,000 with a deductible not greater than \$1,000.
- 4.5.1.4 Worker's Compensation Insurance.** Worker's compensation coverage evidencing carrier and coverage amount.
- 4.5.1.5 Certificates and Endorsements.** The Contractor shall provide to the Agency with current certificate(s) and endorsement(s) evidencing the insurance coverage referenced above. Failure to maintain the above-reference insurance coverage, including naming the Agency as an additional insured (where appropriate) during the term(s) of this contract shall constitute a material breach thereof. Insurance certificate(s) and endorsement(s) shall be delivered to the following person representing the Agency:

**Fresno Housing Authority**  
**Attn: Jeremy Matthews, Business Operations Analyst**  
**1331 Fulton Mall, Fresno, California 93721**

- 4.6 Licensing.** The Contractor shall also provide to the Agency a copy of the required local Business Tax License or non-profit status. Failure to maintain this license in a current status during the term(s) of this contract shall constitute a material breach thereof.
- 4.7 Financial Viability and Regulatory Compliance.**



- 4.7.1 The Contractor warrants and represents that its corporate entity is in good standing with all applicable federal, state and local licensing authorities and that it possesses all requisite licenses to perform the services required by this contract. The Contractor further warrants and represents that it owes no outstanding delinquent federal, state or local taxes or business assessments.
- 4.7.2 The Contractor agrees to promptly disclose to the Agency any IRS liens or insurance or licensure suspension or revocation that may adversely affect its capacity to perform the services outlined within this contract. The failure by the Contractor to disclose such issue to the Agency in writing within five (5) days of such notification received will constitute a material breach of this contract.
- 4.7.3 The Contractor further agrees to promptly disclose to the Agency any significant changes that impact its operations that the Contractor may undergo during the term(s) of this contract. The failure of the Contractor to disclose any significant changes within five (5) days of said actions shall constitute a material breach of this contract.
- 4.7.4 All disclosures made pursuant to this section of the contract shall be made in writing and submitted to the Agency within the time periods required herein.
- 5.0 **Modification.** This contract shall not be modified, revised, amended or extended except by written addendum, executed by both parties.
- 6.0 **Severability.** The invalidity of any provision of this contract, as determined by a court of competent jurisdiction and/or HUD, shall in no way affect the validity of any other provision herein.
- 7.0 **Applicable Laws.**

  - 7.1 **Compliance with Federal and State Laws.** All work performed by the Contractor, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.
  - 7.2 **Jurisdiction of Law.** The laws of the State of California shall govern the validity, construction and effect of this contract, unless said laws are superseded by, or in conflict with applicable federal laws and/or federal regulations. This contract will

be binding upon the parties, their heirs, beneficiaries, and devisees of the parties hereto. The parties agree that Fresno County, California is the appropriate forum for any action relating to this contract. This contract may be signed in counterparts.

**8.0 Notices and Reports.**

- 8.1 All notices and/or reports submitted to the Agency by the Contractor pursuant to this contract shall be in writing and delivered to the attention of the following person(s) representing the Agency:

**Fresno Housing Authority  
Attn: Angie Nguyen, Chief of Staff;  
Jeremy Matthews, Business Operations Analyst and;  
Mary Caggianelli, Programs Analyst  
1331 Fulton Mall, Fresno, California 93721**

- 8.2 All notices submitted to the Contractor pursuant to this contract shall be in writing and mailed to the attention of:

**Boys and Girls Club of Fresno County  
Attn: Diane Carbray, Executive Director/CFO  
540 N. Augusta, Fresno, California 93701**

**9.0 Disputed Billings (Charges).**

- 9.1 **Procedures:** In addition to the procedures detailed within Clause No. 7 of Appendix No. 1, Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I— (With or without Maintenance Work)*, in the event that the Agency disputes any portion of its billing(s), the Agency shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:

- 9.1.1 The Agency's representative shall, within ten (10) days after the Agency's receipt of such billing, formally notify the contractor's representative of all particulars pertaining to the dispute, and request that he/she investigate and respond to this issue.
- 9.1.2 If such dispute cannot be resolved by the contractor's response, within ten (10) days after such notification is given, the CO and the

contractor's representative shall meet to discuss the matter and attempt to arrive at a resolution.

9.1.3 If the CO and the contractor's representative are unable to resolve the dispute through such discussion within ten (10) days, the Agency shall, within ten (10) days thereafter, either:

9.1.3.1 Pay the disputed charges and reserve the right to submit the matter to the appropriate District Court in the State of California;

9.1.3.2 Not pay the disputed charge and submit the matter to the appropriate district court in the State of California;

9.1.3.3 Not pay the disputed charge and allow the Contractor to submit the matter either to the appropriate District Court in the State of California.

9.1.4 The decision from arbitration will be binding upon both parties. If the decision is adverse to the Agency, the Agency shall pay the Agency's receipt of the decision. If the decision is in favor of the Agency, the contractor will either:

9.1.4.1 Clear the amount which is ordered from the Agency account; or

9.1.4.2 Repay to the Agency the amount ordered;

Either option shall be completed within ten (10) days after the contractor's receipt of the arbitrator's decision.

10.0 **Binding Arbitration/Dispute Resolution.** Any and all (material and non-material) disputes or controversies between the parties hereto involving either: (1) the construction or application of any of the terms, covenants or conditions of this Agreement or (2) otherwise arising in any respect with regard to this Agreement, or (3) relating to, arising out of, or resulting from either this Agreement, the performance of this Agreement, or the lack of performance of this Agreement, and/or (4) in any other manner relating to or involving this Agreement, shall not be litigated in any federal or state court or before any state, federal or administrative agency, but rather shall upon written request of one party served on the other be submitted and shall be solely and

exclusively resolved by “final and binding” arbitration before a neutral retired Judge, which arbitration shall comply with and be governed by the provisions of the California Arbitration Act (CCP §§1280, et seq.) This Arbitration Agreement constitutes a waiver of any right to a jury trial; and it also waives any right to proceed before any federal or state court or any federal or state administrative agency with regard to the disputes resolution. Said waivers are agreed to because the parties hereto prefer neutral and binding arbitration over any other means of dispute resolution. The neutral (retired Judge) arbitrator shall be mutually agreed upon by the parties; if such an Agreement is not promptly forthcoming, then the retired Judge to serve as arbitrator shall be selected by the Superior Court in accordance with the California Arbitration Act. The Arbitration hearing shall be conducted before a Certified Court Reporter and shall take place in the County of Fresno unless otherwise agreed by both parties. The hearing before the arbitrator of the matters to be arbitrated shall be at a time and place within the County of Fresno as selected by the Arbitrator. The Arbitrator shall select such time and place promptly after his/her appointment, and the arbitrator shall give written notice thereof to each party at least thirty days prior to the date so fixed. The arbitrator shall follow California substantive and procedural law; except only at the hearing, any relevant evidence may be presented by either party, and the formal rules of evidence applicable to judicial proceedings (in the sole discretion of the arbitrator) need not govern, so that evidence may be admitted or excluded in the discretion of the arbitrator as long as it is trustworthy. The arbitrator shall hear and determine the matter and shall execute and acknowledge the award in writing explaining the basis for his/her ruling. The Arbitrator shall cause a copy of the award to be delivered to each of the parties within twenty (20) calendar days after the conclusion of the evidentiary hearing, unless otherwise agreed by the parties. Said award shall follow California substantive and procedural law. All the arbitrators’ fees and all of the certified court reporter’s fees (for daily attendance and for providing the arbitrator with the original transcript) shall be shared equally (50/50) by the parties; and all the parties shall bear their own legal fees and their own litigation costs and expenses.

- 10.1 Breach.** Notwithstanding the foregoing, it is hereby agreed and understood that, in the event that if a party to this Agreement breaches or threatens to breach this Agreement, then the other party to the Agreement may seek and obtain an injunction and/or any other equitable relief necessary from a state or federal court of competent jurisdiction, so as to order the continuance of the party’s performance under this Agreement, pending the results of the aforementioned arbitration proceeding.
- 10.2 Mediation.** Further, notwithstanding the foregoing, it is agreed that prior to appearing before and conducting the aforementioned binding arbitration hearing, the parties shall engage in a fully privileged and confidential Mediation

before a neutral retired Judge. The Mediator retired Judge shall be a different person from the arbitrator retired Judge unless the parties stipulate otherwise. The Mediator shall be mutually selected by the parties; however, if they are unable to agree, then the Mediator shall be selected by the arbitrator. The Mediator's fees and costs shall be shared equally by the parties. Communications during the Mediation process shall remain confidential and barred from introduction into evidence at the arbitration pursuant to the provisions of California Evidence Code §§ 1152 and 1119 and Fed. Rules of Evidence, Rule 408.

- 10.3 Petition to Compel Arbitration, and/or Petition To Enforce The Arbitrator's Award.** Notwithstanding anything herein to the contrary, if either party to this Agreement brings any court action or proceeding to either compel arbitration or to enforce an arbitration award, then the prevailing party shall be entitled to recover reasonable attorneys' fees as well as costs and expenses. The arbitration process itself is not an action or proceeding for purposes of this Agreement.

- 11.0 24 CFR 85.36(i), *Procurement*.** Pursuant to this CFR, as issued by the Office of the Secretary, HUD, the Agency and the Contractor each agree to comply with the following provisions:

- 11.1 Remedies for Contractor Breach.** Pertaining to contract-related issues, it is the responsibility of both the Agency and the contractor to communicate with each in as clear and complete a manner as possible. If at any time during the term of this contract the Agency or the contractor is not satisfied with any issue, it is the responsibility of that party to deliver to the other party communication, in writing, fully detailing the issue and corrective action (please note that the Agency has the right to issue unilateral addendums to this contract, but the contractor does not have the same right). The other party shall, within ten (10) days, respond in writing to the other party (however, the Agency shall retain the right to, if conditions warrant, require the contractor to respond in a shorter period of time). Further, the Agency shall, at a minimum, employ the following steps in dealing with the contractor as to any performance issues:

- 11.1.1** If the contractor is in material breach of the contract, the Agency may promptly invoke the termination clause detailed within Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I— (With or without Maintenance Work)*, which is attached

hereto, and terminate the contract for cause. Such termination must be delivered to the contractor in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.

**11.1.2** Prior to termination, the Agency may choose to warn the contractor, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the contractor on probation, thereby giving the contractor a certain period of time to correct the deficiencies or potentially suffer termination. The Agency shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the contractor does not agree with such action, the contractor shall have ten (10) days to dispute or protest, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the Agency's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the Agency's alleged incorrect action(s).

**11.1.3** After termination, if the contractor does not agree with the Agency's justification for the termination, the contractor shall have ten (10) days to dispute, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the Agency's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the Agency's alleged incorrect action(s).

**11.1.4** The response to any protest received shall be conducted in accordance with Section No. 4.0 of the *Instructions to Proposers and Contractors* document.

**11.2 Termination For Cause and Convenience.** Notwithstanding any other provision of this Contract, the parties agree that the Agency may terminate this agreement at any time, in its sole and absolute discretion, by delivering written notice to the Contractor. In such event, Contractor shall only be paid for the services actually performed to the date of such written notice.

- 11.3 Reporting.** Both parties hereby agree to comply with any reporting requirements that may be detailed herein.
- 11.4 Patent Rights.** Both parties hereby agree to comply with HUD Bulletin 90-23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.
- 11.5 Copy Rights/Rights in Data.** In addition to the requirements contained within Clause No. 5 of *General Conditions for Non-Construction Contracts, Section I— (With or without Maintenance Work)*, the Agency has unlimited rights to any data, including computer software, developed by the contractor in the performance of the contract specifically:
- 11.5.1** Except as provided elsewhere in this clause, the Agency shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and all other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.
- 11.5.2** The contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the contractor in the performance of this contract, unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.
- 11.5.3** For data first produced in the performance of this contract, the contractor may establish, without prior approval of the CO, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The contractor grants

the Agency and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of the Agency.

- 11.5.4** The contractor shall not, without the prior written permission of the contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the contractor identifies such data and grants the Agency a license of the same scope as identified in the preceding paragraph.
- 11.5.5** The Agency agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract are improperly marked, the Agency may either return the data to the contractor, or cancel or ignore the markings.
- 11.5.6** The contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the contractor's obligations under this contract.
- 11.5.7** Notwithstanding any provisions to the contrary contained in the contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such contract has been proposed prior to the award of this contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the contractor agrees the Agency shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this contract. The terms and conditions of this contract, including any commercial lease or licensing contract, shall be subject to the following procedures.
- 11.5.8** The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by the Agency except as provided below or as expressly stated otherwise in this contract. The restricted computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any Agency



location to which such computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.

- 11.6 Access to Records.** Both parties hereby guarantee access by the grantee, the sub grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- 11.7 Record Retention.** Both parties hereby guarantee retention of all required records for three (3) years after grantees or sub grantees make final payments and all other pending matters are closed.
- 11.8 Energy Policy and Conservation Act.** Both parties hereby agree to comply with all mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
- 11.9 Executive Order 11246.** For all construction contracts awarded in excess of \$10,000, both parties hereby agree to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- 11.10 Copeland "Anti-Kickback" Act.** For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).

**11.11 Davis-Bacon-Act.** For all construction contracts awarded in excess of \$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented in Department of Labor Regulations (29 CFR Part 5).

**11.12 Sections 103 and 107 of the Contract Work Hours and Safety Standards Act.** For all construction contracts awarded in excess of \$2,000 and for other contracts, which involve the employment of mechanics or laborers awarded in excess of \$2,500, both parties hereby agree to comply with the Sections 103 and 107 of the Contract Work Hours and Safety Act (40 U.S.C. 327-330) as supplemented in Department of Labor Regulations (29 CFR Part 5).

**11.13 Clean Air Act.** For all contracts in excess of \$100,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

**12.0 Additional Considerations.**

**12.1 Non-Escalation.** Unless otherwise specified within the contract documents, the unit prices reflected on the contract shall remain firm with no provision for price increases during the term of the contract.

**12.2 Funding Restrictions and Order Quantities.** The Agency reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the Agency, if:

**12.2.1** Funding is not available;

**12.2.2** Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,

**12.2.3** The Agency's requirements in good faith change after award of the contract.

- 12.3 Government Standards.** It is the responsibility of the proposer to ensure that all items and services proposed conform to all local, State and Federal law concerning safety (OSHA and NOSHA) and environmental control (EPA and Fresno Pollution Regulations) and any other enacted ordinance, code, law or regulation. The Contractor shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the Contractor for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- 12.4 Work on Agency Property.** If the Contractor's work under the contract involves operations by the Contractor on Agency premises, the Contractor shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by the Agency's negligence, shall indemnify the Agency, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the Contractor, its agents, employees, or subcontractors.
- 12.5 Official, Agent and Employees of the Agency Not Personally Liable.** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the Agency in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
- 12.6 Subcontractors.** Unless otherwise stated within the contract documents, the Contractor may use any subcontractors to accomplish any portion of the services described the contract.
- 12.7 Salaries and Expenses Relating to the Contractors Employees.** Unless otherwise stated, the Contractor shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The Contractor further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.
- 12.8 Independent Contractor.** Unless otherwise stated within the contract, the Contractor is an independent contractor. Nothing herein shall create any

association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.

**12.9 Severability.** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held valid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.

**12.10 Waiver of Breach.** A waiver of either party of any terms or condition of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.

**12.11 Time of the Essence.** Time is of the essence under this agreement as to each provision in which time of performance is a factor.

**12.12 Limitation of Liability.** In no event shall the Agency be liable to the Contractor for any indirect, incidental, consequential or exemplary damages.

**12.13 Indemnification.**

**12.13.1** The Contractor shall indemnify, defend, and hold the Agency (and its officers, employees, and agents) harmless from and against any and all claims, damages, losses, suits, actions, decrees, judgments, attorney's fees, court costs and other expenses of any kind or character, which are caused by, arise out of, or occur due to any failure of the Contractor to (1) abide by any of the applicable professional standards within its industry, or (2) comply with the terms, conditions, or covenants that are contained in this contract, (3) comply with the "California Industrial Insurance Act," or any other similar law, ordinance, or decree; or (4) ensure that the any subcontractors abide by the terms of this provision and this contract; provided, however, that Contractor will not be required to indemnify the Agency against any loss or damage which was specifically caused by the Agency providing inaccurate information to the Contractor, failing to provide necessary and requested information to the Contractor, or refusal to abide by any recommendation of the Contractor.

**12.13.2** In this connection, it is expressly agreed that the Contractor shall, at its own expense, defend the Agency, its officers, employees, and agents, against any and all claims, suits or actions which may be brought against them, or any of them, as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or failure to act the consequences of which the Contractor has indemnified the Agency. If the Contractor shall fail to do so, the Agency shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs of such defense to the Contractor including attorney's fees and court costs.

**12.13.3** Any money due to the Contractor under and by virtue of this contract, which the Agency believes must be withheld from the Contractor to protect the Agency, may be retained by the Agency so long as it is reasonably necessary to ensure the Agency's protection; or in case no money is due, its surety may be held until all applicable claims have been settled and suitable evidence to that effect furnished to the Agency provided, however, neither the Contractor's payments shall not be withheld, and its surety shall be released, if the Contractor is able to demonstrate that it has adequate liability and property damage insurance to protect the Agency from any potential claims.

**12.13.4** The Contractor shall provide that any contractual arrangement with a subcontractor shall be in conformance with the terms of this Contract including the terms of this indemnity provision. The Contractor guarantees that it will promptly handle and rectify any and all claims for materials, supplies and labor, or any other claims that may be made against it or any of its subcontractors in connection with the contract.

**13.0 Lobbying Certification.** By execution of this contract with the Agency the Contractor thereby certifies, to the best of his or her knowledge and belief, that:

**13.1** No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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 loan, the entering

into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement.

- 13.2 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 an 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, the Contractor shall complete and submit Standard Form- LLL, Disclosure Form to Report Lobbying, in an accordance with its instructions.
- 13.3 The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
- 13.4 **Additional Federally Required Orders/Directives.** Both parties agree that they will comply with the following laws and directives, where applicable:
- 13.4.1 Executive Order 11061, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
- 13.4.2 Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. The Agency hereby extends this requirement to the Contractor and its private contractors. Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et. seq.).
- 13.4.3 Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, the Agency

requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.

13.4.4 The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.

13.4.5 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).

13.4.6 HUD Information Bulletin 909-23 which is the following:

13.4.6.1 Notice of Assistance Regarding Patent and Copyright Infringement;

13.4.6.2 Clean Air and Water Certification; and,

13.4.6.3 Energy Policy and Conservation Act.

13.4.7 That the funds that are provided by the Agency and HUD hereunder shall not be used, directly or indirectly, to employ, award a contract to, or otherwise engage the services of any debarred, suspended or ineligible Contractor.

13.4.8 That none of the personnel who are employed in the administration of the work required by this contract shall, in any way or to any extent, be engaged in the conduct of political activities in violation of Title V, Chapter 15, of the United States Code.

13.4.9 The mention herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable not is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have been inserted herein, and this agreement shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be

physically amended to make such insertion or correction upon the application of either part.

**14.0 Section 3 Clause.** As detailed within 24 CFR 135.38, *Section 3 clause*, the following required clauses are hereby included as a part of this contract.

- 14.1** The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- 14.2** The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- 14.3** The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- 14.4** The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.



- 14.5 The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 135.
- 14.6 Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- 14.7 With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
- 15.0 **Order of Precedence.** Please note that, in the case of any discrepancy between this contract and any of the above noted appendices, the requirement(s) detailed within the body of this contract shall take first precedence, then the requirement(s) detailed within each appendix shall take precedence in the order that they are listed above (meaning, the requirement(s) detailed within the lower listed item may not overrule any requirement(s) detailed within a higher listed item).
- 16.0 **Certifications.** The undersigned representative of each party hereby acknowledges by signature below that they have reviewed the foregoing and understand and agree to abide by their respective obligations as defined herein:

Boys and Girls Club of Fresno County:

By:   
Diane Carbray, Executive Director/CFO

Date: 3/2/17

Housing Authority of Fresno County:

By:   
Preston Prince, CEO/Executive Director

Date: 3-3-17

## BOARD UPDATE

O (559) 443-8400

F (559) 445-8981

1331 Fulton Mall

Fresno, California 93721

TTY (800) 735-2929

[www.fresnohousing.org](http://www.fresnohousing.org)

**TO:** Boards of Commissioners

**DATE:** July 13, 2017

Fresno Housing Authority

**AUTHOR:** Aurora Ibarra

**FROM:** Preston Prince, CEO/Executive Director



**SUBJECT:** Informational Update on Leasing and Housing Assistance

Payments (HAP) Pacing for the Housing Choice Voucher (HCV) Program

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### Executive Summary

The U.S Department of Housing and Urban Development (HUD) has used historical data as a benchmark to determine future funding, and this method will continue for Calendar Year (CY) 2017. HUD preliminarily set 2017 HAP proration levels at 95% of 2016 HAP expenses at the beginning of this CY. However, PHAs received notification from HUD at the end of June that HAP proration levels were increased to 97%. This level of proration will allow us to continue housing existing program participants while issuing vouchers to new applicants in order to maintain voucher utilization rates.

Currently, the Agency has 371 vouchers designated for the Veterans Affairs Supportive Housing (VASH) program, all of which reside with the City HCV Program. These vouchers are referral-based and are tracked very closely and issued as quickly as families are referred from the United States Department of Veterans Affairs (VA).

As in the past, we will continue to diligently monitor our HAP and voucher utilization rates.

### City HCV

HAP expenditures for the month of June totaled \$3,590,181. The Per Unit Cost (PUC) for the month was \$542 for non-VASH vouchers. HAP expenditures for the year are projected at \$43.3 million, resulting in 97.25% utilization in total HAP cash funding, and an expected year-end balance of \$3.6 million in total HAP reserves.

The overall projected voucher utilization for CY 2017 is 98.7%, ending the month of December at 98.1%.

### County HCV

HAP expenditures for the month of June totaled \$2,886,716. The Per Unit Cost (PUC) for the month was \$519. HAP expenditures for the year are projected at

\$34.2 million, resulting in 102% utilization of total HAP funding, and an expected year-end balance of \$2.4 million in total HAP reserves.

The overall projected voucher utilization for CY 2017 is 97.8%, ending the month of December at 97.2%.

Agency: City HAP Analysis													
Year: 2017													
Enter Data into Green fields	JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
HAP													
HAP Budget Authority (97%)	\$3,457,264	\$3,457,264	\$3,457,264	\$3,457,264	\$3,457,264	\$3,457,264	\$3,457,264	\$3,457,264	\$3,457,264	\$3,457,264	\$3,457,264	\$3,457,264	\$41,487,170
HAP Revenue	\$3,607,452	\$3,569,152	\$3,731,785	\$3,731,785	\$3,731,785	\$3,731,785	\$3,741,789	\$3,748,771	\$3,748,771	\$3,748,771	\$3,748,771	\$3,748,771	\$44,589,388
HAP Expenses	\$3,626,303	\$3,709,838	\$3,676,829	\$3,599,902	\$3,600,737	\$3,590,181	\$3,590,181	\$3,590,181	\$3,590,181	\$3,590,181	\$3,590,181	\$3,590,181	\$43,344,876
Net HAP (Variance)	-\$18,851	-\$140,686	\$54,956	\$131,883	\$131,048	\$141,604	\$151,608	\$158,590	\$158,590	\$158,590	\$158,590	\$158,590	\$1,244,512
% Variance Based on HAP Rev	100.52%	103.94%	98.53%	96.47%	96.49%	96.21%	95.95%	95.77%	95.77%	95.77%	95.77%	95.77%	97.25%
PHA-Held Reserve Balance	\$ -	\$ -	\$ -	\$ 36,468	\$ 174,632	\$ 316,236	\$ 467,844	\$ 626,434	\$ 785,024	\$ 943,614	\$ 1,102,204	\$ 1,260,794	\$1,260,794
HUD-Held Reserve Balance	\$ 5,076,773	\$ 4,747,741	\$ 4,256,075	\$ 3,764,410	\$ 3,272,744	\$ 2,781,079	\$ 2,930,841	\$ 3,073,621	\$ 3,216,400	\$ 3,924,892	\$ 2,633,384	\$ 2,341,876	\$2,341,876
Total HAP Reserve Balance	\$5,076,773	\$4,747,741	\$4,256,075	\$3,800,878	\$3,447,376	\$3,097,315	\$3,398,685	\$3,700,055	\$4,001,424	\$4,868,506	\$3,735,588	\$3,602,670	\$3,602,670
PUC													
Actual HAP PUC	\$522	\$533	\$538	\$531	\$539	\$542	\$548	\$548	\$548	\$548	\$548	\$540	\$539
UNITS - Regular Vouchers													
HUD Baseline Units	6785	6785	6785	6785	6785	6785	6785	6785	6785	6785	6785	6785	81,420
Actual Leased (inc port outs)	6950	6965	6831	6778	6678	6623	6553	6553	6553	6553	6653	6653	80,343
Variance to baseline	165	180	46	-7	-107	-162	-232	-232	-232	-232	-132	-132	-1077
YTD Variance to baseline	165	345	391	384	277	115	-117	-349	-581	-813	-945	-1077	-1077
Monthly Utilization	102.43%	102.65%	100.68%	99.90%	98.42%	97.61%	96.58%	96.58%	96.58%	96.58%	98.05%	98.05%	98.68%
UNITS - VASH Vouchers													
HUD Baseline Units	371	371	371	371	371	371	371	371	371	371	371	371	4,452
Actual Leased	293	296	295	297	300	300	300	300	300	300	300	300	3,581
Variance to baseline	-78	-75	-76	-74	-71	-71	-71	-71	-71	-71	-71	-71	-871
YTD Variance to baseline	-78	-153	-229	-303	-374	-445	-516	-587	-658	-729	-800	-871	-871
Monthly Utilization	78.98%	79.78%	79.51%	80.05%	80.86%	80.86%	80.86%	80.86%	80.86%	80.86%	80.86%	80.86%	80.44%
PUC With VASH	\$ 501	\$ 511	\$ 516	\$ 509	\$ 516	\$ 519	\$ 524	\$ 524	\$ 524	\$ 524	\$ 516	\$ 516	\$ 517

Agency: County HAP Analysis													
Year: 2017													
Enter Data into Green fields	JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
HAP													
HAP Budget Authority (97%)	\$2,720,297	\$2,720,297	\$2,720,297	\$2,720,297	\$2,720,297	\$2,720,297	\$2,720,297	\$2,720,297	\$2,720,297	\$2,720,297	\$2,720,297	\$2,720,297	\$32,643,561
HAP Revenue	\$2,649,445	\$2,649,445	\$2,790,148	\$2,790,148	\$2,790,148	\$2,790,148	\$2,532,057	\$2,897,562	\$2,897,562	\$2,897,562	\$2,897,562	\$2,897,562	\$33,479,349
HAP Expenses	\$2,688,853	\$2,741,147	\$2,838,902	\$2,845,255	\$2,809,494	\$2,886,716	\$2,886,716	\$2,896,145	\$2,896,145	\$2,896,145	\$2,896,145	\$2,896,145	\$34,177,808
Net HAP (Variance)	-\$39,408	-\$91,702	-\$48,754	-\$55,107	-\$19,346	-\$96,568	-\$354,659	\$1,417	\$1,417	\$1,417	\$1,417	\$1,417	-\$698,459
% Variance Based of HAP Rev	101.49%	103.46%	101.75%	101.98%	100.69%	103.46%	114.01%	99.95%	99.95%	99.95%	99.95%	99.95%	102.22%
PHA-Held Reserve Balance	\$625,997	\$534,295	\$485,541	\$435,879	\$418,194	\$321,626	\$0	\$1,417	\$2,834	\$4,251	\$5,668	\$7,085	\$7,085
HUD-Held Reserve Balance	\$2,804,485	\$2,760,202	\$2,575,216	\$2,390,230	\$2,205,244	\$2,020,258	\$2,388,768	\$2,388,768	\$2,388,768	\$2,388,768	\$2,388,768	\$2,388,768	\$2,388,768
Total HAP Reserve Balance	\$3,430,482	\$3,294,497	\$3,060,757	\$2,826,109	\$2,623,438	\$2,341,884	\$2,388,768	\$2,390,185	\$2,391,602	\$2,393,019	\$2,394,436	\$2,395,853	\$2,395,853
PUC													
Actual HAP PUC (Exp/Leased)	\$493	\$499	\$504	\$507	\$503	\$519	\$525	\$527	\$527	\$527	\$527	\$527	\$515
UNITS													
HUD Baseline Units	5652	5652	5652	5652	5652	5652	5652	5652	5652	5652	5652	5652	67,824
Actual Leased (inc port outs)	5453	5496	5636	5611	5583	5560	5496	5496	5496	5496	5496	5496	66,315
Variance to baseline	-199	-156	-16	-41	-69	-92	-156	-156	-156	-156	-156	-156	-1509
YTD Variance to baseline	-199	-355	-371	-412	-481	-573	-729	-885	-1041	-1197	-1353	-1509	-1509
Monthly Utilization	96.5%	97.2%	99.7%	99.3%	98.8%	98.4%	97.2%	97.2%	97.2%	97.2%	97.2%	97.2%	97.8%