

AGREEMENT FOR SERVICES #4244  
AMENDMENT II

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This Amendment II to that Agreement for Services #4244, is made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and The Center for Common Concerns, Inc., doing business as HomeBase, a non-profit organization, duly qualified to conduct business in the State of California, whose principal place of business is 870 Market Street, Suite 1228, San Francisco, CA 94102-2926, (hereinafter referred to as "Subrecipient").

**RECITALS**

**WHEREAS**, Subrecipient has been engaged by County to produce and implement a Regional Strategic Plan for addressing Homelessness informed by national best-and-emerging practices; and in accordance with Agreement for Services #4244, dated October 22, 2019, and Amendment 1 dated August 4, 2020, incorporated herein and made by reference a part hereof; and

**WHEREAS**, Subrecipient has represented to County that it is specially trained, experienced, expert, and competent to perform the special services described in Article I, "Scope of Services;" that it is an independent and bona fide business operation, advertises and holds itself as such, is in possession of a valid business license, and is customarily engaged in an independently established business that provides similar services to others, and County relies upon those representations; and

**WHEREAS**, the parties hereto desire to amend the Agreement and mutually agree to amend Article II – "Term;" Article VI – "Conflict of Interest;" Article XIII – "Notice to Parties;" Article XX – "Nondiscrimination;" and Article XXV – "Administrator;" Article XXVI – "Indemnity;" and

**WHEREAS**, the parties hereto desire to amend the Agreement and mutually agree to add Article XXIX – "Litigation;" Article XXX – "Force Majeure;" Article XXXI – "Waiver;" Article XXXII – "Contractor to County;" XXXIII – "Independent Contractor;" and

**WHEREAS**, County has determined that the provision of such services provided by Subrecipient are in the public's best interest and that due to the limited timeframes, temporary or occasional nature, or schedule for the project or scope of work, the ongoing aggregate of work to be performed is not sufficient to warrant the addition of permanent staff in accordance with El Dorado County Ordinance Code, Chapter 3.13.030, El Dorado County Charter, Section 210(b)(6), and/or Government Code Section 31000; and

**WHEREAS**, unless otherwise specified herein, the following terms and conditions shall be effective upon final execution of this Amendment 2 to that Agreement 4244.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and Subrecipient mutually agree to amend the terms of the Agreement in this Second Amendment to the Agreement on the following terms and conditions:

1) Article II – “Term” is amended in its entirety to read as follows:

#### **ARTICLE II**

**Term:** This Agreement became effective on October 22, 2019. The amended extension to the term shall become effective when fully executed by the parties hereto and shall expire October 21, 2022, unless terminated earlier pursuant to the provisions contained herein this Agreement under Article XI “Fiscal Considerations.”

2) Article VI – “Conflict of Interest” is amended in its entirety to read as follows:

#### **ARTICLE VI**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and the Political Reform Act of 1974 (Section 87100 et seq.), relating to conflict of interest of public officers and employees. Subrecipient attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Subrecipient relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in Article XV titled “Default, Termination and Cancellation.”

Subrecipient covenants that during the term of this Agreement neither it, or any officer or employee of Subrecipient, has or shall acquire any interest, directly or indirectly, in any of the following:

1. Any other contract connected with, or directly affected by, the services to be performed by this Agreement.
2. Any other entities connected with, or directly affected by, the services to be performed by this Agreement.
3. Any officer or employee of County that are involved in this Agreement.

If Subrecipient becomes aware of a conflict of interest related to this Agreement, Subrecipient shall promptly notify County of the existence of that conflict, and County may, in its sole discretion, immediately terminate this Agreement by giving written notice of termination specified in Article XV titled “Default, Termination and Cancellation.”

3) Article XIII – “Notice to Parties” is amended in its entirety to read as follows:

#### **ARTICLE XIII**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be addressed as follows:

COUNTY OF EL DORADO  
Health and Human Services Agency  
3057 Briw Road, Suite B  
Placerville, CA 95667  
ATTN: Contracts Unit

or to such other location as the County directs.

with a copy to

COUNTY OF EL DORADO  
Chief Administrative Office  
Procurement and Contracts Division  
330 Fair Lane  
Placerville, CA 95667  
ATTN: Purchasing Agent

Notices to Subrecipient shall be addressed as follows:

HOMEBASE, THE CENTER FOR COMMON CONCERNS, INC.  
870 Market Street, Suite 1228  
San Francisco, CA 94102  
ATTN: CHIEF EXECUTIVE OFFICER

or to such other location as the Subrecipient directs.

4) Article XX – “Nondiscrimination” is amended in its entirety to read as follows:

**ARTICLE XX**

**Nondiscrimination:**

A. County may require Subrecipient’s services on projects involving funding from various state and/or federal agencies, and as a consequence, Subrecipient shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Subrecipient and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, genetic information, military or veteran status, marital status, age, gender, gender identity, gender expression, sexual orientation, or sex; Subrecipient shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 11000 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Subchapter 5 of Chapter 5 of Division 4.1 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Subrecipient and its employees and representatives shall give written notice of their obligations under this clause as required by law.

- B. Where applicable, Subrecipient shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Subrecipient's signature executing this Agreement shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Sections 12990 and Title 2, California Code of Regulations, Section 11102.

5) Article XXVI – “Indemnity” is amended in its entirety to read as follows:

**ARTICLE XXVI**

**Indemnity:** To the fullest extent permitted by law, Subrecipient shall defend at its own expense, indemnify, and hold the County harmless, its officers, employees, agents, and volunteers, against and from any and all liability, claims, suits, losses, damages, or expenses of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the acts or omissions of Subrecipient or its officers, agents, or employees in rendering the services, operations, or performance hereunder, except for liability, claims, suits, losses, damages or expenses arising from the sole negligence or willful acts of the County, its officers and employees, or as expressly prescribed by statute. This duty of Subrecipient to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

6) Article XXV – “Administrator” is amended in its entirety to read as follows:

**ARTICLE XXV**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Alyson McMillan, Program Manager, Health and Human Services Agency, or successor.

7) Article XXIX – “Litigation” is added as follows:

**ARTICLE XXIX**

**Litigation:**

- A. County, promptly after receiving notice thereof, shall notify the Subrecipient in writing of the commencement of any claim, suit, or action against the County or State of California or its officers or employees for which the Subrecipient must provide indemnification under this Agreement. The failure of the County to give such notice, information, authorization, or assistance shall not relieve the Subrecipient of its indemnification obligations.
- B. Subrecipient, promptly after receiving notice thereof, shall immediately notify the County in writing of any claim or action against it which affects, or may affect, this Agreement, the terms and conditions hereunder, or the County or State of California, and shall take such action with respect to said claim or action which is consistent with the terms of this Agreement and the interest of the County and State.

8) Article XXX – “Force Majeure” is added as follows:

**Article XXX**

**Force Majeure:** Neither party will be liable for any delay, failure to perform, or omission under this Agreement that is due to any cause that it is beyond its control, not due to its own negligence, and cannot be overcome by the exercise of due diligence. In that event, the affected party will:

1. Promptly give written notice to the other of the fact that it is unable to so perform and the cause(s) that is beyond its control; and
2. Once the cause(s) has ceased, provide written notice to the other party and immediately resume its performance under this Agreement.

For purposes of this Article, “cause that is beyond its control” includes labor disturbances, riots, fires, earthquakes, floods, storms, lightning, epidemics, war, disorders, hostilities, expropriation or confiscation of properties, failure of and delays by carriers, interference by civil or military authorities, whether legal or de facto, and whether purporting to act under some constitution, decree, or law, or otherwise, or acts of God.

9) Article XXXI – “Waiver” is added as follows:

**ARTICLE XXXI**

**Waiver:** No failure on the part of the parties to exercise any rights under this Agreement, and no course of dealing with respect to any right hereunder, shall operate as a waiver of that right, nor shall any single or partial exercise of any right preclude the exercise of any other right. The remedies herein provided are cumulative and are not exclusive of any other remedies provided by law.

10) Article XXXII – “Contractor to County” is added as follows:

**ARTICLE XXXII**

**Contractor to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further understood that this Agreement does not create an exclusive relationship between County and Subrecipient, and Subrecipient may perform similar work or services for others. However, Subrecipient shall not enter into any agreement with any other party, or provide any information in any manner to any other party, that would conflict with Subrecipient’s responsibilities or hinder Subrecipient’s performance of services hereunder, unless County’s Contract Administrator, in writing, authorizes that agreement or sharing of information.

11) Article XXXIII – “Independent Contractor” is added as follows:

**ARTICLE XXXIII**

**Independent Contractor:** The parties intend that an independent contractor relationship will be created by this contract. Subrecipient is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Subrecipient exclusively assumes responsibility for acts of its employees, agents, affiliates, and subrecipients, if any are authorized herein, as they relate to the services or work to be performed under this Agreement during the course and scope of their employment by Subrecipient.

Those persons will be entirely and exclusively under the direction, supervision, and control of Subrecipient.

County may designate the tasks to be performed and the results to be accomplished under this Agreement, provide information concerning the work or services, approve or disapprove the final work product and/or services provided, and set deadlines for the completion of the work or services, but County will not control or direct the manner, means, methods, or sequence in which Subrecipient performs the work or services for accomplishing the results.

Subrecipient, including any subrecipients or employees of Subrecipient, shall not receive, nor be eligible for, any benefits County provides for its employees, including, but not limited to, vacation pay, paid holidays, life insurance, health insurance, social security, disability insurance, pension, or 457 plans. Subrecipient shall not receive, nor be eligible for, workers' compensation, including medical and indemnity payments. County is not responsible for withholding, and shall not withhold, Federal Income Contribution Act amounts or taxes of any kind from any payments which it owes Subrecipient. Subrecipient shall not be subject to the work schedules or vacation periods that apply to County employees.

Subrecipient shall be solely responsible for paying its employees, and for withholding Federal Income Contribution Act amounts and other taxes, workers' compensation, unemployment compensation, medical insurance, life insurance, or any other benefit that Subrecipient provides for its employees.

Subrecipient acknowledges that it has no authority to bind the County or incur any obligations on behalf of the County with regard to any matter, and shall not make any agreements or representations on the County's behalf.

Except as herein amended, all other parts and sections of that Agreement for Services #4244 shall remain unchanged and in full force and effect.

**Requesting Contract Administrator Concurrence:**

By: \_\_\_\_\_  
Alyson McMillan  
Program Manager  
Health and Human Services Agency

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

**Requesting Department Head Concurrence:**

By: \_\_\_\_\_  
Donald Semon  
Director  
Health and Human Services Agency

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

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to that Agreement for Services #4244 on the dates indicated below.

-- COUNTY OF EL DORADO --

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

By: \_\_\_\_\_

John Hidahl, Chair  
Board of Supervisors  
"County"

ATTEST:  
Kim Dawson  
Clerk of the Board of Supervisors

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

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

-- SUBRECIPIENT --

THE CENTER FOR COMMON CONCERNS, INC.  
A CALIFORNIA CORPORATION

By: \_\_\_\_\_  
Nikka Rapkin  
Executive Director  
"Subrecipient"

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

By: \_\_\_\_\_  
Corporate Secretary

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

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