

Issue Date: August 25, 2023

**MERCED CITY AND COUNTY CONTINUUM OF CARE (CoC)
REQUEST FOR PROPOSAL
NUMBER 2023-004**

TITLE:

Emergency Solutions Grant (ESG) Balance of State (BoS)

Please carefully read and follow the instructions.

Please direct all questions to:
Collaborative Applicant

Physical Address: 2115 West Wardrobe Ave, Merced, CA 95341

Mailing Address: Attention: See Her, P.O. Box 112, Merced, CA 95341

Email: collabapp@countyofmerced.com

Phone: (209) 385-3000 Ext. 5510

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PLEASE SUBMIT RESPONSE BY: 4:00 P.M. ON FRIDAY, SEPTEMBER 22, 2023

TABLE OF CONTENTS

DEFINITIONS.....	4
SECTION 1.....	6
INTRODUCTION	6
1.1 INTENT OF THE REQUEST FOR PROPOSAL	6
1.2 BACKGROUND INFORMATION	6
1.3 REQUIREMENTS.....	8
1.4 EXPENDITURE MILESTONS.....	14
1.5 SPECIFIC COMPLIANCE.....	14
SECTION 2.....	15
RESPONSE FORMAT AND CONTENT.....	15
2.1 GENERAL INFORMATION	15
2.2 RESPONSE FORMAT	15
SECTION 3.....	17
BASIS OF RECOMMENDATION, SELECTION PROCESS AND EVALUATION CRITERIA.....	17
3.1 BASIS OF RECOMMENDATION	17
3.2 EVALUATION PROCESS	17
3.3 NOTICES OF INTENT	18
3.4 DEBRIEFING.....	18
3.5 PROTEST	18
3.6 PROTEST PROCEDURES	19
SECTION 4.....	20
TERMS AND CONDITIONS	20
4.1 REQUEST FOR PROPOSAL CLOSING DATE.....	20
4.2 ANNOUNCEMENT OF RESPONSES.....	20
4.3 INTERPRETATION, CORRECTIONS AND AMENDMENTS	20
4.4 FALSE OR MISLEADING STATEMENTS	21
4.5 INDEPENDENT CONTRACTOR.....	21
4.6 EXPLANATION OF USE OF SUB-CONTRACTORS	21
4.7 CONFIDENTIALITY.....	22
4.8 PUBLIC AGENCY PARTICIPATION.....	23
4.9 DETERMINATION OF BIDDER’S RESPONSIBILITY	23
4.10 PUBLIC DISCLOSURE.....	23
4.11 QUALIFICATIONS OF BIDDER	24
4.12 DISQUALIFICATION OF BIDDER	24
4.13 INTEGRITY OF EXPENDITURE.....	24

4.14	GRATUITIES	25
4.15	CONFLICT OF INTEREST	25
4.16	DRUG FREE WORKPLACE.....	25
4.17	PREVAILING WAGE RATES	25
4.18	COMPLIANCE WITH APPLICABLE LAWS.....	25
4.19	LEGAL CONSIDERATIONS	26
ATTACHMENT A		27
SIGNATURE PAGE		27

DEFINITIONS

Authorizing Resolution- Designates a person or persons responsible for, and authorized to execute, all documents related to the application for ESG funds and submittal of funds requests.

Bidder – An eligible applicant submitting a bid response for the purpose of obtaining a CoC recommendation for funding.

Continuum of Care (CoC)- The Merced City and County Continuum of Care (CA 520).

Collaborative Applicant – The eligible applicant designated by the Continuum of Care (CoC) to collect and submit the Emergency Solutions Grant (ESG) Balance of State (BoS) Application which includes both the noncompetitive and competitive funding recommendations and apply for the ESG CoC Allocation funds on behalf of the CoC during the CoC Program Competition.

Coordinated Entry System- A centralized or coordinated process developed pursuant to Section 578.7 of Title 24 of the Code of Federal Regulations, as the section read on January 10, 2019, designed to coordinate homelessness program participant intake, assessment, and provision of referrals.

Evaluation Committee - A committee established to review and evaluate responses to determine the selected recommendations. The committee includes representatives of the department seeking the goods or services.

Housing and Community Development- The California Department of Housing and Community Development is a department within the California Business, Consumer Services and Housing Agency that develops housing policy and building codes and administers programs that provide grants and loans.

Homeless Management Information System (HMIS) – The information system designated by a continuum of care to comply with federal reporting requirements as defined in Section 578.3 of Title 24 of Code of Federal Regulations.

Homelessness- The meaning as defined in 24 CFR Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 10, 2019.

Housing First – A homeless assistance approach that prioritizes providing permanent housing to people experiencing homelessness, thus ending their homelessness, and serving as a platform from which they can pursue personal goals and improve their quality of life per the meaning in Section 8255 of the Welfare and Institutions Code.

Grants Management System- The new eCivis Grants Management System (GMS) called “Grants Network” which allows applicants to apply for ESG funding online and will track the status of their application once submitted. All ranked and selected applications

and supporting documentation must be submitted through GMS.

Match Requirements- Applicants must make dollar-for-dollar matching contributions in an amount that equals the amount of federal ESG funds awarded.

Single Audit- An audit, as described under section 7502(d), of a non-Federal entity that includes the entity's financial statements and Federal awards; (19) "State" means any State of the United States.

Sub-Contractors - Any person, entity, or organization to which the Contractor or CoC has delegated any of its obligations hereunder.

SECTION 1

INTRODUCTION

1.1 INTENT OF THE REQUEST FOR PROPOSAL

The Merced City and County Continuum of Care (CoC) is looking for qualified public or private agencies to apply for the 2023 Federal Emergency Solutions (ESG) Balance of State (BoS) Grant Non-competitive Application and the Regional Competitive Application.

The goal is to engage the chronically homeless population countywide and help place them into appropriate housing utilizing resources such as Rapid Re-Housing, Street Outreach or Homelessness Prevention programs for the Non-competitive Application. Rapid Re-Housing, Street Outreach, Emergency Shelter, Day Shelters, and Homelessness Prevention programs may be funded under the Regional Competitive Application. It is expected that the bidder will have experience that would promote a successful program and has established relationships/collaborations with other like organizations.

The ESG program provides funding for the following objectives:

- Engaging individuals and families experiencing homelessness;
- Improving the quality of Emergency Shelters (ES) for individuals and families experiencing homelessness by helping to operate these shelters, and by providing essential services to shelter residents;
- Rapidly rehousing individuals and families experiencing homelessness; and
- Preventing families and individuals from becoming homeless.

The BoS allocation is made available based on recommendations from CoC in two ways:

- Through a non-competitive process
- Through a regional competition process.

1.2 BACKGROUND INFORMATION

The California Department of Housing and Community Development (HCD) receives funding from the United States Department of Housing and Urban Development (HUD) for the Emergency Solutions Grant (ESG) program. Approximately \$5 million in new federal funds, as well as additional disencumbered funds that may become available later this year, will be allocated to the eligible (CoC) Service Areas.

Federal funding is made available pursuant to Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act, SEC. 411. 42 USC 11371 et seq. 2023 ESG BoS Notice of Funding Availability (NOFA) dated July 28, 2023, outlines regulations that establish state and federal ESG requirements. Relevant legal

authority includes, but is not limited to the following:

- Code of Federal Regulations (CFR), Title 24, Part 576;
- 25 CCR, Division 1, Chapter 7, Subchapter 20;
- 24 CFR Part 91 relating to Annual Action Plan requirements;
- 24 CFR Part 58, relating to environmental reviews;
- The ESG Program Interim Rule was first published in the Federal Register on December 5, 2011 and became effective on January 4, 2012. The public comment period for the ESG rule closed on February 3, 2012. A second public comment period in which HUD was seeking additional feedback and comment on certain, limited provisions of the ESG Program Interim Rule closed on August 3, 2015. An updated version of the ESG Program Interim Rule was published in the Federal Register on April 1, 2017;
- Chronically Homeless Definition Final Rule: The Interim Rule, published in the Federal Register on December 4, 2015, cited above, provides the chronically homeless definition that applies to the ESG program; and
- Office of Management and Budget (OMB) requirements for Universal Identifier and Central Contractor Registration, 2 CFR Part 25, Appendix A to Part 25.

If there is a conflict between the state and federal regulations, the federal regulations shall prevail.

CoC's play an integral role in recommending homeless provider applicants who compete for funds within their local procurement process. Applications from homeless providers shall only be considered if they are recommended by the CoC where the proposed activity is located. A maximum of two applications may be recommended by the CoC for the regional competition and a maximum of two applications for the noncompetitive funding.

Non-Competitive Funding

There is \$178,825.00 available for BoS Non-competitive Funding. In combination with a Rapid Re-Housing activity, bidders may request the following allowable ESG activity amounts under the non-competitive Rapid Re-Housing set aside:

- Street Outreach (SO): Up to a maximum of 10% of the total requested application amount.
- Homelessness Prevention (HP): Up to a maximum of 10% of the total requested application amount.
- HMIS: Up to a maximum of 10% of the total requested application amount.

Competitive Regional Funding

There is \$1,139,024.00 available for BoS Competitive Regional Funding for the entire Central and Imperial Region. Each application must be for a minimum of \$75,000.00 and a maximum of \$200,000.00. Bidders can apply for funding for the following activities:

- Rapid Re-Housing (RRH): \$75,000.00 - \$200,000.00 per Application
- Emergency Shelter (ES): \$75,000.00 - \$200,000.00 per Application
- Street Outreach (SO): \$75,000 - \$200,000 per Application as a Stand-Alone or 10% of Application with a Maximum of \$20,000 when requested with RRH or ES
- Homelessness Prevention (HP): Up to 10% of Application with a Maximum of \$20,000 when requested with RRH or ES. Stand-Alone HP applications are not permitted.
- HMIS: Up to 10% of Application with a Maximum of \$20,000

Matching Funds

Bidders must make matching contributions in an amount that equals the amount of federal ESG funds awarded. Matching contributions may be obtained from any source, including federal sources other than the ESG, program, as well as state, local, and private sources. The following requirements apply to matching contributions from a federal source of funds:

- Laws governing any funds to be used as matching contributions do not prohibit those funds from being used to match ESG funds.
- Per 24 CFR Part 576.201, if ESG funds are used to satisfy the matching requirements of another federal program, then funding from that program may not be used to satisfy the matching requirements.

1.3 REQUIREMENTS

1.3.1 Bidder Responses Required

1. Does your organization currently have or previously have a Rapid Re-Housing program? If yes, please describe the program in detail.
2. Does your organization currently provide a street outreach program, street engagement activities or transportation services to homeless persons? If yes, please describe existing programs in detail.
3. Does your organization currently provide shelter or day shelter services to individuals experiencing homelessness? If yes, please describe services provided.
4. Does your organization manage an existing Homelessness Prevention Program? If yes, please describe the current program/activities in detail.
5. Does your organization participate in HMIS activities? If yes, please describe the current program/activities in detail.

6. Please provide a brief narrative describing your organization's proposed project for which you are seeking CoC recommendation. Project narratives shall include the following:
 - Street outreach and engagement services provided in Merced City and County (If Applicable);
 - Rapid Re-Housing rental assistance programs with a Housing Navigator who is dedicated to providing individuals experiencing homelessness assistance with finding rental units;
 - Usage of HMIS for all client data entry and case management notations, including services provided and financial assistance provided;
 - Usage of the Coordinated Entry System (CES) and participation in CES meetings;
 - Demonstrated collaboration with existing providers of homeless projects;
 - Measurable outcomes;
 - Staffing to services ratios; and
 - Advancing racial equity strategies.
7. Please provide a proposed budget ([as described under 2.2.4](#)) that will support the project and services that your organization program would be providing. Include details of the dollar-for-dollar matching contributions.
8. Does your organization currently participate in the Merced City and County CoC HMIS? Describe your involvement in detail or explain why your organization does not participate in HMIS.
9. Does your organization participate in the Merced City and County CoC CES? Describe your involvement in detail or explain why your organization does not participate in CES.
10. Provide responses to the following questions:
 - What are your organization's racial and ethnic demographics and the demographics of those within your homeless response system?
 - In your community's captured data, what are the outcomes of the homeless response system based on race and ethnicity? What requirements do you have for all subcontractors to analyze data to determine racial and ethnic disparities? Do you have a plan in place to address them?
 - How do underserved and marginalized communities learn about and enter the ESG program? What marketing and communication strategies are used to increase equitable access to the ESG program?

- How does your grant making process include prioritization for programs that are addressing the disproportionate impacts that homelessness has on communities of color, particularly Black, Latinx, Asian, Pacific Islander, and Native and Indigenous communities?
- How are the voices of Black, Latinx, Asian, Pacific Islander, Native and Indigenous communities, and those with lived experience of homelessness, being centered in a meaningful, sustained way in creating effective approaches to reducing and ending homelessness? How are they involved in the funding decision-making process?
- How are these funds accessible to smaller and non-traditional organizations that have historically served communities of color but may not have previously participated formally in the COC, or became a part of the homeless service provider community? How would these funds address the organizational capacity of organizations that are led by Black, Latinx, Asian, Pacific Islander, and Native and Indigenous people that support the goal of making homelessness rare, brief, and non-recurring?

11. List your partner organizations that are addressing racial equity in the housing and homeless response system. How do you partner with them?

1.3.2 Required Documentation

Please submit the following threshold required documents with the application submission:

1. [Authorizing Resolution](#) (Must have the same verbiage as the ESG Template)
2. Dun and Bradstreet Universal Numbering System (DUNS) Number
3. Match Letter or Documentation
4. Budget with Identified Primary Activities
5. System for Award Management (SAM) Report
6. Signature Page

Please submit the following required documents with the application submission:

1. Agency By-Laws;
2. Articles of Incorporation;
3. Policies and Procedures Per Activity as indicated below as applicable. Drafts maybe submitted with application submission.

If selected for recommendation, the following will need to be completed in [eCivis](#) by October 13, 2023.

1. HMIS Database Report

2. Cost Efficiency Form
3. Government Agency Taxpayer ID Form
4. STD 204 Form
5. IRS 501(C)(3) Tax Determination Letter;
6. Certificate of Indirect Costs
7. General Certifications
8. Certification of Local Approval
9. Most Recent Single Audit (If Applicable)
10. Most Recent Form 990 (If Applicable)

Bidders submitting a request for funding are required to develop and implement written policies and procedures that fully detail their ESG operations. At minimum, they must include the following content for each activity:

Street Outreach (SO):

1. Written Standards;
2. Coverage Area;
3. Coordinated Entry Integration;
4. Participant Eligibility;
5. Suite of Services;
6. Staffing Patterns;
7. Housing Problem-solving;
 - a. Diversion
 - b. Rapid Exit
8. Other Requirements; and
9. General Operations.

Emergency Shelter (ES):

1. Written Standards;
2. Coordinated Entry Integration;
3. Participant Eligibility;
4. Suite of Services;
5. Staffing Patterns;
6. Housing Problem-solving;
 - a. Diversion
 - b. Rapid Exit
7. General Operations;
8. Other Requirements; and
9. Approval.

Rapid Re-Housing (RRH):

1. Coordinated Entry Integration;
2. Participant Eligibility;
3. Suite of Services;
4. Staffing Patterns;

5. Termination and Appeals;
6. Other Requirements;
7. General Operations; and
8. Approval.

Homeless Prevention (HP):

1. Participant Triage;
2. Coordinated Entry Integration;
3. Participant Eligibility;
4. Suite of Services;
5. Staffing Patterns;
6. Termination and Appeals;
7. Other Requirements;
8. General Operations; and
9. Approval.

1.3.3 HCD's Application Threshold Requirements

An application may be deemed ineligible by HCD if the application does not meet the threshold requirements, if the application is incomplete, or if HCD cannot determine compliance with the threshold requirements. HCD may request clarification of unclear or ambiguous statements made in the application and other supporting documents if this information will not affect the competitive scoring of the application. The HCD may request documentation necessary for compliance with state or federal requirements and may request that an Applicant revise application documents, as necessary to establish compliance, as long as such revisions do not affect the competitive scoring of the application.

An application must meet the following threshold requirements to be eligible for rating and ranking:

- Applicants **must** follow instructions in both this NOFA and the online application. Failure to follow instructions will result in disqualification.
- The ESG application and all required attachments must be submitted to HCD through the eCivis Portal located at <https://portal.ecivis.com/#/login>. Applications must include all required information to be submitted.
- The application was complete and received by the deadline.
- The Applicant is eligible as described in **Section III(B)** of this NOFA.
- The CoC recommends the Applicant from the Service Area where the proposed activity is located, as documented by the certification of approval from the CoC.

Note: Single-county CoCs may recommend no more than two applications. Multi-county CoCs may recommend no more than three applications.

- The application includes a funding request of at least \$75,000.00, but not more than \$200,000.00.
- Proposed activities are eligible pursuant to Section III Subsection B of this NOFA.
- Pursuant to 25 CCR 8401, Applicants must have adequate and documented site control for any application proposing an ES activity.
- The application includes a certification of written standards for the proposed activities adopted by the CoC, as described in Section VI of this NOFA.
- The application includes a completed **Authorizing Resolution (AR)** on the HCD template and approved by the Applicant's governing board. The AR designates a person or persons responsible for, and authorized to execute, all documents related to the application of ESG funds, ESG award, and submittal of funds requests. Please see the instructions for completing the required HCD AR template, along with an AR form, on the ESG website. Failure to use the required AR template provided by HCD will result in automatic disqualification. If a governing body must prepare a separate resolution concurrently that conforms to its local standard, it may do so in addition to preparing the AR form provided by HCD. *In the event the applicant's AR is not submitted by the application due date, then the entire application will be deemed untimely and thus automatically rejected in its entirety.*
- Pursuant to 24 CFR Part 576.202 (a)(2), for private non-profit organizations proposing ES activities, the application must include a Certification of Local Approval completed and signed by the city or county where the activity is located.
- For applications from private nonprofit-organizations, the application contains the organization's current bylaws and articles of incorporation.
- All Applicants must demonstrate to the satisfaction of the Department that they are in compliance with the financial management requirements of **2 CFR 200**. The applicant must provide the Department with its most recent single audit (as submitted to the State Controller's Office), if applicable. If the applicant has any open single audit findings and does not have a plan or an agreement to remediate those findings, the Applicant will be deemed ineligible for funding through the state ESG program until the findings are resolved or a remediation plan or agreement is established.

- Pursuant to 24 CFR Part 576.201, Applicants must have identified dollar-for-dollar match for the federal ESG funding with funds from other public or private sources.

1.4 EXPENDITURE MILESTONS

Applicants that are awarded funding under the 2023 BoS allocation will be required to meet the following expenditure milestones.

Percentage of ESG Award that Must be Expended	Milestone Deadline
20%	120 days after execution of ESG contract
50%	180 days prior to the expenditure deadline
80%	60 days prior to expenditure deadline

1.5 SPECIFIC COMPLIANCE

Bidder agrees to comply with all State and Federal laws, rules, and regulations that pertain to health and safety, labor, fair employment practices, equal opportunity, California Code of Regulations (CCR), and all other matters applicable to the State of California and the ESG grant.

Selected bidders will be required to submit related racial and ethnic data metric of the homeless population and those served by the CoC service area from HMIS on a quarterly reporting basis to HCD.

SECTION 2

RESPONSE FORMAT AND CONTENT

2.1 GENERAL INFORMATION

This section describes the required response format and content. The response should contain the requested information organized by the prescribed section and subsection numbers and titles. Any information provided beyond that required in the response should be contained in a section entitled "Optional Exhibits and Attachments".

Each Bidder shall submit a complete response, providing all information requested and a complete description of the functional operation of the program/project proposed. Failure to follow the prescribed format may result in rejection of your response.

Responses must be complete in all aspects. A response may be rejected if it is conditional or incomplete, or if it contains any alteration of form or other irregularities of any kind. A response may be rejected if any such defect or irregularity constitutes a material deviation from the proposal requirements. The response must contain all costs required by the proposal.

2.2 RESPONSE FORMAT

The responses must be developed in the order in which they appear in the proposal. Responses that do not conform to this format may not be considered for evaluation. All responses must be submitted in the name of the legal entity or authorized agency. Responses must be signed in ink by the officer or officers legally authorized to bind the company, partnership, or corporation.

2.2.1 Signature Page

Bidder must complete and return the enclosed Signature Page (**Attachment A**, "Signature Page"). The Signature Page must be signed in blue ink by the officer or officers legally authorized to bind the company, partnership, or corporation.

2.2.2 Bidder's Qualifications

Bidder shall provide a concise statement demonstrating that the Bidder's company has the qualifications, experience, and capability to perform the requirements of this proposal. The following sections must be included:

a) History

Provide a brief history of your company, including the number of years in business.

State whether your organization is an individual proprietorship, partnership, corporation, or private nonprofit organization, and the date your company was formed or incorporated. Provide a statement as to any judgment, litigations, licensing violations, or other violations, outstanding or resolved, against your company in the past five (5) years.

b) Background and Experience

A summary of relevant background information describing your company's experience of major accomplishments and/or activities like the requirements set forth under this proposal, which demonstrates your company's ability to provide the service described in your response.

c) Staff Assignment

A brief description of the experience and qualifications of the proposed key staff members assigned to this program/project and what percentage of their time will be devoted to the program/project. Show their function, level of education, degree and license, if appropriate, and a detailed resume for each person. Additionally, the Bidder must specify where the staff will be located and identify the program/project manager.

2.2.3 Cost Proposal

It is essential that all responding Bidders include and clearly detail all costs, payment schedules, categorization of line items, and/or other related costs associated with your response. All responses must have a narrative providing a thorough and clear explanation of your costs.

As part of the submission, Bidder will need to include a budget that specifies operational costs. If the activity includes funding for direct client services, such as Rapid Re-Housing, the proposed budget will need to include sections that separate personnel costs, from operational cost, from the amount dedicated for direct client services. If the budget spans over a year of operations, the budget needs to be represented for each individual year of project.

SECTION 3

BASIS OF RECOMMENDATION, SELECTION PROCESS AND EVALUATION CRITERIA

3.1 BASIS OF RECOMMENDATION

The CoC may recommend a maximum of two (2) applications for the regional competition and a maximum of two (2) applications for the non-competitive ESG funds. **The CoC shall not be obligated to accept the lowest cost response but will make an award in the best interests of the CoC after all factors have been evaluated (“most responsive response”).**

THE COC RESERVES THE RIGHT, AT ITS SOLE DISCRETION, TO REJECT ANY OR ALL RESPONSES OR ANY PART THEREOF, OR TO WAIVE ANY INFORMALITIES IN THE RESPONSE AND MINOR IRREGULARITIES, TECHNICAL DEFECTS OR CLERICAL ERRORS, TO MAKE AN AWARD ON THE BASIS OF SUITABILITY, QUALITY OF SERVICE(S) TO BE SUPPLIED, THEIR CONFORMITY WITH THE SPECIFICATIONS AND FOR THE PURPOSES FOR WHICH THEY ARE REQUIRED, AND NOT CONFINED TO COST ALONE. THE COC SHALL NOT BE LIABLE FOR ANY COSTS INCURRED BY THE BIDDER IN CONNECTION WITH THE PREPARATION AND SUBMISSION OF THIS OR ANY OTHER RESPONSE.

False, incomplete, or nonresponsive statements in connection with the response may be deemed sufficient and cause for rejection. The CoC shall be the sole judge in making such a determination. The CoC reserves the right to cancel or discontinue with the response process and reject any or all responses in the event it determines that there is no longer a requirement for the furnishing of such items, materials, equipment and/or services, funding is no longer available for this proposal, or it is otherwise in the CoC’s best interest to cancel the proposal process.

3.2 EVALUATION PROCESS

The Evaluation Committee will consider only those responses which have been considered responsive to the proposal. Any response which fails to meet the requirements of the proposal will be considered non-responsive and may be rejected. Responsiveness includes diligence in following the proposal format. The Evaluation Committee may also contact and evaluate the Bidder’s and the Sub-Contractors references; contact any current users of a Bidder’s services; solicit information from any available source concerning any aspect of a response; and seek and review any other information deemed pertinent to the evaluation process. The Evaluation Committee shall not be obligated to accept the lowest priced response but shall recommend such response that is the most qualified, responsive and cost-effective response and in the best interest of the CoC (“most

responsive response”).

The RFP will be evaluated based on the following criteria:

Scoring Criteria	Points Allotted
RFP Threshold Requirements	Pass/Fail
Demonstrated Organizational Structure and Program Capacity	20
Proposed Project Activity(ies) Narrative	40
Proposed Budget / Match	15
Racial Equity Addressed	15
Required Documentation	10
Total Points	100

3.3 NOTICES OF INTENT

All bidders will be notified of the 2023 ESG program funding.

3.4 DEBRIEFING

A debriefing shall be held before the recommendation of the bidder upon timely request of an unsuccessful Bidder for the purpose of receiving information concerning the evaluation of the Bidder’s response. The request must be in writing, dated, signed either by the Bidder or a legally authorized individual on behalf of the Bidder and be received by the Collaborative Applicant located at 2115 West Wardrobe Avenue, Merced, California 95340 no later than October 16, 2023. Each requesting Bidder will be allotted a maximum of one hour for any debriefing conference. The information provided by the Collaborative Applicant will be based on the Evaluation Committee determinations of your company’s submitted response as it relates to the evaluation criteria as stated herein above. The debriefing may be held, at the discretion of the Collaborative Applicant, by telephone conference call. The debriefing is not the forum to challenge the proposal’s specification, requirements, or the selection criteria. The debriefing procedure provided herein to all requesting and unsuccessful Bidders to the CoC’s Request for Proposal is the exclusive and sole remedy and means of receiving information regarding the respective Bidder’s evaluation and preliminarily challenging the ESG recommendations.

3.5 PROTEST

Should an unsuccessful Bidder request a debriefing, and believes its response to be the most responsive to the CoC’s proposal and that the CoC has incorrectly selected another Bidder for recommendation, the appealing Bidder may submit a protest of the selection as described below:

All protests must be made in writing, dated, signed by the Bidder or an individual authorized to sign Agreements on behalf of the protesting Bidder, and contain a

statement of the reason(s) for protest; citing the law(s), rule(s) and regulation(s) or procedure(s) on which the protest is based. The protesting Bidder must have gone through the debriefing process described above and must provide facts and evidence to support the protest.

Protest(s) to CoC's Intent to Recommend must be sent either by U.S. mail, postage prepaid, or by personal delivery to:

Collaborative Applicant
2115 West Wardrobe Avenue
Merced, California 95340

All protests in relationship to the CoC's intended recommendation decision must be received by the CoC or Collaborative Applicant no later than three (3) working days following the CoC's notification to all Bidders of proposal rankings.

3.6 PROTEST PROCEDURES

A Bidder protesting the results of any of the processes described herein must follow the procedures set forth herein. By submitting a "Letter of Intent to Protest", the Bidder has agreed that the protest procedures herein shall precede any action in a judicial or quasi-judicial tribunal regarding this proposal. Protests that do not follow these procedures shall not be considered. The protest procedures constitute the sole administrative remedy available to the Bidder under this procurement. Upon exhaustion of this remedy no additional recourse is available with the CoC.

Upon receipt of the formal protest, the CoC will attempt to resolve the protest. If the protest has not been resolved, the Bidder will have an opportunity to address the CoC Board stating their concerns. The decision of the CoC Board constitutes the last step of the Bidder's administrative remedy.

A protest shall be disallowed when, in the judgment of the Collaborative Applicant or the CoC Board, it has been submitted: (1) as a delay tactic; (2) for the purpose of posturing the protester advantageously for future procurement; (3) in a form that deviates from the one prescribed; (4) without adequate factual basis or merit; or (5) in an untimely manner.

In the event that a protesting Bidder does not appear at the protest hearing as scheduled by CoC, the protest will be disallowed.

SECTION 4

TERMS AND CONDITIONS

4.1 REQUEST FOR PROPOSAL CLOSING DATE

All responses and accompanying documentation submitted by the Bidders, will become the property of the CoC. Responses shall be based on the material contained in the proposal. Bidders are instructed to disregard any prospective oral representations it may have received prior to the solicitation of the proposal.

The cost for developing and preparing the response is solely the responsibility of the Bidder whether any recommendation results from this solicitation. Further, the cost of developing and preparing responses to the proposal will not be allowed as direct or indirect charges under this funding.

No alteration in any of the terms, conditions, delivery, price, quality, quantities, or specifications will be effective without prior written consent of the CoC.

THE COC RESERVES THE RIGHT, AT ITS SOLE DISCRETION, TO REJECT ANY OR ALL RESPONSES OR ANY PART THEREOF, OR TO WAIVE ANY INFORMALITIES IN THE PROPOSAL AND MINOR IRREGULARITIES, TECHNICAL DEFECTS OR CLERICAL ERRORS, TO MAKE AN AWARD ON THE BASIS OF SUITABILITY, QUALITY OF SERVICE(S) TO BE SUPPLIED, THEIR CONFORMITY WITH THE SPECIFICATIONS AND FOR THE PURPOSES FOR WHICH THEY ARE REQUIRED, AND NOT CONFINED TO PRICE ALONE. THE COC SHALL NOT BE LIABLE FOR ANY COSTS INCURRED BY THE BIDDER IN CONNECTION WITH THE PREPARATION AND SUBMISSION OF THIS OR ANY OTHER PROPOSAL.

4.2 ANNOUNCEMENT OF RESPONSES

All responses received by the published date and time for submission will be made public at our CoC Website. All information contained in the responses shall be confidential to avoid disclosure of contents prejudicial to competing Bidders during the evaluation process. No award decision, pricing, or exchange of views will be discussed at the time of opening.

4.3 INTERPRETATION, CORRECTIONS AND AMENDMENTS

The Bidder must carefully examine the specifications, terms and conditions provided in the Request for Proposal and become fully informed as to the requirements set forth therein. If anyone planning to submit a response discovers any ambiguity, conflict, discrepancy, omission or error in the proposal, has any questions in relationship to the "REQUIREMENTS", or any other related matters, Bidder shall immediately submit their request for clarification or modification of the

RFP no later than the Question-and-Answer deadline. No further requests for clarification or objections to the proposal will be accepted or considered after this date. Any change in the proposal will be made only by written amendment, issued by the Collaborative Applicant to each vendor on the Bidders list as well as posted on the CoC website, and shall be incorporated in the proposal. **Any oral communication by the CoC or Collaborative Applicant's designated contact person or any other CoC staff member concerning this proposal is not binding on the CoC and shall in no way modify this proposal or the obligations of the CoC or any Bidders.**

4.4 FALSE OR MISLEADING STATEMENTS

Responses which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the Bidder, may be rejected. If, in the opinion of the CoC, such information was intended to mislead the CoC its evaluation of the response, and the attribute, condition or capability is a requirement of this proposal, it will be the basis for rejection of the response.

4.5 INDEPENDENT CONTRACTOR

It is expressly understood that in the performance of any services resulting from this proposal, Bidder is an Independent Contractor and is not an agent or employee of the CoC and warrants that all persons assigned to the program/project are employees, or subcontractors, of the Bidder. In the event the recommended Bidder shall employ others to complete or perform the services provided, Bidder shall be solely responsible and hold the CoC harmless from all matters relating to the payment of such person(s).

It is mutually understood and agreed that no employee-employer relationship will be created between CoC and Bidder or CoC and Bidder's employees, and that the recommended Bidder shall hold CoC harmless and be solely responsible for withholding, reporting and payment of any federal, state or local taxes, contributions or premium imposed or required by workers' compensation, unemployment insurance, social security, income tax or other statutes or codes applying to Bidder, or its sub-Contractor(s) and employees, if any. It is mutually agreed and understood that the Bidder, its Sub-Contractor(s) and employees, if any, shall have no claim under any Agreement that may result from this proposal or otherwise against CoC for vacation pay, sick leave, retirement or social security benefits, occupational or non-occupational injury, disability or illness, or loss of life or income, by whatever cause.

4.6 EXPLANATION OF USE OF SUB-CONTRACTORS

Any Bidder using a Sub-Contractor(s) must clearly explain the use of the Sub-Contractor(s) and list the name(s) of the Sub-Contractor(s) providing work under

this proposal. The selected Bidder will be fully responsible for all work performed under this proposal and will be considered as the Prime Contractor. Any Sub-Contracting, or other legal arrangements made by the Bidder are the sole responsibility of the Bidder. Any Agreement that is entered into between the selected Bidder and the Sub-Contractor(s) shall contain provisions for federal and state access to the books, documents, records, and inspection of work. Bidder awarded any recommendation because of this proposal shall obtain CoC written approval of sub-contractors identified in Bidder submittal prior to execution of Agreement.

4.7 CONFIDENTIALITY

The contents of all responses, correspondence, agenda, memoranda, or any other medium which discloses any aspect of a Bidder's response shall be held in the strictest confidence until after negotiations for the contract are negotiated. If you contend that any submission contains trade secrets or proprietary data, please be advised that the CoC cannot and does not give any assurances or guarantees that such information will not be released under the California Public Records Act. The Bidder should clearly mark any of the information within their response that is proprietary, however, the CoC will be guided by the California Public Records Act and the definition of Trade Secrets under California Civil Code Section 3426.1, but in no case will the following be considered proprietary: a) the final cost of the bid or response; b) information that is not clearly marked as proprietary in nature; c) information that, though marked as proprietary, is not actually proprietary d) information that is otherwise generally available as information or technology within the subject trade, industry or profession.

BIDDER SHALL NOT DESIGNATE THE ENTIRE RESPONSE AS PROPRIETARY. SUCH ATTEMPTED DESIGNATION WILL NOT BE HONORED.

The submission of a response by a Bidder shall constitute an agreement to the provision for public announcement. The CoC shall not be obligated to release information contained in any Bidder's RFP submittal that has been marked as proprietary, without the written consent of the Bidder. Any agency requesting such information so marked as proprietary must obtain such written authorization directly from Bidder and forwarded to CA/AE.

CoC shall not be required to contact any Bidder for information on behalf of any requesting agency. CoC shall have the sole discretion and exclusive authority to determine if any other party has properly obtained the right to have access to proprietary information.

4.8 PUBLIC AGENCY PARTICIPATION

Any public agency, i.e., city, district, public authority, public agency, municipality and other political subdivision or a public corporation (hereinafter referred to as Public Agency) shall have the option of participating in any award made as a result of this proposal at the same prices, and terms and conditions. The CoC is not an agent, partner, or representative of the Public Agency, and is not obligated or liable for any financial responsibility in connection with purchase orders issued by any Public Agency. The Public Agency shall accept sole responsibility for placing orders or payments to the successful Bidder.

4.9 DETERMINATION OF BIDDER'S RESPONSIBILITY

Responsible Bidder

A responsible Bidder is a Bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, financial strength, and satisfactory experience. It is the CoC's policy to conduct business only with responsible Bidders.

Non-responsible Bidder

The CoC may declare a Bidder to be non-responsible for purposes of this proposal for a variety of reasons, some of which are listed below. This is not an exclusive list - reasons may include the following but are limited to the below:

- Committed any act or omission which negatively reflects on the Bidder's quality, fitness, financial strength, or capacity to perform any recommendation that may be derived from this proposal with the CoC or an Agreement with any other public entity, or engaged in a pattern or practice which negatively reflects on same; or
- Committed an act or omission which indicates a lack of business integrity or business honesty; or
- Made or submitted a false claim against the CoC or any other public entity; or
- Submitted false, incomplete or unresponsive statements or omitted requested documentation in connection with this proposal.

4.10 PUBLIC DISCLOSURE

All public records of the CoC are made available for disclosure except the contents of the responses received in response to an RFP, which are not open for public review until the contract between the recommended Bidder and the CoC is agendized with the CoC Board. In the event that an unsuccessful Bidder files an official request to view the recommended Bidder's response, the CoC must comply with appropriate public disclosure procedures. However, if information specifically designated in the response as proprietary is requested CoC may attempt to notify

Bidder in the event the Bidder wish to pursue protections against disclosure, at its own cost, so that the information will not be made available.

Pursuant to the California Public Records Act, Government Code Sections 6250 *et seq.*, any contract that eventually arises from this Request for Proposal is a public record, in its entirety. Also, all information submitted in response to this Request for Proposals is itself a public record **without exception**, and will be disclosed upon request, but only after negotiations are complete. Submission of any materials in response to this Request for Proposals constitutes your consent to release materials, and a waiver of any claim that the information is protected from disclosure. Furthermore, by submitting materials, you agree to indemnify and hold harmless CoC for release of such information.

4.11 QUALIFICATIONS OF BIDDER

The CoC may make such investigation as it deems necessary to determine the ability of the Bidder to provide the services requested herein, and the Bidder shall furnish to the CoC all information and data for this purpose as the CoC may request. The CoC reserves the right to reject any response should the evidence submitted by, or investigation of, the Bidder fails to satisfy the CoC that such Bidder is properly qualified to carry out the obligations of the proposal and to complete the requirements contemplated therein.

4.12 DISQUALIFICATION OF BIDDER

A Bidder may be disqualified, and the response rejected, in addition to any other cause for rejection as set forth elsewhere in this proposal, for any of, but not limited to, one of the following reasons:

- Proof of collusion among Bidders, in which case all responses involved in the collusive action will be rejected and any participant to such collusion will be barred from future bidding until reinstated as a qualified Bidder.
- Lack of responsibility or cooperation as shown by past work or services provided to the CoC or others.
- Being in arrears on existing Agreements with the CoC or having defaulted on previous Agreements.
- Incomplete information or missing documents as required in the proposal.

4.13 INTEGRITY OF EXPENDITURE

The Bidder assures that every reasonable course of action will be taken to maintain the integrity of expenditure of public funds and to avoid any favoritism, questionable, or improper conduct.

4.14 GRATUITIES

Neither the Bidder nor any person, firm, or corporation employed by the Bidder shall give, directly or indirectly, to any employee or agent of the CoC, any gift, money, or anything of value, or any promise, obligation, or Agreement for future reward or compensation, neither during the proposal process nor during the performance of any Agreement period resulting from this proposal.

4.15 CONFLICT OF INTEREST

The Bidder covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this proposal. Bidder shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or sub-Contractor(s), and the CA/AE. Bidder shall make all reasonable efforts to ensure that no CoC officer or employee, whose position in the CoC enables them to influence any award of this proposal or any competing offer, shall have any direct or indirect financial interest resulting from any recommendation that may be derived from this proposal or shall have any relationship to the Bidder or officer or employee of the Bidder, nor that any such person will be employed by Bidder in the performance of any recommendation that may be derived from this proposal without immediate divulgence or such fact to the CA/AE.

4.16 DRUG FREE WORKPLACE

The recommended Bidder must certify that it will provide a drug-free workplace as set forth by the Federal Drug-Free Workplace Act of 1988.

4.17 PREVAILING WAGE RATES

The Bidder awarded by the state shall meet any requirements set forth in the Standard Agreement that will be issued by the state to the Bidder for any site preparation activities, the Bidder will be required to certify adherence to the requirements of all state and federal laws relating to the payment of prevailing wage rates for work performance under public works project laws, specifically, as covered by the federal Davis-Bacon Act and California Labor Code 1720 et seq. A copy of this wage scale may also be obtained from the office of the Director of Industrial relations, State of California, or <http://www.dir.ca.gov/DLSR/PWD/mer.xls>

4.18 COMPLIANCE WITH APPLICABLE LAWS

The successful Bidder shall otherwise perform all obligations under the ESG program in compliance with all applicable federal, state, and local laws, rules, regulations, and policies.

4.19 LEGAL CONSIDERATIONS

Any Bidder, by submission of a response to this proposal, and any subsequent recommendation that may be derived from this proposal, shall be deemed, and have agreed to- be bound by the laws of the State of California in all respects as to interpretation, construction, operation, effect and performance.

Notwithstanding any other provisions of this proposal, any dispute concerning any question of fact or law arising under this proposal, or arbitration arising out of any recommendation that may be awarded as a result of this proposal, shall be tried in Merced County, unless the parties agree otherwise or are otherwise required by law.

ATTACHMENT A

SIGNATURE PAGE

(BIDDER TO COMPLETE AND PLACE IN FRONT OF RESPONSE)

ORGANIZATION NAME _____

ADDRESS _____
(P.O. Box/Street) (City) (State) (Zip)

CONTACT PERSON: _____

TITLE: _____

TELEPHONE NO. _____ FAX NO. _____

E-MAIL ADDRESS _____

The undersigned hereby certifies that he/she is a duly authorized official of their organization and has the authority to sign on behalf of the organization and assures that all statements made in the response are true and accurate to the best of their ability, agrees to furnish the item(s) and/or service(s) stipulated in this Request for Proposal at the price stated herein, and will comply with all terms and conditions set forth, unless otherwise stipulated.

Authorized Representative - Name Title

Signature (Blue Ink Only) Date

Business License No.: (Merced City) _____

(Merced County) _____

Professional License No.: _____

Taxpayer Identification No.: _____