

AMENDED AND RESTATED SUBGRANT AGREEMENT

WESTMINSTER FREE CLINIC

This Amended and Restated Subgrant Agreement (“Agreement”) is made this _____ day of _____, 2024, between the County of Ventura (“County”) and Westminster Free Clinic, a California nonprofit corporation (“Westminster”) (collectively “the parties”), regarding \$1.5 million appropriated from the State General Fund by the California Legislature in SB 104, Chapter 189, Statutes of 2023 (“the Budget Act of 2022”), to be allocated by the State Department of Health Care Services to the County of Ventura for the Westminster Free Clinic. This Agreement will become binding and effective on the date it is fully executed by the parties and, upon execution and delivery, this Agreement amends, supersedes, replaces and restates with modifications the original Subgrant Agreement entered into between the parties on or about May 23, 2023, with an Effective Date of May 23, 2023 (“the Original Agreement”).

RECITALS

WHEREAS, the California Legislature has appropriated funds reflecting legislative priorities in the amount of \$1.5 million to be allocated by the State Department of Health Care Services (“Department”) “to the County of Ventura for the Westminster Free Clinic” as set forth in the Budget Act of 2022;

WHEREAS, the Department has transferred \$1.5 million to the County as provided for and authorized by the Budget Act of 2022, subject to the County ensuring the funds are used for the purposes specified by the California Legislature;

WHEREAS, the County and Westminster have previously entered into and fully performed a Grant Agreement for Social Programs, dated September 10, 2019, as amended, in order to establish free clinic healthcare services and youth healthcare career training in Western Ventura County to serve the communities of Oxnard, Ventura and Santa Paula;

WHEREAS, on or about May 23, 2023, Westminster and County entered into a Subgrant Agreement for social programs (“the Original Agreement”);

WHEREAS, the parties, pursuant to Section 16. of the Original Agreement, now wish to amend and restate the Original Agreement;

WHEREAS, Westminster has accepted the funds appropriated by the California Legislature in the Budget Act of 2022 and allocated to the Department and transferred to the County to use to: continue carrying out the free clinic healthcare services and youth healthcare career training programs in Ventura County; acquire two 8-passenger vehicles for transporting medical and dental patients and students in the healthcare workforce program to trainings; conduct outreach and screenings in remote areas of Ventura County; and invest in its infrastructure to build long-term sustainability; and

WHEREAS, Westminster is willing to meet all requirements and limitations for use of the funds: (1) as set forth in the Budget Act of 2022; (2) as required by the Department and (3) as required by the County.

NOW, THEREFORE, for valuable consideration, the receipt of which is hereby acknowledged, it is mutually agreed by the parties that:

1. RECITALS

The parties agree the recitals set out above are true and correct and are incorporated herein.

2. PASS-THROUGH SUBGRANT

The County shall act as a pass-through subgrantor of the \$1.5 million appropriated from the State General Fund by the California Legislature in the Budget Act of 2022, “to be allocated by the State Department of Health Care Services” to “the County of Ventura for the Westminster Free Clinic.” The County has received these funds from the Department and has transferred these funds to Westminster as set forth in this Agreement and the Original Agreement.

3. PAYMENT OF FUNDS

The County has, within 30 days of the Effective Date of the Original Agreement, transferred \$1.5 million (“the transferred funds”) to Westminster to be used solely for: providing free Clinic healthcare services and youth healthcare career training programs in Ventura County; acquiring two 8-passenger vehicles for transporting medical and dental patients and students in the healthcare workforce program to trainings; conducting outreach and screenings in remote areas of Ventura County; and investing in its infrastructure to build long-term sustainability.

4. ACTIVITIES TO BE PERFORMED BY WESTMINSTER

Westminster shall use the transferred funds solely to: continue to provide its free clinic healthcare services and youth healthcare career training programs in Ventura County; acquire two 8-passenger vehicles for transporting medical and dental patients

and students in the healthcare workforce program to trainings; conduct outreach and screenings in remote areas of Ventura County; and invest in its infrastructure to build long-term sustainability.

5. ACCOUNTS

Westminster shall place all the transferred funds in a separate Ventura County Free Clinic Subgrant account and shall not comingle these funds with other Westminster funds. Westminster shall use these funds solely to conduct the activities required under Section 4., above.

6. EXPENDITURES

Westminster shall expend all of the transferred funds on activities required under Section 4., above, by June 30, 2029. Funds not expended by June 30, 2029, shall be immediately returned to the County.

7. ELIGIBLE EXPENSES, REPORTS AND CERTIFICATIONS

A) Costs incurred by Westminster for the activities required under Section 4., above, on and after July 1, 2022, are eligible for purposes of meeting the requirements of this Agreement.

Beginning at the end of 2023 (December 31, 2023), and each end of calendar year thereafter through 2029, Westminster shall timely submit to the County a report in a format satisfactory to the County demonstrating: (1) that calendar year's eligible expenditures; and (2) cumulative eligible expenditures from July 1, 2022, to the end of that calendar year. Reports are timely

submitted if they are received by the County within 10 days following the end of that calendar year.

- B) On or before August 1, 2029, Westminster shall certify to the County that it has expended by June 30, 2029, all the transferred funds for the activities required in Section 4., above. Said certification shall be provided in a manner satisfactory to the Department and the County and as provided in Paragraph 22. Any portion of the transferred funds not expended by June 30, 2029, shall be immediately returned to the County.

8. CEASING OPERATIONS

Westminster shall immediately provide notice to the County in the event Westminster intends to: (1) dissolve its nonprofit corporate status; (2) change its Articles of Incorporation or By-Laws in such a manner that it can no longer carry out any of the activities required by Section 4., above, in Ventura County; or (3) cease operation of free clinic healthcare services and youth healthcare career training programs or other activities required by Section 4., above, in Ventura County.

Upon providing such notice to the County by Westminster, Westminster shall immediately return to the County that portion of the transferred funds not yet expended and this Agreement shall be terminated.

9. INDEPENDENT CONTRACTOR

- A) No relationship of employer and employee is created by this Agreement, it being understood that Westminster is an independent contractor, and neither Westminster nor any of the persons performing services for Westminster pursuant

to this Agreement, whether said person be member, partner, employee, subcontractor, or otherwise, will have any claim under this Agreement or otherwise against the County for sick leave, vacation pay, retirement benefits, social security, workers' compensation, disability, unemployment insurance benefits, or employee benefits of any kind.

It is further understood and agreed by the parties hereto that, except as provided in this Agreement, Westminster in the performance of its obligation hereunder is subject to the control or direction of the County merely as to the results to be accomplished by the services and activities hereunder agreed to be rendered and performed and not as to the means and methods for accomplishing the results.

If, in the performance of this Agreement, any third persons are employed by Westminster, such persons will be entirely and exclusively under the direction, supervision and control of Westminster. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging or any other terms of employment or requirements of law, will be determined by Westminster, and the County will have no right or authority over such persons or the terms of such employment, except as provided in this Agreement.

B) Nothing in this Agreement shall create any contractual relationship between any volunteer, employee, contractor or subcontractor of Westminster and the County. Westminster agrees to be fully responsible to the County for the acts and omissions of its volunteers, employees, contractors and subcontractors and

persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by Westminster. Westminster's obligation to pay its employees, contractors and subcontractors is independent of the obligation of the Department to transmit monies to the County, and the obligation of the County to transmit monies to Westminster. As a result, the County shall have no obligation to pay monies to any volunteer, employee, contractor or subcontractor of Westminster.

10. LIVING WAGE

This Agreement is subject to the County's Living Wage Ordinance, Ventura County Ordinance Code section 4950 et seq. ("LWO"), as amended from time to time, unless otherwise exempt in accordance with the provisions of the LWO. The LWO requires the payment of a living wage and accompanying paid time off to all covered employees engaged in providing services pursuant to a service contract as defined in LWO section 4952, subdivision (f). Failure to comply will constitute a material breach of this Agreement and may result in, among other things, the suspension or termination of the Agreement and debarment from future County contracting opportunities for a period not to exceed three (3) years.

11. INDEMNIFICATION, HOLD HARMLESS AND WAIVER OF SUBROGATION

All activities and/or work covered by this Agreement will be at the risk of Westminster alone. Westminster agrees to defend (with legal counsel approved by the County), indemnify, and save harmless the County, including all of its boards, agencies, departments, officers, employees, agents and volunteers, against any and all

third party claims, lawsuits, whether against Westminster, the County or others, judgments, debts, demands and liability, attorneys fees and litigation costs including, without limitation, those arising from injuries or death of persons and/or for damages to property, arising directly or indirectly out of the obligations herein described or undertaken or out of operations conducted or subsidized in whole or in part by Westminster, save and except claims or litigation arising through the sole negligence or wrongdoing and/or sole willful misconduct of the County.

Westminster agrees to waive all rights of subrogation against the County for losses arising directly or indirectly from activities and/or work covered by this Agreement.

12. INSURANCE PROVISIONS

A) Westminster, at its sole cost and expense, will obtain and maintain in full force during the term of this Agreement the following types of insurance:

- 1) Commercial General Liability “occurrence” coverage in the minimum amount of \$1,000,000 combined single limit (“CSL”) bodily injury and property damage each occurrence and \$2,000,000 aggregate, including personal injury, broad form property damage, products/completed operations, broad form blanket contractual and \$50,000 fire legal liability.
- 2) Commercial Automobile Liability coverage in the minimum amount of \$1,000,000 CSL bodily injury and property damage, including owned, non-owned, and hired automobiles, and also including

Uninsured/Underinsured Motorists coverage in the minimum amount of \$100,000 when there are owned vehicles.

- 3) Workers' Compensation coverage, in full compliance with California statutory requirements, for all employees of Westminster and Employer's Liability coverage in the minimum amount of \$1,000,000.
- B) All insurance required will be primary coverage as respects the County and any insurance or self-insurance maintained by the County will be excess of Westminster's insurance coverage and will not contribute to it.
 - C) The County is to be notified immediately if any aggregate insurance limit is exceeded. Additional coverage must be purchased to meet requirements.
 - D) The County is to be named as Additional Insured as respects to work done by Westminster under the terms of this Agreement for General Liability Insurance.
 - E) Westminster agrees to waive all rights of subrogation against the County and its boards, agencies, departments, officers, employees, agents and volunteers for losses arising directly or indirectly from work performed by Westminster under the terms of this Agreement.
 - F) Policies will not be canceled, nonrenewed or reduced in scope of coverage until after sixty (60) days' written notice has been given to the County's Risk Management Division.
 - G) Westminster agrees to provide the County with the following insurance documents on or before the commencement date of this Agreement:

1. Certificates of Insurance for all required coverage.
2. Additional Insured endorsement for General Liability Insurance.
3. Waiver of Subrogation endorsement (a.k.a., Waiver of Transfer Rights of Recovery Against Others, Waiver of Our Right to Recover from Others) for Workers' Compensation.

Failure to provide these documents will be grounds for immediate termination or suspension of this Agreement.

13. NON-DISCRIMINATION

Westminster will ensure equal employment opportunity based on objective standards of recruitment, selection, promotion, classification, compensation, performance evaluations, and management relations, for all employees under this Agreement.

Westminster's personnel policies will be made available to the County upon request.

14. INVESTIGATION AND RESEARCH

Westminster by investigation and research has acquired reasonable knowledge of all conditions affecting the work to be done and labor and materials needed, and the execution of this Agreement is to be based upon such investigation and research, and not upon any representation made by the County or any of its officers, agents or employees, except as provided herein.

15. AGREEMENT MONITORING

The County will have the right to review the work being performed by Westminster under this Agreement at any time during Westminster's usual working hours. Review, checking, approval or other action by the County will not relieve Westminster of Westminster's responsibility for the thoroughness of the services to be provided hereunder.

16. AMENDMENTS

This Agreement may not be altered, amended, or modified except by written instrument signed by the duly authorized representative of both parties.

17. CONFLICT OF INTEREST

Westminster covenants that Westminster presently has no interest, including, but not limited to, other projects or independent agreements, and will not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Westminster further covenants that in the performance of this Agreement no person having such interest will be employed or retained by Westminster under this Agreement.

18. CONFIDENTIALITY

Any reports, information, data, statistics, forms, procedures, systems, studies and any other communication or form of knowledge given to or prepared or assembled by Westminster under this Agreement that the County requests in writing to be kept confidential will not be made available to any individual or organization by Westminster without the prior written approval of the County except as authorized by law. The

County understands that Westminster must be able to use data and information from its Ventura County operations and programs to raise funds and promote and sustain clinics.

19. COMPLIANCE WITH LAWS

Westminster and the County will comply with all applicable laws, policies and regulations in carrying out this Agreement.

Specifically, Westminster will comply with all applicable provisions of Divisions of the California Labor Code, and all amendments thereto, and all similar applicable state and federal laws, governing workers' compensation, insurance, safety, prevailing wage and public bidding and will indemnify and hold harmless the County from and against all claims, demands, payments, suits, actions, proceedings and judgments of every nature and description, including attorney's fees and costs, presented, brought or recovered against the County, for or on account of any liability under any of said provisions and laws which may be incurred by reasons of any work to be performed under this Agreement.

20. COUNTY GUARANTEE

The County guarantees that all monies it receives for the Westminster Free Clinic from the Department under the Budget Act of 2022 shall solely and exclusively be transferred to Westminster for the purposes set out in this Agreement; provided, however, that the County shall not be responsible for any money paid out as a result of theft, fraud, forgery or misrepresentation.

21. COUNTY'S NONRESPONSIBILITY

The County is not acting as a surety. The County shall have no responsibility for the maintenance of, or insurance for, Westminster's clinics, services, or programs. This Agreement is not a performance, payment, completion or labor and materials bond. The County shall have no responsibility for any aspect of the selection of service providers to perform any aspect of the services or programs required in Ventura County under this Agreement. Instead, the County is only acting as a conduit: (1) for transfer of grant monies to Westminster for the Ventura County free clinic services and youth programs, vehicle acquisitions and other activities required under Section 4., above, in furtherance of the provisions of the Budget Act of 2022, and (2) for the transmission of certifications and assurances from Westminster to the Department that the use of funds requirements in the Budget Act of 2022 are met.

22. DEFAULT

If Westminster fails to carry out the operation of its free clinic healthcare services and youth healthcare career training programs in Ventura County or other activities required by Section 4., above, or fails to cure any default of this Agreement within 30 days of receipt of Notice of Default from the County, then the County may, in its sole discretion, serve written notice to Westminster that the County intends to terminate this Agreement due to Westminster's default in 30 days and thereafter, if the default is not timely and reasonably cured, terminate this Agreement.

The foregoing requirement for written notice and opportunity to cure does not apply with respect to terminations under Paragraphs 8, 12 and 24.

23. CERTIFICATIONS

Westminster shall continue to provide the services and conduct the activities required by Section 4., above, in Ventura County with all reasonable diligence and shall submit timely written reports, certifications and assurances as required by this Agreement.

Certifications and assurances under this Agreement shall be accompanied by written verification under penalty of perjury that: (1) timely expenditures have been made for the activities required under Section 4., above; (2) the verification is truthful and accurate; and (3) the described expenditures have all been incurred entirely for free clinic healthcare services, youth healthcare career training programs and other activities in Ventura County required under Section 4.

24. NONASSIGNABILITY

Westminster will not assign this Agreement or any portion thereof to a third party without the prior written consent of the County, and any attempted assignment without such prior written consent will be null and void and will be cause, at the County's sole and absolute discretion, for immediate termination of this Agreement. In the event of such termination, Westminster shall immediately return to the County that portion of the transferred funds not yet expended as of the date of termination.

25. SEVERABILITY OF AGREEMENT

If any term of this Agreement is held by a court of competent jurisdiction to be void or unenforceable, the remainder of the Agreement terms will remain in full force and effect and will not be affected.

26. PARTIES BENEFITTED

This Agreement is only for the benefit of the parties and not for the benefit of any third party, other than the State of California.

27. TERM

The term of this Amended and Restated Agreement shall begin when it is fully executed by the parties, and shall expire on June 30, 2029.

Westminster's obligation to provide timely annual reports and certifications of assurance of timely expenditures and its obligation to return any funds not timely expended shall survive the expiration or termination of this Agreement, as shall its obligations to defend and indemnify the County pursuant to Paragraphs 11 and 19.

28. TERMINATION

This Agreement shall terminate upon the earlier of: (1) written notice from the State to the County and Westminster of insufficient appropriations or cancellation of the grant appropriation by the California Legislature; (2) termination of the Agreement by the County as set forth in Paragraphs 8, 12, 21 or 24; or (3) expiration of its term.

29. RECORDS

During the term of this Agreement and for a period five years following expiration or termination of this Agreement, Westminster shall retain a copy of records of: (1) deposits into, and disbursements from, the separate Ventura County Free Clinic Subgrant account established pursuant Section 5. of this Agreement; and (2) expenditures of all the transferred funds by June 30, 2029. Upon prior written request from the Department or

the County, Westminster shall provide the State or the County reasonable access to inspect such records on Westminster premises during normal business hours.

30. AUTHORITY

Each of the parties represents and warrants that each person signing this Agreement on behalf of any of the parties, has legal authority to sign this Agreement, and bind that party.

31. NOTICE

Notice pursuant to this Agreement shall be sent by United States mail and by facsimile transmission to the following representatives for the parties:

WESTMINSTER:

Westminster Free Clinic
Attention: Executive Director
2673 San Miguel Avenue
Thousand Oaks, California 91360

COUNTY:

County of Ventura
County Executive Office
800 South Victoria Avenue
Ventura, California 93009

The parties may change representatives upon written notice to the other party.

32. GOVERNING LAW

This Agreement is entered into and the validity of any of its terms or provisions, as well as the rights and duties of the parties under this Agreement, will be construed and interpreted pursuant to and in accordance with the laws of the State of California.

33. NEGOTIATED AGREEMENT

This Agreement has been negotiated between the parties and shall not be construed against any party as the drafting party.

34. CONSTRUCTION OF COVENANTS AND CONDITIONS

Each term and each provision of this Agreement will be construed to be both a covenant and a condition.

35. CUMULATIVE REMEDIES

The exercise or failure to exercise of legal rights and remedies by the County in the event of any default or breach hereunder will not constitute a waiver or forfeiture of any other rights and remedies and will be without prejudice to the enforcement of any other right or remedy available by law or authorized by this Agreement.

36. MERGER CLAUSE

Except for the Grant Agreement for Social Programs entered into by the parties as of September 9, 2019, as amended and fully performed, this Agreement supersedes any and all previous agreements, contracts, understandings and representations, either oral or written, between Westminster and the County, whether concerning the subject matter of this Agreement or otherwise and constitutes the entire understanding between the parties. Westminster acknowledges that no representations, inducements, promises or contracts have been made by or on behalf of the County except those embodied in this Agreement. No contract provision, statement, or promise not contained in this Agreement will be valid or binding.

37. COUNTERPARTS

This Agreement may be executed in counterpart originals, with all counterparts taken as a whole constituting the complete Agreement.

IN WITNESS WHEREOF, this Amended and Restated Subgrant Agreement is entered into as of the date first entered above and is binding and effective on the date it is fully executed by the parties.

COUNTY OF VENTURA

WESTMINSTER FREE CLINIC*

Chair, Board of Supervisors

Authorized Signature

Printed Name

Printed Name

Date _____

Title

Date _____

ATTEST:

DR. SEVET JOHNSON, County Executive
Officer, County of Ventura, and Ex Officio
Clerk of the Board of Supervisors

By _____
Deputy Clerk

WESTMINSTER FREE CLINIC*

Authorized Signature

Printed Name

Title

Date

* If a corporation, this Agreement must be signed by two specific corporate officers.

The first signature must be either the (1) Chief Executive Officer, (2) Chairman of the Board, (3) President, or any (4) Vice President.

The second signature must be the (a) Secretary, an (b) Assistant Secretary, the (c) Chief Financial Officer, or any (d) Assistant Treasurer.