

COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF LOS ANGELES

LIVING WAGE POLICY

Findings.

The Community Redevelopment Agency (“Agency”) awards many contracts to private firms to provide services to the public and to itself. In addition, many lessees or licensees of Agency property perform services that affect the proprietary interests of the Agency in that their performance impacts the success of Agency operations. The Agency also provides financial assistance and funding to others for the purpose of economic development or job growth. Furthermore, the Agency expends grant funds under programs created by the federal and state governments. Such expenditures serve to promote the goals established for those programs by such governments and similar goals of the City and the Agency. The Agency intends that the goals underlying this Living Wage Policy (“Policy”) serve to guide the expenditure of such funds to the extent allowed by the laws under which such grant programs are established, as well as guiding the expenditure of other Agency funds.

Furthermore, experience indicates that procurement by contract of services has all too often resulted in the payment by service contractors to their employees of wages at or slightly above the minimum required by federal and state minimum wage laws. Such minimal compensation tends to inhibit the quantity and quality of services rendered by such employees to the Agency and to the public. Underpaying employees in this way fosters high turnover, absenteeism, and lackluster performance. Conversely, adequate compensation promotes amelioration of these undesirable conditions. Through this Policy the Agency intends to require service contractors to provide a minimum level of compensation that will improve the level of services rendered to and for the Agency.

The inadequate compensation typically paid today also fails to provide service employees with resources sufficient to afford life in Los Angeles. It is unacceptable that contracting decisions involving the expenditure of Agency funds, or other funds available to the Agency, should foster conditions placing a burden on limited social services. The City, as a principal provider of social support services, has an interest in promoting an employment environment that protects such limited resources. In requiring the payment of a higher minimum level of compensation, this Policy benefits that interest.

Nothing less than the living wage should be paid by the recipients of Agency financial assistance themselves. Whether they be engaged in manufacturing or some other line of business, the Agency does not wish to foster an economic climate where a lesser wage is all that is offered to the working poor. The same adverse social consequences from such inadequate compensation emanate just as readily from manufacturing, for example, as service industries. This Policy is meant to protect these employees as well.

The Agency holds a proprietary interest in the work performed by many employees employed by lessees and licensees of Agency property and by their service contractors and subcontractors. In a very real sense, the success or failure of Agency operations may turn on the success or failure of these enterprises, for the Agency has a genuine stake in how the public perceives the services rendered for it by such businesses. Inadequate compensation of these employees adversely impacts the performance by the Agency's lessee or licensee and thereby does the same for the success of City and Agency operations. This Policy is meant to cover all such employees not expressly exempted.

Requiring payment of the living wage serves both proprietary and humanitarian concerns of the Agency.

Finally, it is acknowledged that fundamental purposes of redevelopment, as set forth in state law, include the provision of decent housing and genuine employment opportunities, expansion of the supply of low- and moderate-income housing, expansion of employment opportunities for jobless, underemployed, and low-income persons, and provision of an environment for the social, economic, and psychological growth and well-being of all citizens. The payment of at least a living wage helps to further accomplish this purpose. Moreover, state law provides for the payment of prevailing wages for work performed under specific contracts let for redevelopment work in redevelopment project areas. The payment of a living wage is a logical extension of the intent of that portion of state law.

LEGISLATIVE BASIS

California Community Redevelopment Law, Sections 33070 and 33071.

Sec. 1. Definitions.

The following definitions shall apply throughout this Policy:

- a) “**Agency**” means The Community Redevelopment Agency of the City of Los Angeles, California.
- b) “**Awarding Authority**” means that subordinate or component entity or Person of the Agency (such as a department) or of the Financial Assistance Recipient that awards or is otherwise responsible for the administration of a Service Contract or Public Lease or License, or, where there is no such subordinate or component entity or Person, then the Agency or the Agency Financial Assistance Recipient.
- c) “**City**” means the City of Los Angeles.
- d) “**Contractor**” means any Person that enters into:
 - (1) a Service Contract with the Agency,
 - (2) a Service Contract with a proprietary lessee or licensee or sublessee or sublicensee, or
 - (3) a contract with an Agency Financial Assistance Recipient to assist the recipient in performing the work for which the assistance is being given. Vendors, such as service contractors, of Agency Financial Assistance

Recipients shall not be regarded as Contractors except to the extent provided in Subsection (f).

- e) **“Designated Administrative Agency (DAA)”** means that City department or office designated by Council resolution to bear administrative responsibilities under Section [10.37.7](#) of the City Living Wage Ordinance and Section 7. of this Policy. The City Clerk shall maintain a record of such designations.
- f) **“Employee”** means any individual - who is not a managerial, supervisory, or confidential employee and who is not required to possess an occupational license - who is employed
 - (1) as a service employee of a Contractor or Subcontractor on or under the authority of one or more Service Contracts and who expends any of his or her time thereon, including but not limited to: hotel employees, restaurant, food service or banquet employees; janitorial employees; security guards; parking attendants; nonprofessional health care employees; gardeners; waste management employees; and clerical employees;
 - (2) as a service employee - of a public lessee or licensee, of a sublessee or sublicensee, or of a service Contractor or Subcontractor of a public lessee or licensee, or sublessee or sublicensee - who works on the leased or licensed premises;
 - (3) by an Agency Financial Assistance Recipient who expends at least half of his or her time on the funded project; or
 - (4) by a service Contractor or Subcontractor of an Agency Financial Assistance Recipient and who expends at least half of his or her time on the premises of the Agency Financial Assistance Recipient directly involved with the activities funded by the Agency.
- g) **“Employer”** means any Person who is an Agency Financial Assistance Recipient, Contractor, Subcontractor, public lessee, public sublessee, public licensee, or public sublicensee and who is required to have a business tax registration certificate by Los Angeles Municipal Code §§ 21.00 - 21.198 or successor ordinance or, if expressly exempted by the Code from such tax, would otherwise be subject to the tax but for such exemption; provided, however, that corporations organized under §501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. §501(c)(3), whose chief executive officer earns a salary which, when calculated on an hourly basis, is less than eight (8) times the lowest wage paid by the corporation, shall be exempted as to all Employees other than child care workers.
- h) **“Financial Assistance Recipient”** means any Person who receives from the Agency discrete financial assistance for economic development or job growth expressly articulated and identified in writing by the Agency, as contrasted with generalized financial assistance such as through tax legislation, in accordance with the following monetary limitations. Assistance given in the amount of one

million dollars (\$1,000,000) or more in any twelve-month period shall require compliance with this Policy for five years from the date such assistance reaches the one million dollar (\$1,000,000) threshold. For assistance in any twelve-month period totaling less than one million dollars (\$1,000,000) but at least one hundred thousand dollars (\$100,000), there shall be compliance for one year if at least one hundred thousand dollars (\$100,000) of such assistance is given in what is reasonably contemplated in writing at the time to be on a continuing basis, with the period of compliance beginning when the accrual during such twelve-month period of such continuing assistance reaches the one-hundred thousand dollar (\$100,000) threshold. These thresholds shall be adjusted annually at the Consumer Price Index for the Los Angeles – Long Beach Area at the same time as the living wage is adjusted under section 10.37.2 (a) of the City Living Wage Ordinance or successor ordinance. For the purpose of determining whether a particular Financial Assistance Recipient qualifies under these thresholds, financial assistance provided by the City and financial assistance provided by the Agency shall both be counted; however, financial assistance provided by the City and administered or otherwise channeled through the Agency shall not be counted more than one time.

Categories of such assistance include, but are not limited to: Agency approved bond financing; Agency planning assistance which results in a discrete monetary benefit to the Financial Assistance Recipient such as a fee reduction or fee waiver; tax increment financing exclusively by the Agency; construction of off-site public improvements by the Agency that would otherwise be the responsibility of the Financial Assistance Recipient; land write-downs and tax credits; and shall not include assistance provided by the Community Development Bank. Agency staff assistance shall not be regarded as financial assistance for purposes of this Policy. A loan shall not be regarded as financial assistance; however, the forgiveness of a loan shall be regarded as financial assistance. The previous sentence notwithstanding, a loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. Sections 1274(d), 7872(f). A recipient shall not be deemed to include lessees and sublessees.

A recipient shall be exempted from application of this Policy if:

- (1) it is in its first year of existence, in which case the exemption shall last for one (1) year,
- (2) it employs fewer than five (5) Employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, or
- (3) it obtains a waiver as provided herein.

A recipient - who employs the long-term unemployed or provides trainee positions intended to prepare Employees for permanent positions, and who claims

that compliance with this Policy would cause an economic hardship - may apply in writing to the Agency, which shall consider and act upon such application. Waivers shall be effected by resolution of the Agency Board of Commissioners.

- i) **“Ordinance”** means the Living Wage Ordinance of the City of Los Angeles, codified as Section 10.37 of the City Administrative Code, as it may be from time to time amended as provided therein.
- j) **“Person”** means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into contracts.
- k) **“Public Lease or License”**.

(a) Except as provided in (k)(b), **“Public Lease or License”** means a lease or license of Agency property on which services are rendered by Employees of the public lessee or licensee or sublessee or sublicensee, or of a Contractor or Subcontractor, but only where any of the following applies:

- (1) The services are rendered on premises at least a portion of which is visited by substantial numbers of the public on a frequent basis (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities); or
- (2) Any of the services could feasibly be performed by Agency employees if the awarding authority had the requisite financial and staffing resources; or
- (3) The DAA has determined in writing that coverage would further the proprietary interests of the Agency.

(b) A public lessee or licensee will be exempt from the requirements of this Policy subject to the following limitations:

- (1) The lessee or licensee has annual gross revenues of less than the annual gross revenue threshold, three hundred fifty thousand dollars (\$350,000), from business conducted on Agency property;
- (2) The lessee or licensee employs no more than seven (7) people total in the company on and off Agency property;
- (3) To qualify for this exemption, the lessee or licensee must provide proof of its gross revenues and number of people it employs in the company’s entire workforce to the Awarding Authority as required by regulation established by the DAA for the equivalent section of the Living Wage Ordinance;
- (4) Whether annual gross revenues are less than three hundred fifty thousand dollars (\$350,000) shall be determined based on the gross revenues for the last tax year prior to application or such other period as may be established by regulation;

(5) The annual gross revenue threshold shall be adjusted annually at the Consumer Price Index for the Los Angeles – Long Beach Area at the same rate and at the same time as the living wage is adjusted under section [10.37.2](#) (a) of the City Living Wage Ordinance or successor ordinance;

(6) A lessee or licensee shall be deemed to employ no more than seven (7) people if the company’s entire workforce worked an average of no more than one thousand two-hundred fourteen (1,214) hours per month for at least three-fourths (3/4) of the time period that the revenue limitation is measured;

(7) Public Leases and Licenses shall be deemed to include public subleases and sublicenses;

(8) If a Public Lease or License has a term of more than two (2) years, the exemption granted pursuant to this Section shall expire after two (2) years but shall be renewable in two-year increments upon meeting the requirements therefore at the time of the renewal application or such period established by regulation.

(c) A Public Lease or License does not include a permit to enter.

l) **“Service Contract”** means a contract let to a Contractor by the Agency primarily for the furnishing of services to or for the Agency (as opposed to the purchase of goods or other property or the leasing or renting of property) and that involves an expenditure in excess of twenty-five thousand dollars (\$25,000) and a contract term of at least three (3) months; but only where any of the following applies:

- (1) at least some of the services rendered are rendered by employees whose work site is on property owned by the Agency,
- (2) the services could feasibly be performed by Agency employees if the Awarding Authority had the requisite financial and staffing resources, or
- (3) the DAA has determined in writing that coverage would further the proprietary interests of the Agency.

m) **“Subcontractor”** means any Person not an Employee that enters into a contract (and that employs Employees for such purpose) with

- (1) a Contractor or Subcontractor to assist the Contractor in performing a Service Contract or
- (2) a Contractor or Subcontractor of a proprietary lessee or licensee or sublessee or sublicensee to perform or assist in performing services on the leased or licensed premises. Vendors, such as service contractors or subcontractors, of Agency Financial Assistance Recipients shall not be regarded as Subcontractors except to the extent provided in Subsection (f) of this Section 1 (Definitions).

n) **“Willful Violation”** means that the Employer knew of his, her, or its obligations under this Policy and deliberately failed or refused to comply with its provisions.

Sec. 2. Payment of Minimum Compensation to Employees.

- a) **Wages.** Employers shall pay Employees a wage of no less than the hourly rates set by the City pursuant to the City's Living Wage Ordinance (Article 10.37 et. Seq. of the City Administrative Code) as it may be amended from time to time. The initial rates were seven dollars and twenty-five cents (\$7.25) per hour with health benefits, as described in the Ordinance, or otherwise eight dollars and fifty cents (\$8.50) per hour. With the annual adjustment effective July 1, 1998, such rates were adjusted to seven dollars and thirty-nine cents (\$7.39) per hour with health benefits and eight dollars and sixty-four cents (\$8.64) without. At the time of approval of this Policy by the Agency (May 2003), the rates were eight dollars and twenty-six cents (\$8.26) per hour with health benefits and nine dollars and fifty-two cents (\$9.52) per hour without, and were scheduled to rise to eight dollars and fifty-three cents (\$8.53) per hour with health benefits and nine dollars and seventy-eight cents (\$9.78) per hour without on July 1, 2003. Such rates shall continue to be adjusted annually to correspond with adjustments, if any, to retirement benefits paid to members of the Los Angeles City Employees Retirement System ("LACERS"), made by the CERS Board of Administration under § [4.1040](#) of the Los Angeles Administrative Code. The Office of the City Administrative Officer shall so advise the DAA of any such change by June 1 of each year and of the required new hourly rates, if any, and the DAA in turn shall notify the Agency within 15 calendar days of any such change. On the basis of such report the DAA shall publish a bulletin announcing the adjusted rates, which shall take effect upon such publication.
- b) **Compensated Days Off.** Employers shall provide at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the Employee's request. Employers shall also permit Employees to take at least an additional ten (10) days a year of uncompensated time to be used for sick leave for the illness of the Employee or a member of his or her immediate family where the Employee has exhausted his or her compensated days off for that year.

Sec. 3. Health Benefits.

Health benefits required by this Policy shall consist of the payment of at least one dollar and twenty-five cents (\$1.25) per hour towards the provision of health care benefits for Employees and their dependents. Proof of the provision of such benefits must be submitted to the Awarding Authority to qualify for the wage rate in Section 2. (a) for Employees with health benefits.

Sec. 4. Notifying Employees of their Potential Right to the Federal Earned Income Credit.

Employers shall inform Employees making less than twelve dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (“**EIC**”) under Section 32 of the Internal Revenue Code of 1954, 26 U.S.C. Section 32, and shall make available to Employees forms informing them about the EIC and forms required to secure advance EIC payments from the Employer.

Sec. 5. Retaliation Prohibited.

Neither an Employer, as defined in this Policy, nor any other Person employing individuals shall discharge, reduce in compensation, or otherwise discriminate against any Employee for complaining to the Agency or the City with regard to the Employer’s compliance or anticipated compliance with this Policy, for opposing any practice proscribed by this Policy, for participating in proceedings related to this Policy, for seeking to enforce his or her rights under this Policy by any lawful means, or for otherwise asserting rights under this Policy.

Sec. 6. Enforcement.

- a) Compliance with this Policy shall be required in all Agency contracts to which it applies, and such contracts shall provide (i) that the contract is subject to the provisions of this Policy and (ii) that violation of this Policy shall constitute a material breach thereof and entitle the Agency to terminate the contract and otherwise pursue legal remedies that may be available. Such contracts shall also include a pledge that there shall be compliance with federal law proscribing retaliation for union organizing.
- b) An Employee claiming violation of this Policy may report such claimed violation to the DAA which shall investigate such complaint. Whether based upon such a complaint or otherwise, where the DAA has determined that an Employer has violated this Policy, the DAA shall issue a written notice to the Employer that the violation is to be corrected within ten (10) days. In the event that the Employer has not demonstrated to the DAA within such period that it has cured such violation, the DAA may then:
 - (1) Request the Awarding Authority to declare a material breach of the service contract, public lease or license, or financial assistance agreement and exercise its contractual remedies thereunder, which are to include, but not be limited to, termination of the Service Contract, Public Lease or License, or financial assistance agreement and the return of monies paid by the Agency for services not yet rendered.
 - (2) Request the City Council to debar the Employer from future City contracts, leases, and licenses for three (3) years or until all penalties and restitution have been fully paid, whichever occurs last. Such debarment shall be to the extent permitted by, and under whatever procedures may be required by, law.
 - (3) For itself, request the Agency to debar the Employer from future Agency contracts, leases, and licenses for three (3) years or until all penalties and

restitution have been fully paid, whichever occurs last. Such debarment shall be to the extent permitted by, and under whatever procedures may be required by, law.

- (4) Request the City Attorney to bring a civil action against the Employer seeking:
 - (i) Where applicable, payment of all unpaid wages or health premiums prescribed by this Policy; and/or
 - (ii) A fine payable to the Agency in the amount of up to one hundred dollars (\$100.00) for each violation for each day the violation remains uncured.

Where the alleged violation concerns non-payment of wages or health premiums, the Employer will not be subject to debarment or civil penalties if it pays the monies in dispute into a holding account maintained by the Agency for such purpose. Such disputed monies shall be presented to a neutral arbitrator for binding arbitration. The arbitrator shall determine whether such monies shall be disbursed, in whole or in part, to the Employer or to the Employee(s) in question. Regulations promulgated by the DAA shall establish the framework and procedures of such arbitration process. The cost of arbitration shall be borne by the Agency, unless the arbitrator determines that the Employer's position in the matter is frivolous, in which event the arbitrator shall assess the Employer for the full cost of the arbitration. Interest earned by the Agency on monies held in the holding account shall be added to the principal sum deposited, and the monies shall be disbursed in accordance with the arbitration award. A service charge for the cost of account maintenance and service may be deducted therefrom.

- c) Notwithstanding any provision of this Policy or any other ordinance, law or policy to the contrary, no criminal penalties shall attach for violation of this Policy.

Sec. 7. Administration.

The City Council has by resolution designated the Office of the City Administrative Officer as the office which shall promulgate rules for implementation of the Ordinance and otherwise coordinate administration of the requirements of the Ordinance (“**Designated Administrative Agency**” - DAA). The Agency, by the adoption of this Policy, shall also designate the Office of the City Administrative Officer as the office for implementation of this Policy and to otherwise coordinate administration of the requirements of this Policy. The DAA shall monitor compliance, including the investigation of claimed violations, and shall promulgate implementing regulations consistent with this Policy, which shall be consistent with those promulgated for the administration of the Ordinance. The DAA shall also issue determinations that persons are Agency Financial Assistance Recipients, that particular contracts shall be regarded as “**Service Contracts**” for purposes of this Policy, and that particular leases and licenses shall be regarded as “**Public Leases**” or “**Public Licenses**” for purposes of this Policy, when it receives an application for a determination of non-coverage or exemption as provided for in Section 13. The DAA shall also establish

Employer reporting requirements on Employee compensation and on notification about and usage of the federal Earned Income Credit referred to in Section 4. The DAA shall report on compliance to the Agency Board of Commissioners no less frequently than annually.

During the years it is required to do so under the Ordinance, the Office of the City Administrative Officer and the Chief Legislative Analyst shall conduct or commission an evaluation of this Policy's operation and effects. The evaluation shall specifically address at least the following matters:

- a) how extensively affected Employers are complying with the Policy;
- b) how the Policy is affecting the workforce composition of affected Employers;
- c) how the Policy is affecting productivity and service quality of affected Employers;
- d) how the additional costs of the Policy have been distributed among workers, their Employers, the Agency and City. Within ninety days of the adoption of this Policy, these offices, in consultation with the Agency Chief Executive Officer or designee, shall develop detailed plans for evaluation, including a determination of what current and future data will be needed for effective evaluation.

Sec. 8. Exclusion of Service Contracts from Competitive Bidding Requirement.

Service contracts otherwise subject to competitive bid shall be let by competitive bid if they involve the expenditure of at least two-million dollars (\$2,000,000).

Sec. 9. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This Policy shall not be construed to limit an Employee's right to bring legal action for violation of other minimum compensation laws.

Sec. 10. Expenditures Covered.

This Policy shall apply to the expenditure - whether through aid to Agency Financial Assistance Recipients, Service Contracts let by the Agency, or Service Contracts let by its Financial Assistance Recipients - of funds entirely within the Agency's control and to other funds, such as federal or state grant funds, where the application of this Policy is consonant with the laws authorizing the Agency to expend such other funds.

Sec. 11. Timing of Application.

This Policy shall apply to all contracts or agreements, and all amendments to such contracts or agreements, which are defined herein as being subject to this Policy, which are executed beginning 31 days following the approval of this Policy by the Los Angeles City Council.

Sec. 12. Supersession by Collective Bargaining Agreement.

Parties subject to this Policy may by collective bargaining agreement provide that such agreement shall supersede the requirements of this Policy.

Sec. 13. Liberal Interpretation of Coverage; Rebuttable Presumption of Coverage.

The definitions of “**Financial Assistance Recipient**” in Section (1)(h), of “**Public Lease or License**” in Section (1)(k), and of “**Service Contract**” in Section (1)(l) shall be liberally interpreted so as to further the intent of this Policy. All recipients of Agency financial assistance meeting the monetary thresholds of Section (1)(h), all Agency leases and licenses (including subleases and sublicenses) where the Agency is the lessor or licensor, and all Agency contracts providing for services that are more than incidental, shall be presumed to meet the corresponding definition just mentioned, subject, however, to a determination by the DAA of non-coverage or exemption on any basis allowed by this Policy, including, but not limited to, non-coverage for failure to satisfy such definition. The DAA shall by regulation establish procedures for informing persons engaging in such transactions with the Agency of their opportunity to apply for a determination of non-coverage or exemption and procedures for making determinations on such applications. In cases where a Person is subject to both this Policy and the Ordinance, the Ordinance shall prevail. However, in cases where the City’s assistance alone would not require a Financial Assistance Recipient, a public lessee or public licensee to comply with the Ordinance, but the Agency’s assistance, combined with the City’s assistance, meets the thresholds of this Policy, then the provisions of this Policy shall apply.

Sec. 14. Severability.

If any provision of this Policy is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Sec. 15. Amendment.

This Policy may be amended by the Agency Board of Commissioners at any time upon due notice, and subject to City Council review and approval. In addition, if the City Council at any time amends the Ordinance as set forth in Article 11 of Chapter 1 of Division 10 of the City Administrative Code, Agency staff shall, within 60 days of the effective date of any such amendment, inform the Agency Board of any such amendment and provide to the Board a proposed amendment to this Policy to bring the Policy into conformance with the Ordinance as so amended. The Agency Board of Commissioners shall consider a corresponding amendment to this Policy at a duly noticed meeting not less than seven nor more than 45 days following the presentation of the proposed amendment to the Agency Board by Agency staff. If the Agency Board adopts any such amendment to bring the Policy into conformance with the amended Ordinance, it shall be deemed approved ten days following transmittal to the City Council of notice of the Board’s action. If the Agency Board approves any amendment to the Policy that does not bring the Policy into conformance with the amended Ordinance, such amendment to the Policy shall be subject to City Council review and approval, and shall take effect 31 days after said approval by the City Council.

Adopted by the Community Redevelopment Agency Board of Commissioners May 29, 2003

Amended June 19, 2003

Approved by the Los Angeles City Council September 26, 2003

Effective October 28, 2003

COMMUNITY REDEVELOPMENT AGENCY OF THE
CITY OF LOS ANGELES
POLICY ON CONTRACTOR RESPONSIBILITY
CONTRACTOR RESPONSIBILITY PROGRAM

Purpose

Each year the Agency spends millions of dollars contracting for the delivery of products and services from private sector Contractors. The prudent expenditure of public dollars requires that the Agency's procurement process result in the selection of qualified and responsible Contractors who have the capability to perform the Contract. Further, many lessees or licensees of Agency property perform services that affect the proprietary interests of the Agency in that their performance impacts the success of Agency operations. The Agency also provides financial assistance and funding to others for a variety of purposes. The Agency expends grant funds under programs created by federal and state government. The Agency intends that the procurement procedures set forth in this Policy guide the expenditure of federal and state grant funds to the extent permitted by federal or state procurement regulations.

Sec. 1 Definitions

- a) **"Agency"** means The Community Redevelopment Agency of the City of Los Angeles, California.
- b) **"City"** means the City of Los Angeles, California.
- c) **"Awarding Authority"** means any department or unit of the Agency, or any employee or officer of the Agency, that is authorized to award or enter into any contract as defined herein, on behalf of the Agency.
- d) **"Contract"** means any agreement for the performance of any work or service, the provision of any goods, equipment, materials or supplies, or the rendition of any service to the Agency or the public, or the grant of Agency financial assistance or a Public Lease or License, which is let, awarded or entered into by, or on behalf of, the Agency. Contracts for services which are less than three months and less than Twenty-Five Thousand Dollars (\$25,000.00) are not covered by this Policy. Contracts for purchasing goods and products which are less than One Hundred Thousand Dollars (\$100,000.00) are not covered by this Policy, unless they are contracts for the purchase of garments such as uniforms or other apparel, in which case they are only exempt from this Policy if they are less than Twenty-Five Thousand Dollars (\$25,000.00). Construction contracts are covered by this Policy without regard to threshold amount. e) **"Contractor"** means any Person which enters into a Contract with any Awarding Authority of the Agency, and includes an Agency Financial Assistance Recipient and a Public Lessee or Licensee.
- f) **"Subcontractor"** means any Person not an employee who enters into a Contract with a Contractor to assist the Contractor in performing a Contract, including a Contractor or Subcontractor of a public lessee or licensee or sublessee or sublicensee, to perform or assist in performing services on the leased or licensed premises. The term Subcontractor does not include vendors or suppliers to Agency purchasing Contractors, unless the purchasing Contract is for the purchase of garments such as uniforms or other apparel.

- g) **“Bidder”** means any Person or entity that applies for any Contract whether or not the application process is through an Invitation for Bid, Request for Proposal, Request for Qualifications or other procurement process.
- h) **“Bid”** means any application submitted by a Bidder in response to an Invitation for Bid, Request for Proposal, Request for Qualifications or other procurement process.
- i) **“Invitation for Bid”** means the process through which the Agency solicits Bids including Requests for Proposals and Requests for Qualifications.
- j) **“Agency Financial Assistance Recipient”** means any Person who receives from the Agency discrete financial assistance in the amount of One Hundred Thousand Dollars (\$100,000.00) or more for economic development or job growth expressly articulated and identified by the Agency, as contrasted with generalized financial assistance as through tax legislation. These thresholds shall be adjusted annually at the Consumer Price Index for the Los Angeles – Long Beach Area at the same time as the living wage is adjusted under Section 10.37.2(a) of the City Living Wage Ordinance or successor ordinance. For the purpose of determining whether a particular Agency Financial Assistance Recipient qualifies under these thresholds, financial assistance provided by the City and financial assistance provided by the Agency shall both be counted; however, financial assistance provided by the City and administered or otherwise channeled through the Agency shall not be counted more than one time.

Categories of such assistance shall include, but are not limited to: Agency approved bond financing; Agency planning assistance which results in a discrete monetary benefit to the Agency Financial Assistance Recipient such as a fee reduction or a fee waiver; tax increment financing; construction of off-site public improvements by the Agency that would otherwise be the responsibility of the Agency Financial Assistance Recipient; land write-downs and tax credits; and shall not include assistance provided by the Community Development Bank. Agency staff assistance shall not be regarded as financial assistance for purposes of this Policy. A loan shall not be regarded as financial assistance; however, the forgiveness of a loan shall be regarded as financial assistance. The previous sentence notwithstanding, a loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. Sections 1274(d), 7672(f). A recipient shall not be deemed to include lessees and sublessees.

- k) **“Public Lease or License”** means a lease or license of Agency property as defined in the Agency Living Wage Policy, adopted by the Agency Board of Commissioners on May 29, 2003.
- l) **“Designated Administrative Agency (DAA)”** means the City department(s), board(s), or office(s) designated by City Council to bear administrative responsibility under the City Contractor Responsibility Program, enacted by Ordinance No. 173,677 as Article 14 of Chapter 1 of Division 10 of the Los Angeles Administrative Code, or successor. The City Clerk shall maintain a record of such designation.

- m) **“Person”** means any individual, proprietorship, partnership, firm, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into Contracts.

Sec. 2 Determination of Contractor Responsibility

- a) Prior to awarding a Contract, the Agency shall make a determination that the prospective Contractor is one that has the necessary quality, fitness and capacity to perform the work set forth in the Contract. Responsibility will be determined by each Awarding Authority from reliable information concerning a number of criteria, including but not limited to: management expertise; technical qualifications; experience; organization, material, equipment and facilities necessary to perform the work; financial resources; satisfactory performance of other contracts; satisfactory record of compliance with relevant laws and regulations; and satisfactory record of business integrity.
- b) Every Bidder for an Agency Contract must complete and submit with its Bid a questionnaire developed by the DAA which will provide information the Awarding Authority needs in order to determine if the Bidder meets the criteria set forth in paragraph (a) of this Section. If no Bid is required, the prospective Contractor must still submit a questionnaire. The response to the questionnaire must be signed under penalty of perjury. If, after execution of a Contract, the City or the Agency learns that the Contractor submitted false information on the questionnaire, the Agency may terminate the Contract and pursue remedies set forth in Section 6 of this Policy. The Contractor shall be obligated to update its responses to the questionnaire during the term of the Contract within thirty calendar days after any change to the responses previously provided if such change would affect Contractor’s fitness and ability to continue performing the Contract. The Agency may consider failure of the Contractor to update the questionnaire with this information as a material breach of the Contract and invoke the remedies set forth in Section 6 of this Policy.
- c) There shall be a period of no fewer than fourteen calendar days between the date for receipt of Bids and the award of the Contract in order to allow full review of questionnaires submitted by Bidders. If no Bid is required, the prospective Contractor must submit a questionnaire no fewer than fourteen calendar days prior to execution of the Contract in order to allow full review of the questionnaire. Questionnaires will be public records and information contained therein will be available for public review, except to the extent that such information is exempt from disclosure pursuant to applicable law. The Awarding Authority may rely on responses to the questionnaire, information from compliance and regulatory agencies and/or independent investigation to determine Bidder responsibility.
- d) Before being declared non-responsible, a Bidder shall be notified of the proposed determination of non-responsibility, served with a summary of the information upon which the Awarding Authority is relying and provided with an opportunity to be heard in accordance with applicable law. The hearing shall be before a staff person designated by the Agency’s Chief Executive Officer and shall generally be a staff member familiar with the Agency’s procurement process (the “Staff Hearing Officer”). At the responsibility hearing, the Bidder will be allowed to rebut adverse information and to provide evidence that it has the necessary quality, fitness and capacity to perform the

work. The Bidder must exercise its right to request a hearing within five calendar days after receipt of such notice. Failure to submit a written request for a hearing within the time frame set forth in this Section will be deemed a waiver of the right to such a hearing and the Awarding Authority may proceed to determine whether or not the award of the Contract should be made to another Bidder or whether or not the Bidder is non-responsible for this and future Contracts. The determination by an Awarding Authority that the Bidder is non-responsible may be appealed to the Agency Board of Commissioners under rules established by the Agency. The Agency's determination shall be based upon its review of the information upon which the Awarding Authority relied in making its determination, and that information submitted by the Contractor in contesting the Awarding Authority's determination. The determination of the Agency Board of Commissioners shall be final and constitute exhaustion of the Bidder's administrative remedies.

- e) A list of individuals and entities which have been determined to be non-responsible by the City and the Agency shall be maintained by the DAA. After two years from the date the individual or entity has been determined to be non-responsible, the individual or entity may request removal from the list by the City and/or the Agency. If the individual or entity can satisfy the City and/or the Agency that it has the necessary quality, fitness, and capacity to perform work in accordance with the criteria set forth in paragraph (a) of this Section, its name shall be removed from the list. Unless otherwise removed from the list by the City or Agency, names shall remain on the list for five years from the date of being declared non-responsible.
- f) Contractors shall ensure that their Subcontractors meet the criteria for responsibility as set forth in paragraph (a) of this Section, unless the subcontract is below the threshold requirements for Contracts contained in Section 1(b).

Sec. 3 Compliance with All Laws

- a) Contractors shall comply with all applicable federal, state and local laws in the performance of the Contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees.
- b) Contractors shall notify the Awarding Authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the Contractor is not in compliance with paragraph (a) of this Section. Initiation of an investigation is not, by itself, a basis for a determination of non-responsibility by an Awarding Authority.
- c) Contractors shall notify the Awarding Authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the Contractor has violated paragraph (a) of this Section.
- (d) Upon award of a Contract, Contractors shall complete a Pledge of Compliance attesting under penalty of perjury to compliance with paragraph (a) of this Section. Whenever any Contract which was not initially subject to this Policy is amended, the Contractor shall

complete a Pledge of Compliance attesting under penalty of perjury to compliance with paragraph (a) of this Section.

- e) Contractors shall ensure that their Subcontractors complete a Pledge of Compliance attesting under penalty of perjury to compliance with paragraph (a) of this Section, unless the subcontract is below the threshold requirements for Contracts contained in Section 1 (b).
- f) Contractors shall ensure that their Subcontractors comply with paragraphs (b) and (c) of this Section, unless the subcontract is below the threshold requirements for contracts contained in Section 1 (b).

Sec. 4 Exemptions

- a) In order to promote the purposes of this Policy and to protect the Agency's interests, the following Contracts are exempt from its application:
 - (1) Contracts with a governmental entity such as the United States of America, the State of California, a county, city or public agency of such entities, or a public or quasi-public corporation located therein and declared by law to have such public status.
 - (2) Contracts for the investment of trust moneys or agreements relating to the management of trust assets.
 - (3) Banking contracts entered into by the Treasurer or Chief Financial Officer pursuant to California Government Code Section 53630 et seq.
- b) In order to promote the purposes of this Policy and to protect the Agency's interests, the following Contracts are exempt from application of Section 2 of this Policy:
 - (1) Contracts awarded on the basis of exigent circumstances whenever the Agency finds that the Agency would suffer a financial loss or that Agency operations would be adversely impacted unless exempted from the provisions of Section 2. This finding must be approved by the Agency Board of Commissioners and reported to the DAA prior to contract execution.
 - (2) Contracts awarded for repairs, alterations, work or improvements declared in writing by the Administrator/Chief Executive Officer or designee, to be of urgent necessity for the preservation of life, health or property. The declaration shall give the reasons for the urgent necessity and must be approved by the Agency Board of Commissioners. Approval may be conditioned upon compliance with one or more of the requirements of this Policy.
 - (3) Contracts entered into in time of war or during national, state or local emergency declared in accordance with federal, state or local law, where the City Council, by resolution adopted by two-thirds vote and approved by the Mayor, suspends any or all of the restrictions on Contract award as provided for in Section 371(e)(6) of the Los Angeles City Charter, or successor provision, or their applicability.

- (4) Contracts for equipment repairs or parts obtained from the manufacturer of the equipment or its exclusive agent.
- (5) Contracts for cooperative arrangement with other governmental agencies for the utilization of the purchasing contracts and professional, scientific, expert or technical services contracts of those agencies and any implementing agreements, even though the contracts and implementing agreements were not entered into through a competitive bid process.
- (6) Contracts where the goods or services are proprietary or only available from a single source.

Sec. 5 Administration

- a) The DAA shall promulgate rules and regulations for implementation of this Policy which are consistent with those promulgated for implementation of the City's Contractor Responsibility Program. Said rules shall be submitted to the Agency Board of Commissioners and City Council for consideration within sixty days after the effective date of this Policy.
- b) The DAA shall develop a questionnaire to be used by awarding authorities for determining Bidder responsibility within sixty days after the effective date of this Policy.
- c) The DAA shall monitor compliance with this Policy including investigation of alleged violations.

Sec. 6 Enforcement

- a) Contracts shall provide that (i) the contract is subject to the terms of this Policy and (ii) violation of this Policy shall constitute a material breach thereof and entitle the Agency to terminate the Contract and otherwise pursue legal remedies that may be available.
- b) Compliance with Section 3 of this Policy shall be required in Contract amendments, if the initial Contract was not subject to the provisions of this Policy. Contract amendments shall provide that violation of Section 3 shall constitute a material breach thereof and entitle the Agency to terminate the Contract and otherwise pursue legal remedies that may be available.
- c) Violations of this Policy may be reported to the DAA, the Agency and/or the Awarding Authority. The DAA shall investigate such complaint. Whether based upon such complaint or otherwise, if the DAA has determined that the Contractor has violated any provision of this Policy, the DAA shall issue a written notice to the Contractor that the violation is to be corrected within ten calendar days from receipt of notice, which notice shall also be sent to the Agency Administrator/Chief Executive Officer or designee. In the event the Contractor has not corrected the violation, or taken reasonable steps to correct the violation within ten calendar days, then the DAA may:

- (1) Request the Agency to declare a material breach of the Contract and exercise its contractual remedies thereunder, which are to include but not be limited to termination of the Contract.
- (2) Request the Agency to declare the Contractor to be non-responsible in accordance with the procedures set forth in Section 2 of this Policy.

Sec. 7 Application of This Policy

- a) This Policy shall be applicable to Invitations to Bids issued after the Policy, the rules described in Section 2(d) and the rules and regulations set forth in Section 5 of this Policy have been adopted by the Agency Board of Commissioners and City Council.
- b) This Policy shall be applicable to Contracts entered into after the aforementioned rules and regulations have been adopted by the Agency Board of Commissioners and City Council, unless the Contract is awarded pursuant to an Invitation to Bid issued prior to adoption of the rules and regulations by City Council.
- c) Section 3 of this Policy shall be applicable to Contract amendments, entered into after the rules and regulations have been adopted by the Agency Board of Commissioners and City Council if the initial Contract was not subject to the provisions of this Policy.

Sec. 8 Consistency with Federal or State Law

The provisions of this Policy shall not be or where the application would violate or be inconsistent with the terms or condition of a grant or contract with an agency of the United States, the State of California or the instruction of an authorized representative of any such agency with respect to any such grant or contract. The Agency shall be required to comply with all applicable provisions of the California Public Contract Code on public projects. Where applicable provisions of the California Public Contract Code conflict with this Policy, the applicable California Public Contract Code provisions shall control. In cases where a Person, including an Agency Financial Assistance Recipient, is subject to both this Policy and the City Contractor Responsibility Ordinance (or successor ordinance, if any), the Ordinance shall prevail. However, in cases where the City's assistance alone would not require compliance, but the Agency's assistance, combined with the City's assistance, meets the thresholds of this Policy, the provisions of this Policy shall apply.

Sec. 9 Severability

If any provision of this Policy is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Sec. 10 Amendment

This Agency Contractor Responsibility Program (Policy on Contractor Responsibility) may be amended by the Agency Board of Commissioners at any time, subject to City Council review and approval. In addition, if the City amends the City's Contractor Responsibility Program as set forth in the City Administrative Code at Article 14 of Chapter 1 of Division 10, Agency staff shall, within 60 days of the effective date of any such amendment, inform the

Agency Board of any such amendment and provide to the Board a proposed amendment to this Policy and Program to bring the Policy and Program into conformance with the Ordinance as so amended. The Agency Board of Commissioners shall consider a corresponding amendment to this Policy at a duly noticed meeting not less than seven nor more than 45 days following the presentation of the proposed amendment to the Agency Board by Agency staff. If the Agency Board adopts any such amendment to bring the Policy and Program into conformance with the amended Ordinance, it shall be deemed approved ten days following transmittal to the City Council of notice of the Board's action. If the Agency Board approves any amendment to the Policy and Program that does not bring the Policy and Program into conformance with the amended Ordinance, such amendment to the Policy shall be subject to City Council review and approval, and shall take effect 31 days after said approval by the City Council.

Adopted by the Community Redevelopment Agency Board of Commissioners May 29, 2003
Approved by the Los Angeles City Council September 26, 2003
Effective October 28, 2003

ATTACHMENT
ADDENDUM TO CONTRACTOR RESPONSIBILITY POLICY

RULES GOVERNING PROCEDURES FOR APPEAL OF A DETERMINATION OF
NON-RESPONSIBILITY

As set forth in the Policy for Contractor Responsibility, before being declared non-responsible, a Bidder shall be notified of the proposed determination of non-responsibility, served with a summary of the information upon which the Awarding Authority is relying and provided with an opportunity to be heard in accordance with applicable law. The hearing shall be before a staff person designated by the Agency's Chief Executive Officer and shall generally be a staff member familiar with the Agency's procurement process (the "Staff Hearing Officer"). At the responsibility hearing, the Bidder will be allowed to rebut adverse information and to provide evidence that it has the necessary quality, fitness and capacity to perform the work.

The Bidder must exercise its right to request a hearing within five calendar days after receipt of such notice. Failure to submit a written request for a hearing setting forth in detail the Bidder's grounds for appeal within the time frame set forth in this Section will be deemed a waiver of the right to such a hearing and the Awarding Authority may proceed to determine whether or not the award of the Contract should be made to another Bidder or whether or not the Bidder is non-responsible for this and future Contracts. When such a hearing has been requested, the Staff Hearing Officer shall establish a time and place for the hearing that shall be no more than ten working days from the receipt of the written request for the hearing, unless the Bidder requests additional time. The Staff Hearing Officer shall render its determination in writing no more than ten working days following the hearing.

The determination by the Staff Hearing Officer that the Bidder is non-responsible may be appealed to the Agency Board of Commissioners under these rules. An appeal of the determination of the Staff Hearing Officer shall be made in writing within five calendar days of receipt of the written determination of the Staff Hearing Officer setting forth in detail the Bidder's grounds for appeal. The Staff Hearing Officer shall then place the matter on the Agenda of a meeting of the Agency Board of Commissioners taking place no less than five nor more than twenty-one calendar days from receipt of the written request, except that if there is no meeting of the Agency Board within this time period, the matter shall be placed on the Agenda of the next meeting of the Agency Board of Commissioners thereafter.

The Agency's determination shall be based upon its review of the information upon which the Staff Hearing Officer relied in making its determination, and that information submitted by the Contractor in contesting the Awarding Authority's determination. The determination of the Agency Board of Commissioners shall be final and constitute exhaustion of the Bidder's administrative remedies.

**COMMUNITY REDEVELOPMENT AGENCY OF THE
CITY OF LOS ANGELES
SERVICE CONTRACTOR RETENTION POLICY**

Findings and Statement of Policy

The Community Redevelopment Agency (“Agency”) awards many contracts to private firms to provide services to the public and to the Agency. The Agency also provides financial assistance and funding to others for the purpose of economic development or job growth. At the conclusion of the terms of a service contract with the Agency or with those receiving financial assistance from the Agency, competition results in the awarding of a service contract to what may be a different contractor. These new contracts often involve anticipated changes in different managerial skills, new technology or techniques, new themes or presentations, or lower costs.

The Agency expends grant funds under programs created by the federal and state governments. Such expenditures serve to promote the goals established for those programs by such governments and similar goals of the City and the Agency. The Agency intends that the policies underlying this Policy serve to guide the expenditure of such funds to the extent allowed by the laws under which such grant programs are established.

Despite desired changes through the process of entering into new contracts, it is the experience of the Agency that reasons for change do not necessarily include a need to replace workers presently performing services who already have useful knowledge about the workplace where the services are performed.

Incumbent workers have already invaluable knowledge and experience with the work schedules, practices, and clients. The benefits of replacing these workers without such experiences decreases efficiency and results in a disservice to the Agency and Agency financed or assisted projects.

Retaining existing service workers when a change in contractors occurs reduces the likelihood of labor disputes and disruptions. The reduction of the likelihood of labor disputes and disruptions results in the assured continuity of services to citizens who receive services provided by the Agency or by Agency financed or assisted projects.

It is unacceptable that contracting decisions involving the expenditure of Agency funds should have any potential effect of creating unemployment and the consequential need for social services. The City, as a principal provider of social support services, has an interest in the stability of employment under contracts with the Agency or by those receiving financial assistance from the Agency. The retention of existing workers benefits that interest.

Sec. 1. Definitions

The following definitions shall apply throughout this Policy:

(a) "Agency" means The Community Redevelopment Agency of the City of Los Angeles, California.

(b) "Awarding Authority" means that subordinate or component entity or person of the Agency (such as a department) or of the Agency Financial Assistance Recipient that awards or is otherwise responsible for the administration of a Service Contract or, if none, then the Agency or the Agency Financial Assistance Recipient.

(c) "City" means the City of Los Angeles, but excludes the Agency.

(d) "Agency Financial Assistance Recipient" means any Person that receives from the Agency discrete financial assistance expressly articulated and identified by the Agency in excess of one hundred thousand dollars (\$100,000), such as through Agency approved bond financing; Agency planning assistance which results in a discrete monetary benefit to the Agency Financial Assistance Recipient; tax increment financing exclusively by the Agency; construction of off-site public improvements by the Agency that would otherwise be the responsibility of the Agency Financial Assistance Recipient; land write-downs; tax credits; or any other form of financial assistance if the purpose of such other form of assistance is economic development or job growth; provided, however, that corporations organized under § 501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. § 501(c)(3), with annual operating budgets of less than five million dollars (\$5,000,000) or that regularly employ homeless persons, persons who are chronically unemployed, or persons receiving public assistance, shall be exempt. These thresholds shall be adjusted annually at the Consumer Price Index for the Los Angeles – Long Beach Area at the same time as the living wage is adjusted under Section 10.37.2(a) of the City Living Wage Ordinance or successor ordinance. For the purpose of determining whether a particular Agency Financial Assistance Recipient qualifies under these thresholds, financial assistance provided by the City and financial assistance provided by the Agency shall both be counted; however, financial assistance provided by the City and administered or otherwise channeled through the Agency shall not be counted more than one time.

(e) "Contractor" means any Person that enters into a Service Contract with the Agency or an Agency Financial Assistance Recipient.

(f) "Employee" means any person employed as a service employee of a Contractor or Subcontractor earning less than fifteen dollars (\$15.00) per hour in salary or wage whose primary place of employment is in the City on or under the authority of a Service Contract and including but not limited to: hotel employees, restaurant, food service or banquet employees; janitorial employees; security guards; parking attendants; nonprofessional health care employees; gardeners; waste management employees; and clerical employees; and does not include a person who is (1) a managerial, supervisory, or confidential employees, or (2) required to possess an occupational license.

(g) "Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into contracts.

(h) "Service Contract" means a contract let to a Contractor by the Agency or an Agency Financial Assistance Recipient primarily for the furnishing of services to or for the Agency or the Agency Financial Assistance Recipient (as opposed to the purchase of goods or other property) and that involves an expenditure or receipt in excess of twenty-five thousand dollars (\$25,000) and a contract term of at least three months.

(i) "Subcontractor" means any Person not an Employee that enters into a contract with a Contractor to assist the Contractor in performing a Service Contract and that employs Employees for such purpose.

(j) "Successor Service Contract" means a Service Contract where the services to be performed are substantially similar to a Service Contract that has been recently terminated.

Sec. 2. Transition Employment Period

(a) Where an Awarding Authority has given notice that a Service Contract has been terminated, or where a service Contractor has given notice, of such termination, upon receiving or giving such notice, as the case may be, the terminated Contractor shall within ten (10) days thereafter provide to the successor Contractor the name, address, date of hire, and employment occupation classification of each Employee in employment, of itself or Subcontractors, at the time of Contract termination. If the terminated Contractor has not learned the identity of the successor Contractor, if any, by the time that notice was given of Contract termination, the terminated Contractor shall obtain such information from the Awarding Authority. If a Successor Service Contract has not been awarded by the end of the ten (10)-day period, the employment information referred to earlier in this subsection shall be provided to the Awarding Authority at such time. Where a subcontract of a Service Contract has been terminated prior to the termination of the Service Contract, the terminated Subcontractor shall for purposes of this Policy be deemed a terminated Contractor.

(1) Where a Service Contract or Contracts are being let where the same or similar services were rendered under multiple Service Contracts, the Agency or Agency Financial Aid Recipient shall pool the Employees, ordered by seniority within job classification, under such prior Contracts.

(2) Where the use of Subcontractors has occurred under the terminated Contract or where the use of Subcontractors is to be permitted under a Successor Service Contract, or where both circumstances arise, the Agency or Agency Financial Assistance Recipient shall pool, when applicable, the Employees, ordered by seniority within job classification, under such prior Contracts or Subcontracts where required by and in accordance with rules authorized by this Policy.

(b) A Successor Service Contractor shall retain, for a ninety (90)-day transition employment period, Employees who have been left employed by the terminated Contractor or its Subcontractors, if any, for the preceding twelve (12) months or longer. Where pooling of Employees has occurred, the Successor Contractor shall draw from such pools in accordance with rules established under this Policy. During such ninety (90)-day period, Employees so hired shall be employed under the terms and conditions established by the Successor Contractor (or Subcontractor) or as required by law.

(c) If at any time the Successor Contractor determines that fewer Employees are required to perform the new Service Contract than were required by the terminated Contractor (and Subcontractors, if any), the Successor Contractor shall retain Employees by seniority within job classification.

(d) During such ninety (90)-day period, the Successor Contractor (or Subcontractor, where applicable) shall maintain a preferential hiring list of eligible covered Employees not retained by the Successor Contractor (or Subcontractor) from which the Successor Contractor (or Subcontractor) shall hire additional Employees.

(e) Except as provided in subsection (c) of this section, during such ninety (90)-day period the Successor Contractor (or Subcontractor, where applicable) shall not discharge without cause an Employee retained pursuant to this Policy. "Cause" for this purpose shall include, but not be limited to, the Employee's conduct while in the employ of the terminated Contractor or Subcontractor that contributed to any decision to terminate the Contract or Subcontract for fraud or poor performance.

(f) At the end of such ninety (90)-day period, the Successor Contractor (or Subcontractor, where applicable) shall perform a written performance evaluation for each Employee retained pursuant to this Policy. If the Employee's performance during such ninety (90)-day period is satisfactory, the Successor Contractor (or Subcontractor) shall offer the Employee continued employment under the terms and conditions established by the Successor Contractor (or Subcontractor) or as required by law.

Sec. 3 Enforcement

(a) Compliance with this Policy shall be required in all Agency Contracts to which it applies, and such Contracts shall provide that (i) the contract is subject to the provisions of this Policy and (ii) violation of this Policy shall entitle the Agency to terminate the Contract and otherwise pursue legal remedies that may be available.

(b) Notwithstanding any provision of this Policy or any law or ordinance to the contrary, no criminal penalties shall attach for any violation of this Policy.

Sec. 4. Exemption for Successor Contractor or Subcontractor's Prior Employees

An Awarding Authority shall upon application by a Contractor or Subcontractor exempt from the requirements of this Policy a person employed by the Contractor or Subcontractor

continuously for at least twelve (12) months prior to the commencement of the Successor Service Contract or Subcontractor who is proposed to work on such Contract or Subcontract as an Employee in a capacity similar to such prior employment, where the application demonstrates that (a) the person would otherwise be laid off work and (b) his or her retention would appear to be helpful to the Contractor or Subcontractor in performing the Successor Contract or Subcontract. Once a person so exempted commences work under a Service Contract or Subcontract, he or she shall be deemed an Employee as defined in Section 1(e) of this Policy.

Sec. 5. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights

This Policy shall not be construed to limit an Employee's right to bring legal action for wrongful termination.

Sec. 6. Expenditures Covered by this Policy

This Policy shall apply to the expenditure, whether through Service Contracts let by the Agency or by an Agency Financial Assistance Recipient, of funds entirely within the Agency's control and to other funds, such as federal or state grant funds, where the application of this Policy is consonant with the laws authorizing the Agency to expend such other funds. As to any grant or similar program, this Policy shall become applicable to the funds authorized by such program if and only if the City Attorney's Office has obtained from the funding government either an opinion or other determination indicating such consonance or a judgment of compliance from a court of law or other tribunal, which procurement has been reported in writing by such Office to the Agency and to the City Council by a letter to the City Clerk.

Sec. 7. Policy Applicable to New Contracts and Agency Financial Assistance

The provisions of this Policy shall apply to Contracts consummated and Financial Assistance provided beginning thirty-one (31) days following approval of this Policy by the Agency Board and the Los Angeles City Council.

Sec. 8. Promulgation of Implementing Rules

The City Council shall by resolution or other means designate a department or office, which shall promulgate rules for implementation of this Policy and otherwise coordinate administration of the requirements of this Policy, by, for and on behalf of the Agency.

Sec. 9. Severability

If any severable provision or provisions of this Policy or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of the Policy that can be given effect notwithstanding such invalidity.

Sec. 10. Amendments

This Agency Service Worker Retention Policy may be amended by the Agency Board of Commissioners at any time, subject to City Council review and approval. In addition, if the City amends the City's Service Worker Retention Policy as set forth in the City Administrative Code at Article 10 of Chapter 1 of Division 10, Agency staff shall, within 60 days of the effective date of any such amendment, inform the Agency Board of any such amendment and provide to the Board a proposed amendment to this Policy to bring the Policy into conformance with the Ordinance as so amended. The Agency Board of Commissioners shall consider a corresponding amendment to this Policy at a duly noticed meeting not less than seven nor more than 45 days following the presentation of the proposed amendment to the Agency Board by Agency staff. If the Agency Board adopts any such amendment to bring the Policy into conformance with the amended Ordinance, it shall be deemed approved ten days following transmittal to the City Council of notice of the Board's action. If the Agency Board approves any amendment to the Policy that does not bring the Policy into conformance with the amended Ordinance, such amendment to the Policy shall be subject to City Council review and approval, and shall take effect 31 days after said approval by the City Council.

Adopted by the Community Redevelopment Agency Board of Commissioners May 29, 2003
Approved by the Los Angeles City Council September 26, 2003
Effective October 28, 2003

COMMUNITY REDEVELOPMENT AGENCY OF THE
CITY OF LOS ANGELES
PROPOSED AGENCY EQUAL BENEFITS POLICY

(a) Legislative Findings. The Agency awards many contracts to private firms to provide services to the public and to the Agency. Many Agency Contractors and Subcontractors perform services that affect the proprietary interests of the Agency in that their performance impacts the success of Agency operations. The Agency holds a proprietary interest in the work performed by many Employees employed by Agency Contractors and Subcontractors. In a very real sense, the success or failure of Agency operations may turn on the success or failure of these enterprises, for the Agency has a genuine stake in how the public perceives the services rendered for them by these businesses.

Discrimination in the provision of Employee Benefits between Employees with domestic partners and Employees with spouses results in unequal pay for equal work. Los Angeles law prohibits entities doing business with the City from discriminating in employment practices based on marital status and/or sexual orientation. The City's departments and contracting agents are required to place in all City contracts a provision that the company choosing to do business with the City agrees to comply with the City's nondiscrimination laws.

It is the Agency's intent, through the contracting practices outlined in this Policy, to assure that those companies wanting to do business with the Agency will equalize the total compensation between similarly situated Employees with spouses and with domestic partners. The provisions of this Policy are designed to ensure that the Agency's Contractors will maintain a competitive advantage in recruiting and retaining capable Employees, thereby improving the quality of the goods and services the Agency and its people receive, and ensuring protection of the Agency's property.

(b) Definitions. For purposes of the Equal Benefits Policy only, the following shall apply.

(1) Agency means The Community Redevelopment Agency of the City of Los Angeles, California.

(2) Awarding Authority means the Agency, any department or unit of the Agency, or any employee or officer of the Agency, that is authorized to award or enter into any Contract, as defined in this Policy, on behalf of the Agency.

(3) Benefits means any plan, program or policy provided or offered by a Contractor to its employees as part of the employer's total compensation package. This includes but is not limited to the following types of benefits: bereavement leave, family

medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, and travel benefits.

(4) Cash Equivalent means the amount of money paid to an employee with a Domestic Partner (or spouse, if applicable) in lieu of providing Benefits to the employee's Domestic Partner (or spouse, if applicable). The Cash Equivalent is equal to the direct expense to the employer of providing Benefits to an employee for his or her Domestic Partner (or spouse, if applicable) or the direct expense to the employer of providing Benefits for the dependents and family members of an employee with a Domestic Partner (or spouse, if applicable).

(5) City means the City of Los Angeles.

(6) Contract means an agreement the value of which exceeds \$5,000. It includes agreements for work or services to or for the Agency, for public works or improvements to be performed, agreements for the purchase of goods, equipment, materials, or supplies, or grants to be provided, at the expense of the Agency or to be paid out of monies under the control of the Agency. The term also includes a Lease or License, as defined in this Policy.

(7) Contractor means any Person, or any governmental entity acting in its proprietary capacity, that enters into a Contract with any Awarding Authority. The term does not include Subcontractors.

(8) Designated Administrative Agency (DAA) means the Office of the City Administrative Officer.

(9) Domestic Partners means any two adults, of the same or different sex, who have registered as domestic partners with a governmental entity pursuant to state or local law authorizing this registration or with an internal registry maintained by the employer of at least one of the domestic partners.

(10) Employee means any individual employed by a Contractor or Subcontractor.

(11) Equal Benefits Ordinance means Los Angeles Administrative Code Section 10.8.2.1, *et seq.*, as amended from time to time.

(12) Equal Benefits Policy means the Policy adopted by the Agency to assure the provision of Equal Benefits by Contractors or Subcontractors under specified conditions.

(13) Equal Benefits means the equality of benefits between Employees with spouses and Employees with Domestic Partners, between spouses of Employees and

Domestic Partners of Employees, and between dependents and family members of spouses and dependents and family members of Domestic Partners.

(14) Lease or License means any agreement allowing others to use property owned or controlled by the Agency, any agreement allowing others the use of Agency property in order to provide services to or for the Agency, such as for concession agreements, and any agreement allowing the Agency to use property owned or controlled by others.

(15) Person means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into Contracts.

(16) Subcontractor means any Person, or any governmental entity, that assists the Contractor in performing or fulfilling the terms of the Contract. Subcontractors are not subject to the requirements of the Equal Benefits Policy unless they otherwise have a Contract directly with the Agency.

(c) Equal Benefits Requirements

(1) No Awarding Authority shall execute or amend any Contract with any Contractor that discriminates in the provision of Benefits between Employees with spouses and Employees with Domestic Partners, between spouses of Employees and Domestic Partners of employees, and between dependents and family members of spouses and dependents and family members of Domestic Partners.

(2) A Contractor must permit access to, and upon request, must provide certified copies of all of its records pertaining to its Benefits policies and its employment policies and practices to the Agency and the DAA, for the purpose of investigation or to ascertain compliance with this Equal Benefits Policy.

(3) A Contractor must post a copy of the following statement in conspicuous places at its place of business available to employees and applicants for employment: "During the performance of a Contract with The Community Redevelopment Agency of the City of Los Angeles, California, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners." The posted statement must also include a City and/or an Agency contact telephone number which will be provided each Contractor when the Contract is executed.

(4) A Contractor must not set up or use its contracting entity for the purpose of evading the requirements imposed by the Equal Benefits Policy.

(d) Other Options for Compliance. Provided that the Contractor does not discriminate in the provision of Benefits, a Contractor may also comply with the Equal Benefits Policy in the following ways:

(1) A Contractor may provide an Employee with the Cash Equivalent only if the DAA determines that either:

a. The Contractor has made a reasonable, yet unsuccessful effort to provide Equal Benefits; or

b. Under the circumstances, it would be unreasonable to require the Contractor to provide Benefits to the Domestic Partner (or spouse, if applicable).

(2) Allow each employee to designate a legally domiciled member of the Employee's household as being eligible for spousal equivalent Benefits.

(3) Provide Benefits neither to Employees' spouses nor to Employees' Domestic Partners.

(e) Applicability

(1) Unless otherwise exempt, a Contractor is subject to and shall comply with all applicable provisions of the Equal Benefits Policy.

(2) The requirements of the Equal Benefits Policy shall apply to a Contractor's operations as follows:

a. A Contractor's operations located within the City limits, regardless of whether there are Employees at those locations performing work on the Contract.

b. A Contractor's operations on real property located outside of the City limits if the property is owned by the Agency or the Agency has a right to occupy the property, and if the Contractor's presence at or on that property is connected to a Contract with the Agency.

c. The Contractor's Employees located elsewhere in the United States but outside of the City limits if those Employees are performing work on the Agency Contract.

(3) The requirements of the Equal Benefits Policy do not apply to collective bargaining agreements ("CBA") in effect prior to the effective date of this Policy. The Contractor must agree to propose to its union that the requirements of the Equal Benefits Policy be incorporated into its CBA upon amendment, extension, or other modification of a CBA occurring after the effective date of this Policy.

(f) Mandatory Contract Provisions Pertaining to Equal Benefits. Unless otherwise exempted, every Contract shall contain language that obligates the Contractor to comply with the applicable provisions of the Equal Benefits Policy. The language shall include provisions for the following:

(1) During the performance of the Contract, the Contractor certifies and represents that the Contractor will comply with the Equal Benefits Policy.

(2) The failure of the Contractor to comply with the Equal Benefits Policy will be deemed to be a material breach of the Contract by the Awarding Authority.

(3) If the Contractor fails to comply with the Equal Benefits Policy the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under the Contract may be retained by the Agency. The Agency may also pursue any and all other remedies at law or in equity for any breach.

(4) Failure to comply with the Equal Benefits Policy may be used as evidence against the Contractor in actions taken pursuant to the provisions of the Agency's Contractor Responsibility Policy.

(5) If the Agency or the DAA determines that a Contractor has set up or used its Contracting entity for the purpose of evading the intent of the Equal Benefits Policy, the Awarding Authority may terminate the Contract on behalf of the Agency. Violation of this provision may be used as evidence against the Contractor in actions taken pursuant to the provisions of the Agency's Contractor Responsibility Policy.

(g) Administration

(1) The DAA is responsible for the enforcement of the Equal Benefits Policy for all Agency Contracts. Each Awarding Authority shall cooperate to the fullest extent with the DAA in its enforcement activities.

(2) In enforcing the requirements of the Equal Benefits Policy, the DAA may monitor, inspect, and investigate to insure that the Contractor is acting in compliance with the Equal Benefits Policy.

(3) The DAA shall promulgate rules and regulations and forms for the implementation of the Agency Equal Benefits Policy which are consistent with those promulgated for implementation of the City's Equal Benefits Ordinance. No other rules, regulations or forms may be used by an Awarding Authority of the Agency to accomplish this contract compliance program.

(h) Enforcement

(1) If the Contractor fails to comply with the Equal Benefits Policy:

a. The failure to comply may be deemed to be a material breach of the Contract by the Awarding Authority; or

b. The Awarding Authority may cancel, terminate or suspend, in whole or in part, the contract; or

c. Monies due or to become due under the Contract may be retained by the Agency until compliance is achieved;

d. The Agency may also pursue any and all other remedies at law or in equity for any breach.

e. The Agency may use failure to comply with the Equal Benefits Policy as evidence against the Contractor in actions taken pursuant to the provisions of its Contractor Responsibility Policy.

(i) Non-applicability, Exceptions and Waivers

(1) Upon request of the Awarding Authority, the DAA or the Agency Board of Commissioners by resolution, may waive compliance with the Equal Benefits Policy under the following circumstances:

a. The Contract is for the use of Agency property, and there is only one prospective Contractor willing to enter into the Contract; or

b. The Contract is for needed goods, services, construction of a public work or improvement, or interest in or right to use real property that is available only from a single prospective Contractor, and that prospective Contractor is otherwise qualified and acceptable to the Agency; or

c. The Contract is necessary to respond to an emergency that endangers the public health or safety, and no entity which complies with the requirements of the Equal Benefits Policy capable of responding to the emergency is immediately available; or

d. The City Attorney certifies in writing that the Contract involves specialized litigation requirements such that it would be in the best interests of the Agency to waive the requirements of the Equal Benefits Policy; or

e. The Contract is (i) with a public entity; (ii) for goods, services, construction of a public work or improvement, or interest in or right to use real property; and (iii) that is either not available from another source, or is necessary to serve a substantial public interest. A Contract for interest in or the right to use real property shall not be considered as not being available from another source

unless there is no other site of comparable quality or accessibility available from another source; or

f. The requirements of the Equal Benefits Policy will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of the agency with respect to the grant, subvention or agreement, provided that the Awarding Authority has made a good faith attempt to change the terms or conditions of the grant, subvention or agreement to authorize application of the Equal Benefits Policy; or

g. The Contract is for goods, a service or a project that is essential to the Agency or City residents and there are no qualified responsive bidders or prospective Contractors who could be certified as being in compliance with the requirements of the Equal Benefits Policy; or

h. The Contract involves bulk purchasing arrangements through City, Agency, federal, state or regional entities that actually reduce the Agency's purchasing costs and would be in the best interests of the Agency.

(2) The Equal Benefits Policy does not apply to contracts which involve:

a. The investment of trust monies, bond proceeds or agreements relating to the management of these funds, indentures, security enhancement agreements (including, but not limited to, liquidity agreements, letters of credit, bond insurance) for Agency tax-exempt and taxable financings, deposits of the Agency's surplus funds in financial institutions, the investment of Agency monies in competitively bid investment agreements, the investment of Agency monies in securities permitted under the California State Government Code and/or the Agency's investment policy, investment agreements, repurchase agreements, Agency monies invested in U.S. government securities or pre-existing investment agreements;

b. Contracts involving Agency monies in which the City Treasurer, the Agency's Chief Financial Officer or the City Administrative Officer finds that either:

(i) No Person, entity or financial institution doing business in the City, which is in compliance with the Equal Benefits Policy, is capable of performing the desired transaction(s); or

(ii) The Agency will incur a financial loss or forego a financial benefit which in the opinion of the City Treasurer, the Agency's Chief Financial Officer or the City Administrative Officer would violate his or her fiduciary duties.

Adopted by the Community Redevelopment Agency Board of Commissioners May 29, 2003
Approved by the Los Angeles City Council September 26, 2003
Effective October 28, 2003

(3) The Equal Benefits Policy does not apply to contracts for gifts to the Agency.

(4) Nothing in this Subsection shall limit the right of the Agency to waive the provisions of the Equal Benefits Policy.

(5) The provisions of this Subsection shall apply to the Equal Benefits Policy only.

(j) Consistency with Federal or State Law. The provisions of the Equal Benefits Policy do not apply where the application of these provisions would violate or be inconsistent with the laws, rules or regulations federal or state law, or where the application would violate or be inconsistent with the terms or conditions of a grant or contract with the United States of America, the State of California, or the instruction of an authorized representative of any of these agencies with respect to any grant or contract.

(k) Severability. If any provision of the Equal Benefits Policy is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

(l) Timing of Application

(1) The requirements of the Equal Benefits Policy shall not apply to Contracts executed or amended prior to the effective date of this Policy, or to bid packages advertised and made available to the public, or any bids received by the Agency, prior to the effective date of this Policy, unless and until those Contracts are amended after the effective date set forth below and would otherwise be subject to the Equal Benefits Policy.

(2) The requirements of the Equal Benefits Ordinance shall apply to competitively bid Contracts that are amended on or after the effective date of this Policy and to competitively bid Contracts that result from bid packages advertised and made available to the public on or after the effective date of this Policy.

(3) Unless otherwise exempt, the Equal Benefits Policy applies to any agreement executed or amended on or after the date which is 31 days following approval of this Policy by the Los Angeles City Council that meets the definition of a Contract as defined herein.

(m) Amendment

This Agency Equal Benefits Policy may be amended by the Agency Board of Commissioners at any time, subject to City Council review and approval. In addition, if the City amends the City's Equal Benefits Policy as set forth in the City Administrative Code at Section 10.8.2.1, Agency staff shall, within 60 days of

the effective date of any such amendment, inform the Agency Board of any such amendment and provide to the Board a proposed amendment to this Policy to bring the Policy into conformance with the Ordinance as so amended. The Agency Board of Commissioners shall consider a corresponding amendment to this Policy at a duly noticed meeting not less than seven nor more than 45 days following the presentation of the proposed amendment to the Agency Board by Agency staff. If the Agency Board adopts any such amendment to bring the Policy into conformance with the amended Ordinance, it shall be deemed approved ten days following transmittal to the City Council of notice of the Board's action. If the Agency Board approves any amendment to the Policy that does not bring the Policy into conformance with the amended Ordinance, such amendment to the Policy shall be subject to City Council review and approval, and shall take effect 31 days after said approval by the City Council.