

Federal Terms and Conditions

1. Subcontractors

- a. For the purpose of this Agreement, subcontracts shall include, but not be limited to purchase agreements, loan agreements, lease or rental agreements (excluding real property agreements), third party agreements, consultant services subcontracts, and construction subcontracts.
- b. Subcontracts entered into in the performance of this Agreement shall contain the Terms and Conditions set forth in this Agreement.
- c. The Contractor shall comply with Federal, State of California, and City of Los Angeles regulations in contracting and subcontracting.
- d. Upon award of any subcontracts, the Contractor shall notify the Agency of the bidding procedures, responses, successful bidder, award amount and basis for award.
- e. All contracts and subcontracts shall incorporate all applicable City of Los Angeles, State of California, and Federal rules and regulations.
- f. The Contractor shall monitor and evaluate the performance of all subcontracts let under this Agreement.

2. Competitive Bid Requirements

- a. All subcontracts except those involving architectural/engineering and professional services entered into by the Contractor shall be let only by competitive sealed bids (sealed bidding) and applicable State of California and Federal rules and regulations, including but not limited to, the California Health and Safety Code, Section 33422, except where using a sole supplier of services or materials. Any procurement exceeding Ten Thousand Dollars (\$10,000.00) shall comply with the requirements of Office of Management and Budget (OMB) Circular A-110, incorporated herein by reference.

- b. Contractor may utilize competitive negotiation procedures for procurement of architectural/engineering and professional services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.
- c. Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is infeasible under small purchase, competitive bidding (Sealed Bidding) or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:
 - (1) The item is available only from a single source;
 - (2) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation;
 - (3) The Federal grantor agency authorizes noncompetitive negotiations; or
 - (4) After solicitation of a number of sources, competition is determined inadequate.

3. Construction Subcontracts

- a. All construction subcontracts shall comply with applicable State rules and regulations, including but not limited to, the California Health and Safety Code, Section 33422 with Office of Management and Budget Circular A-110, provided that if there is a conflict, the Federal provisions shall prevail.
- b. Applicable labor standard provisions including, but not limited to, Federal Affirmative Action requirements, the Davis-Bacon Act, as amended, the Contract Work Hours and Safety Standards Act, the Copeland "Anti Kickback Act" as well as all regulations issued pursuant to these acts and other Federal laws and the Terms and Conditions of this

Agreement shall be a part of all construction subcontracts awarded pursuant to this Agreement.

4. Records and Audits of Subcontracts

- a. Records shall be maintained in accordance with requirements prescribed by the Agency and the City of Los Angeles with respect to all matters covered by any subcontract. Such records shall be retained within the Los Angeles Area for a period of three (3) years after receipt of final payment under this Agreement, unless authorization to remove them is granted in writing by the Agency's Chief Deputy Administrator or designee.
- b. Expenditures pertaining to subcontracts shall be supported by properly executed documents evidencing in detail the nature of the charges.
- c. At such times and in such forms as the Agency may require, there shall be furnished to the Agency such statements, records, reports, data and information as the Agency may request pertaining to matters covered by any subcontract.
- d. These records shall be made available to the Agency for copying, audit, and inspection at any time during normal business hours.

5. Cost-Plus-a-Percentage-of-Cost-Subcontracting

Under no circumstances shall the Contractor enter into Cost-Plus-a-Percentage-of-Cost subcontracts.

6. Restriction on Disbursements

Money received pursuant to this Agreement by the Contractor shall not be disbursed to any subcontractor except pursuant to a written agreement which incorporates the applicable Terms and Conditions as set forth in this Agreement.

7. Funding Reduction

- a. During the performance of this Agreement by the Contractor, the Agency shall have the authority to review the Contractor's actual project expenditures and work performance. Should the Agency determine

that the Contractor is not in compliance with any contractual obligations, the Agency shall, at its discretion, take appropriate action as provided in the Termination Provisions of this Agreement.

- b. In the event, that non-Agency grant funds are reduced, suspended or terminated by the Grantor, the Agency reserves the right to reduce, suspend or terminate the funds provided by this Agreement accordingly. The Agency acknowledges that it is in receipt of CDBG funds sufficient to meet the funding commitment under this Agreement. Any reduction in non-Agency grant funds or CDBG funds, shall not affect the Agency's obligations to reimburse the Contractor for all allowable costs incurred in reliance upon this Agreement.

8. Allowable and Unallowable Costs

- a. To be eligible for payment under this Agreement, costs must be made in compliance with the City-approved expenditure plan and the Office of Management and Budget Circular (OMB) A-122 (Cost Principles for Non-profit Organizations) and with the principles set forth below:
 - (1) Be necessary and reasonable for the proper and efficient performance of this Agreement and in accordance with the approved budget.
 - (2) Conform to the limitations within these Terms and Conditions and to any governing statutes, regulations and ordinances.
 - (3) Be fully documented and determined in accordance with approved accounting procedures.
 - (4) Not be included as a cost or used to meet cost sharing or matching requirements of any other funding source in either the current or a prior period.
 - (5) Be net of all applicable credits such as purchase discounts, rebates, sales or other income or refunds.

- b. When in furtherance of this Agreement, the Contractor is granted compensation for the use of real property and/or equipment owned by the Contractor, such compensation shall be computed as provided by OMB Circulars A-87 (Cost Principles Applicable to Grants and Contracts with State and Local Governments) and A-128.

- c. The following costs, among others, are specifically unallowable:
 - (1) Bad debts: Any losses arising from uncollectible accounts and other claims, and related costs.
 - (2) Contingencies: Contributions to a contingency reserve or any similar provisions for unforeseen events.
 - (3) Contributions and donations.
 - (4) Entertainment: Costs of amusements, social activities and incidental costs, such as meals, beverages, lodging and gratuities relating to entertainment, or any political or lobbying activity.
 - (5) Fines and Penalties: Costs resulting from violations of, or failure to comply with Federal, State, and local laws and regulations.
 - (6) Interest and Other Financial Costs: Interest or borrowing (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith.
 - (7) Membership Expenses: Costs of membership in any organization which devotes a substantial part of its activities to influencing legislation.
 - (8) Travel. The difference in cost between first class air accommodations and less-than-first-class air accommodations unless certified by an authorized airline that less-than-first-class air accommodations are not available.

(9) Meeting Attendance: Cost of attending meetings directly related to the performance of this Agreement which are not open for attendance on a non-segregated basis.

(10) Non-competitive Subcontracts: Payments under a subcontract not obtained under competitive bidding procedure where required by this Agreement.

d. The Contractor shall immediately return to the Agency all advancements or reimbursements for expenditures which are determined by the Agency to be unallowable.

9. Amendments to Agreement

Either party may request an amendment to this Agreement. Such amendments must be in writing and properly executed by both the Agency and the Contractor.

10. Compliance with Statutes and Regulations

The Contractor warrants and certifies that in the performance of this Agreement, it shall comply with all applicable statutes, rules, regulations and orders of the United States, the State of California, the County and the City of Los Angeles, and the grant agreement between the City of Los Angeles and the U.S. Department of Housing and Urban Development (HUD), including laws and regulations pertaining to labor, wages, hours, and other conditions of employment and the Agency's anti-discrimination provisions and Affirmative Action Plan. Contractor further warrants and certifies that it shall comply with new, amended, or revised laws regulations, and/or procedures that apply to the performance of this Agreement. Contractor shall also comply with Federal regulations regarding debarment as contained in Executive Order Number 12549 and 24 CFR, part 210 and any amendment thereto.

Any abatement of Asbestos Containing Materials (ACM) and Lead Base Paint (LBP) materials must comply with all local, State of California, and Federal Guidelines. The Contractor agrees to ensure that all personnel involved in the actual abatement or removal process of all ACMs and LBP shall wear the necessary protective clothing and respiratory gear as required by law.

11. Permits and Licenses

The Contractor shall obtain all permits and licenses necessary to the performance of this Agreement. The Contractor shall pay all normal fees for permits, licenses, inspections or any other certification or service required in the performance of this Agreement. Among the permits and licenses which may be required are Conditional Use Permits, B-Permits, Building Permits, Incorporation Fees or State Licensing Fees of any kind. The Agency is not permitted to waive any fees for services, except as otherwise required by law.

12. Conflict of Interest

- a. The Contractor shall comply with all relevant State of California and Federal rules and regulations including, but not limited to, the Conflict of Interest Code for the Contractor as approved by the Los Angeles City Council, the California Government code Section 1,090, the U.S. Government Code Section 81,000, et. seq., also known as the Political Reform Act of 1974, and OMB Circular A-102.
- b. The Contractor warrants that it has not paid or given and will not pay or give to any third person any money or other consideration for obtaining this Agreement.
- c. The Contractor shall incorporate the foregoing subsections of this Section 12 into every contract that it enters into in connection with this project/program with the modifications that the term "subcontractor" be substituted for the term Contractor in said contract.
- d. The Contractor covenants that:
 - (1) No person shall be allowed to serve simultaneously as a director and an employee of the Contractor or as an officer and an employee of the Contractor except that the Executive Director of the Contractor may serve as secretary to the Board;
 - (2) No person shall be allowed while serving as director, officer or employee of the Contractor to contract (subcontract) with the Contractor;

- (3) The Contractor shall not contract (subcontract) with a former director, officer, or employee within a one year period following the termination of the relationship between said person and the Contractor unless this requirement is waived in writing by the Agency;
- (4) The Contractor shall not employ a former director or officer within a one year period following the termination of the relationship between said person and the Contractor unless this requirement is waived in writing by the Agency.
- (5) Prior to obtaining the Agency's approval of any subcontract, the Contractor shall disclose to the Agency any relationship, financial or otherwise, direct or indirect, of the Contractor or any of its officers, directors or employees with the organization with whom the Contractor proposes to contract (subcontract) or with any of said organization's officers, directors or employees;
- (6) No person shall be hired in a staff position if a member of that person's immediate family is engaged in an administrative capacity for the Contractor. The Contractor agrees to follow all laws and regulations prohibiting nepotism.

13. Copyrights

Should the performance of this Agreement result in a book or other copyrightable material, the author is free to copyright the work, but the Agency reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, all copyrighted material and all material which can be copyrighted.

14. Patents

Any discovery or invention arising out of or developed in the course of work aided by this Agreement shall be promptly and fully reported to the Agency for determination by the Agency as to whether the patent protection on such invention or discovery should be sought and how the rights in the invention or discovery, including rights under any

patent issued thereon, shall be disposed of and administered, in order to protect the public interest.

15. Political Activity Prohibited

None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

16. Lobbying Prohibited

a. None of the funds provided under this Agreement shall be used for any purpose designed to support or defeat any pending legislation or administrative regulations.

b. If this Agreement provides for more than \$100,000 in Federal grant funds or more than \$150,000 in Federal loan funds, the Contractor shall submit to the Agency a fully executed Certification Regarding Lobbying and a disclosure form if required, in accordance with Section 1352, Title 31, U.S. Code. No funds will be released to Contractor until the Certification is filed.

c. Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially affects the accuracy of the information contained in any disclosure form previously filed by the Contractor.

17. Discrimination Prohibited

No person shall on the ground of race, religion, color, national origin or sex be excluded from participation in, be denied the benefit of, or be subjected to discrimination under this program/project. For purposes of this Section, Title 24 Code of Federal Regulations Section 570.601(b) defines specific discriminatory actions which are prohibited and corrective action which shall be taken in situations as defined therein.

18. Nondiscrimination, Equal Employment Practices, and Affirmative Action Program

The Contractor shall comply with the nondiscrimination and affirmative action provisions of the laws of the United

States of America and the State of California. In performing this Agreement, the Contractor shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, age, or physical handicap. Any subcontract entered into by the Contractor relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

19. Employment Opportunities for Business and Lower Income Persons

Any project/program funded in part or in whole with Community Development Block Grant (CDBG) funds shall comply with the following provisions (referred to as a Section 3 clause):

- a. The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- b. The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in Title 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c. The Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said

labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment and training.

- d. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, Title 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under Title 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

- e. Compliance with the provisions of Section 3, the regulations set forth in Title 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by Title 24 CFR Part 135.

20. Captions

The section headings appearing herein shall not be deemed to govern, limit, modify or in any way affect the scope, meaning or intent of these conditions.

21. Waivers

- a. Waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Agency or the Contractor.
- b. No waiver by the Agency of a breach of any provision of these conditions shall be deemed for any purpose to be a waiver of a breach of any other provision hereof, or of a continuing or subsequent breach of the same provision.

22. Effect of Legal Judgment

Should any covenant, condition or provision herein contained be held to be invalid by final judgment in any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall not in any way affect any other covenant, condition or provision herein contained.

23. Choice of Law Governing this Agreement

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

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