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A Joint Powers
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MEMBERS

City of Sacramento

County of Sacramento

Redevelopment Agency of
the City of Sacramento

Redevelopment Agency of
the County of Sacramento

Housing Authority of the
City of Sacramento

Housing Authority of the
County of Sacramento

Sacramento Housing and Redevelopment Agency

Request for Proposals

Environmental Consulting Services

RFP # 2010020-WW

Issued: April 28, 2010

Submittal Deadline

@ 2:00 PM – May 20, 2010

Sacramento Housing and Redevelopment Agency
Procurement Services – 2nd Floor
801 12th Street
Sacramento, CA 95814

Copies of this RFP may be obtained from:
Procurement Services
Sacramento Housing and Redevelopment Agency
801 12th Street
Sacramento, CA 95814
(916) 440-1378
ps@shra.org

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Introduction

Purpose of Request for Proposals

The Sacramento Housing and Redevelopment Agency (SHRA) is seeking qualified firms to provide various environmental services on an on-call basis for projects where SHRA may act as the lead agency or responsible entity, or may act on behalf of the Housing Authority of the City or County of Sacramento, or on behalf of the Redevelopment Agency of the City or County of Sacramento.

As a joint powers authority representing the redevelopment and affordable housing needs of the City and County of Sacramento, SHRA is often responsible for allocating federal funding to housing and redevelopment projects. As such, SHRA is responsible for not only ensuring compliance with the California Environmental Quality Act (CEQA), but also with the National Environmental Policy Act (NEPA), and the National Historic Preservation Act (NHPA). Therefore, SHRA is expecting to contract with multiple firms that have specific experience with environmental review under CEQA, NEPA, and/or requirements of the NHPA. SHRA will select between one and three firms for each type of service, and may select the same firm(s) for multiple services. Upon the selection of firms, SHRA will negotiate and execute individual contracts with each firm. It is the intent of SHRA to use the list as the primary source for environmental and historic consulting services; however, SHRA reserves the right to solicit competitive proposals for any and all projects.

Agency Profile

SHRA is a joint powers authority of both the City and County of Sacramento, and operates under a delegatory agreement with its oversight governing boards: the City of Sacramento City Council and the County of Sacramento Board of Supervisors. SHRA provides staffing for the Housing Authorities of the City and County of Sacramento and the Redevelopment Agencies of the City and County of Sacramento, which are responsible for the development and implementation of housing, redevelopment, and selected economic development programs and activities for the City and County of Sacramento. SHRA is not a component unit of the City or County of Sacramento. SHRA operates more than 3,100 public housing units through its control and operation of the Housing Authority of the City of Sacramento and the Housing Authority of the County of Sacramento.

The Housing Authorities of the City and County were formed in July 1939 and June 1940, respectively. The Redevelopment Agencies were formed in September 1950 and September 1974, respectively. Additionally, SHRA serves as the administrator of the Community Development Block Grant, Housing Trust, and HOME Investment Partnerships Programs for the City and County of Sacramento.

Scope of Services

The contract scope of services will include one or more of the following services:

CEQA related services

Although SHRA primarily prepares environmental documentation in compliance with CEQA in-house, SHRA occasionally requires assistance in preparing Mitigated Negative Declarations (MNDs), Environmental Impact Reports (EIRs), and supporting documentation for housing and redevelopment activities.

NEPA related services

Although SHRA primarily prepares environmental documentation in compliance with NEPA in-house, SHRA occasionally requires assistance in preparing Environmental Assessments (EAs) and Findings of No Significant Impact (FONSI), Environmental Impact Statements (EISs), and supporting documentation for housing and community development activities. Typically, NEPA documentation will follow U.S. Department of Housing and Urban Development (HUD) requirements.

Historic Consultation

SHRA often requires the assistance of individuals or firms that are qualified under the Secretary of the Interior's Standards to meet obligations for review of historic properties under the NHPA. Potential undertakings may impact historic buildings, structures, or districts, and would require the expertise of an architectural historian. Potential undertakings could also impact historic sites with possible archaeological components, which would require the expertise of an archaeologist.

The consultant may be asked to coordinate with appropriate regulatory agencies as needed.

Insurance Requirements

SHRA Insurance Requirements are provided for your review as Attachment B (page 27). Prospective firms are advised to review these requirements prior to submitting their proposals. With NO EXCEPTIONS, all of the insurance requirements listed must be met prior to the selected firm(s) being awarded a contract for the services requested in this RFP. The selected firm(s) may request a waiver from the Agency Legal Department for some of the insurance requirements; however, should the request be denied no contract will be awarded. Do not submit proof of insurance with your proposal.

Contract

It is the intent of SHRA to award an initial contract to between one (1) to three (3) firms for each type of service, dependent upon the volume of work, for a period of one (1) year with the option to add four (4) additional one year periods. The additional periods are at the sole discretion of SHRA, based on the firm's performance and SHRA needs. Any consultant contract entered into with SHRA under this solicitation will have a value of less than \$100,000 per year. Prospective firms are advised to review the contract agreement and attachments before submitting their proposals. A sample of the contract is provided as Attachment A (page 9) of this document.

Contact

All questions and requests for clarification concerning the scope of services are to be directed to:

Shelly Amrhein - Environmental Coordinator
(916) 440-1312 (voice)
(916) 448-6558 (fax)
E-Mail: ramrhein@shra.org

Questions concerning Submittal Procedures, Requirements and Selection Process are to be directed to:

Wayne Whitley – Procurement Services Supervisor
(916)-440-1327
(916)-442-6736 - Fax
wwhitley@shra.org

Inquiries regarding any aspect of this RFP must be submitted in writing (letter, e-mail or fax). Written replies to all inquiries will be furnished to all firms that have requested the RFP document from Procurement Services. Procurement Services will maintain a list of all firms that have requested and received the RFP document. SHRA will not be responsible for oral or other explanations / interpretations of the RFP document or procedures. If it becomes necessary to revise any part of this RFP, an addendum to the RFP will be issued to all firms that have received the RFP document.

Submission Procedures, Requirements and Selection Process

Time and Place for Submission of Qualifications

Firms interested in providing the services requested in this RFP shall closely examine the specific requirements and selection process and submit six (6) bound copies and one (1) electronic copy of their qualifications to:

Sacramento Housing and Redevelopment Agency
RFP # 2010020-WW
Attn: Wayne Whitley – Procurement Services – 2nd Floor
801 12th Street
Sacramento, CA 95814

All submittals must be received no later than 2:00 P.M. on, Thursday, May 20, 2010. If the submittal is late, incomplete, or lacking in the number of copies required, that firm, at the option of SHRA, may be eliminated from consideration. Postmarks, e-mails, and faxes will not be accepted.

Qualifications Submittal Format and Requirements

The Statement of Qualifications may not exceed 16 pages; exclusive of your cover letter and any folder or cover. Number each page. Brevity is encouraged; however, be sure to fully address each item listed below as part of your RFP submittal. To facilitate review by the Selection Committee, please submit information in accordance with the following format, identifying each item, in order, by the appropriate number.

- I. A cover letter introducing your firm, printed on the firm's letterhead, summarizing the firm's qualifications and interest in working with SHRA. Executed by an authorized signatory of the firm. Please specify in the cover letter which service(s) (CEQA, NEPA, and/or NHPA related) the firm would be able to provide. Individual firms may submit for all three service areas; however, SHRA expects some firms to submit for one or two of the areas only. There will be no preference given to firms based upon the number of services that would be provided.
- II. Each firm should prepare a conceptual scope of work and common timeline for each level of the Environmental Review and/or Section 106 processes, depending upon the service(s) for which the firm is submitting.
- III. Current Rate Schedule or Schedule of Fees for Environmental Services
- IV. Print out, complete and submit as part of your proposal Attachment D – Certifications and Representations of Offerors – HUD Form 5369-C (pages 33 & 34).
- V. Statement of Qualifications
 - A. Identification of Environmental Consultant Team, including the person(s) to be the main point of contact with the SHRA and specific qualifications of each individual;
 - B. Experience with previously stated environmental service(s) (firms submitting for NEPA services should include experience specific to HUD projects);
 - C. Firm's expertise in conducting additional studies and preparing additional documentation that may be required as part of the environmental review process, including but not limited to, air quality analyses, acoustical analyses, biological surveys, and archaeological investigations;
 - D. List of recent relevant projects (limited to the past five years); and
 - E. A minimum of three client references, with an emphasis on public sector projects. The client references shall include the name of the organization, contact person, address, and telephone numbers. We plan to contact the references provided as part of the selection process.

Selected firms will have proven experience and management skills in most of the following areas of environmental assessment (including sub-consultants) including but not limited to:

- Developing a cost-effective approach for addressing a project's special needs;
- Meeting or exceeding federal, state and local environmental compliance regulations and/or standards.

Firms submitting for historic consultation services must indicate how staff qualifies under the Secretary of the Interior's Standards.

SHRA understands that from time to time consultants require the service of subcontractors for specific studies. Please provide us with a list of subcontractors that you regularly work with and their area of expertise and/or the types of services they normally provide your firm.

Selection Process

1. Based upon information provided during this process the Selection Committee will select the most qualified firms for these services.
2. A Selection Committee will be established according to SHRA policy. Members of the Selection Committee will be provided copies of each submittal received. Each member will evaluate each submittal individually.
3. In order of priority, the written submittals will be evaluated based upon the following:
 - Relevant experience with CEQA related services, NEPA related services (specifically related to HUD funded projects), and/or Section 106, depending upon the service(s) for which the firm is submitting;
 - Qualifications of the firm and its team members;
 - Experience in conducting additional studies and preparing additional documentation (such as air quality analyses, acoustical analyses, biological surveys, and archaeological investigations), or quality of experience of sub-consultants that would prepare these studies;
 - Recommendations of past clients;
 - Quality of Submittal Package; and
 - Schedule of Fees
4. Review of the submittals will follow the submittal deadline. It is anticipated that the Selection Committee will rank the firms and make the final selection directly from the written submittals. However, SHRA reserves the right to request clarifications or additional information from any or all firms. Additionally, if deemed necessary and at the sole discretion of the Selection Committee, oral interviews will be scheduled at a later date and final selection made after interviews.

Award of Contract

After the Selection Committee has determined the final rankings, SHRA will begin to negotiate contracts with the top ranked firms in each service category. If the SHRA is unable to negotiate a satisfactory agreement with any of the top ranked firms, it may undertake negotiations with other firms that submitted RFPs, at its discretion. Prospective firms are advised to review the contract agreement and provisions provided with this RFP (Attachment A), before submitting their proposals.

Manner of Payment

Progress payments will be made to the selected firms based on the hours of work completed during the course of the contract and out-of-pocket expenses incurred in accordance with the firm's cost proposal. Interim billing shall cover a period of not less than a calendar month.

SHRA Rights, Options, and Policies

1. SHRA reserves the right to decide that one or more firms are more responsive than the others and to select after review of the written submittals only.
2. SHRA reserves the right to reject any and all submissions, request additional information, or issue additional requirements throughout the selection process. It is the responsibility of the consultant to verify that all necessary information is submitted by the due date.
3. SHRA reserves the right to modify any portion, postpone or cancel this RFQ at any time, and/or reject any and all submissions without indicating any reason. No submission documents will be returned.
4. SHRA reserves the right to reject individual team members, firms, and request substitution without indicating any reason prior to contract award.
5. SHRA highly encourages participation by local qualified firms and contractors in all aspects of consultant contracting unless the project requires unusual or highly specialized services.
6. SHRA actively encourages participation of small, minority and women owned business enterprises in all aspects of contracting.
7. No compensation is offered for any work related to this selection process. Submissions are entirely voluntary. All original documents including electronic files become the property of SHRA. If any submission is late or incomplete in any way, that team will be eliminated from consideration.
8. Materials contained in each proposal will be considered proprietary until selection. Following selection, however, the contract scope of work may be amended by SHRA and negotiated based upon ideas provided by any source.
9. In accordance with federal and state laws, SHRA does not discriminate on the basis of race, color, national origin, gender, sexual orientation, religion, age, veteran's status or disability in the provision of services.
10. Procured consultants / contractors will not be considered SHRA personnel and SHRA assumes proposal of certain personnel to be a statement of their availability to do the work.

11. SHRA reserves the right to select more than one respondent, to select a respondent(s) for specific purposes or for any combination of specific purposes, and to defer the selection of any respondent(s) to a time of SHRA's choosing.

ATTACHMENT A

SAMPLE CONTRACT

Effective Date:	VOID
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AS OF THE ABOVE-WRITTEN "EFFECTIVE DATE", AND IN CONSIDERATION OF THEIR MUTUAL OBLIGATIONS, THE AGENCY AND CONTRACTOR (DEFINED BELOW) ENTER INTO THIS "CONTRACT" AND AGREE AS FOLLOWS:

1. "Agency" is/are the following selected agency/agencies, which are public bodies, corporate and politic, and which has/have the address of 630 I Street, Sacramento, California 95814:

SELECT	Agency	
	☒ Redevelopment Agency of the City of Sacramento	☒ Redevelopment Agency of the County of Sacramento
	☒ Housing Authority of the City of Sacramento	☒ Housing Authority of the County of Sacramento
	☒ Sacramento Housing and Redevelopment Agency	

2. "Contractor" and Contractor's name and address for its principal place of business are the following:

Name	
Address	

Contractor is the following legal entity (select one):

☐ Sole Proprietor/Individual(s)	☐ Corporation	☐ Nonprofit Corporation	☐ General Partnership
☐ Limited Liability Company	☐ Limited Liability Partnership	☐ Limited Partnership	☐ Other:

Contractor is organized in (select one):

☐ California	
☐ in the following state and is licensed to do its business in California	

3. "Funding Source" is the source of funding that the Agency is using to pay the Contract payments. Contractor must comply with all requirements of the Funding Source, and each of them. Agency will cooperate with Contractor in determining the applicable requirements of the Funding Source. The Funding Source is :

FUNDING SOURCE (PROGRAM FUNDING)	AMOUNT
☐ Federal ☐ State ☐ Local	
☐ Federal ☐ State ☐ Local	

4. "Attachments" for this Contract are the following, which are incorporated in this Contract as if included in full in the body of this document:

ATTACHMENT NO.	DESCRIPTION OF ATTACHMENT (Attachments marked N/A or stricken are not included)
1	Attachment 1: Contract Provisions (This Contract is <i>invalid</i> without the Contract Provisions attachment)
2	Attachment 2 Federal Requirements (If the Funding Source(s) is federal, this Contract is invalid without the "Federal Requirements Attachment".

Unless expressly stated otherwise, the Attachments shall supersede any provisions of this Contract with which they conflict.

5. "Scope of Work" for this Contract is the following [This contract is *invalid* unless this section is completed. It *cannot be completed with an attachment* unless the attachment is in the same form as the following table, including all categories and tasks.]:

"PERFORMING PARTY"	"TASK/OBLIGATION": AS ASSIGNED BY SHRA	"LOCATION"	"DEADLINE"
Contractor	"COMPLETION DATE": The date for completion of all of Contractor's Tasks/Obligations under this Contract.		
Contractor	"BILLING DATE": Contractor must submit the final bill for all work under this Contract. Agency will not pay bills submitted after the Billing Date		Thirty (30) days after Completion Date
Agency	"FINAL DATE": Agency must make final payment for all bills submitted in accordance with the terms of this Contract.		Thirty (30) days after Billing Date

6. "Contract Price" is the maximum amount that the Agency is required to pay Contractor under this Contract. The Contract Price for this Contract is the following:

CONTRACT PRICE	VOID
-----------------------	-------------

7. "Payment Schedule" for this Contract, by which schedule Agency must make payments under this Contract, is following:

SELECT ONE	DATE, TIME PERIOD OR PERFORMANCE TO BE COMPLETED AS CONDITION OF PAYMENT (Only one payment schedule is selected, the others not selected included):			MAXIMUM AMOUNT OF PERIODIC PAYMENT:
			Date	Amount
	Monthly payments, payable			
	In the amounts and on the dates stated in Attachment ____ Payment			Stated in attachment
	According to the following Schedule of Tasks, periodic payment upon Contractor's completion of each respective task:			
	Task: N/A			Amount
	As billed by Contractor, for work actually performed and services actually provided			According to the fees and rates stated in Attachment
	Allowed Reimbursable Expenses			Maximum Amount
	Expense within maximum limitation			

Contractor shall not be reimbursed for expenses that are not specifically included in the Payment Schedule. Notwithstanding any other provision, reimbursable travel expenses shall not exceed the rates allowed by the Internal Revenue Service Standard Mileage Reimbursement and shall not include expenses for travel within a forty-five (45) mile radius from the Agency's place of business. Notwithstanding any other provision, reimbursable expenses shall not include any pro-rated overhead costs and expenses, facsimile or telecopier charges, copying costs (unless extraordinary and approved in advance by the Agency), courier charges, local and long distance telephone charges, and ordinary office and business supplies.

8. "Special Provisions" are the following provisions or additional recitals, which are a part of the contract only if approved by Agency counsel as indicated by the accompanying initials.

SPECIAL PROVISION	AGENCY COUNSEL
N/A	

THIS CONTRACT IS EXECUTED in Sacramento, California as of the date first above written.

AGENCY:

CONTRACTOR:

By: **VOID**

By: **VOID**

Name:		Name:	
Title:	☐ Executive Director	Title:	
		Tax ID Number:	

☐ Contractor must file a Conflict of Interest Statement with the Agency Clerk, unless this box is checked by the Agency signatory indicating that the Contractor is excluded from filing under the Agency Conflict of Interest Code.

Revised 1204

CERTIFICATION OF AUTHORITY

I certify under penalty of perjury under the laws of the State of California that I am fully authorized to execute the attached document for Contractor in the capacity I have stated, and that such execution is sufficient to bind the Contractor. Executed in _____, California, on _____.

Contractor's Signatory

VOID

Contract Attachment 1

Contract Provisions

1. **CONTRACT CONTENTS, PRECEDENCE AND DEFINITIONS.** This Contract consists of this Contract document and all of the Attachments named in this Contract. Except for matters required by law or expressly stated otherwise, the provisions of the attachments supersede any provisions of the body of this Contract with which they conflict. Unless otherwise defined in this Attachment 1, capitalized terms shall have the definitions stated in this Contract.

2. **SCOPE OF WORK.** Notwithstanding the wording of the Scope of Work, unless a Task/Obligation is expressly described in the Scope of Work as one that is not mandatory, each Task/Obligation described in the Scope of Work is the mandatory obligation of the Performing Party, and it must be completed on or before its respective Deadline. As the context indicates the Task/Obligation must be performed at or delivered to the Location stated in the Scope of Work.

3. **CONTRACT TERM AND TIME OF PERFORMANCE.** The "Contract Term" shall begin on the date of this Contract and shall end at 5:00 p.m. on the Final Date or upon completion of all services, whichever shall first occur. The Final Date is the date for completion of all obligations of the parties under this Contract.

a) Certain of the Contract requirements, as expressly stated in this Contract, shall survive the completion or termination of this Contract.

b) The Contractor acknowledges that Contractor is not entitled to compensation for any work done or costs incurred prior to the date of this Contract or subsequent to the Completion Date. This contract cannot be revived, amended or extended by agreement made after the Final Date.

4. **COMPENSATION, REIMBURSEMENT AND METHOD OF PAYMENT.** Notwithstanding any other provision of this Contract, the parties agree that the total compensation and reimbursement for all services and expenses required during the term of this Contract shall not exceed the Contract Price. Agency shall pay the Contractor in the amounts and at the times specified in the Payment Schedule. Agency is not obligated to make any payment under this Contract for work Contractor has not yet performed or goods not delivered. Agency is not obligated to make any payment under this Contract for so long as Contractor is in material default of this Contract. Except as specified in writing in this Contract, Agency is not obligated or liable under this Contract to any party other than the Contractor.

5. **INSURANCE COVERAGE REQUIREMENTS.** During the Contract Term, Contractor must maintain the following insurance coverage from insurance providers licensed to do business in California and having an industry rating that is reasonably acceptable to Agency. Failure to maintain the required insurance is a material breach of this Contract. Before beginning any work under this Contract, Contractor must provide Agency with certificates of insurance or copies of the insurance policies demonstrating the required coverage, and the required endorsements naming Agency as an additional insured. Contractor must assure that such certificates and endorsements are in a form reasonably acceptable to the Agency and reflect fulfillment of all of the requirements of this Contract. Contractor must assure that the coverage afforded under the policies can only be canceled after thirty (30) days prior written notice to the Agency of the pending cancellation. Contractor must mark such notice to the attention of the Agency's Procurement Services Office at the following address:

SACRAMENTO HOUSING & REDEVELOPMENT AGENCY
320 Commerce Circle – Procurement Services (PS)
Sacramento, California 95815

a) The required insurance coverage is the following: (i) One Million Dollars (\$1,000,000) or more of comprehensive general liability coverage including, without limitation, coverage for contractual liability, public liability and property damage and having a deductible of Twenty-five Thousand Dollars (\$25,000) or less; (ii) if motor vehicles are used in connection with this Contract, Three Hundred Thousand Dollars (\$300,000) or more of automobile liability coverage having a deductible of Five Thousand Dollars (\$5,000) or less; and statutory limits or more of workers compensation coverage for all employees of Contractor and all others doing Contract work. The general liability and automobile policies shall be endorsed to name the Agency as an additional insured.

b) Contractor is in material breach of this Contract for so long as Contractor fails to maintain all of the required insurance. Agency has the right, but not the obligation, to pay any delinquent insurance premiums and any other charges to reinstate or maintain the required insurance policies and coverage. Upon Agency's demand, Contractor must immediately

reimburse Agency for any and all costs incurred by Agency in so obtaining or maintaining insurance. If Agency does incur such costs, Agency shall have the right to withhold such amount from any payment due to Contractor under this Contract and to reduce the compensation payable to Contractor under this Contract by such amount.

6. BILLING PROCEDURES AND CONDITIONS. Agency must make the payments due under this Contract, as provided in Part I, subject to the following provisions.

a) Agency must pay the Contract Price to Contractor for performance of Contractor's obligations under this Agreement, or so much of the Contract Price as may be due for services actually performed and materials actually supplied by Contractor under this Contract. Agency must make such payments within thirty (30) days following delivery by Contractor to Agency of invoices stating the amount then due and specifying the services performed for which payment is due. Agency is not required to make such payment more frequently than specified as the Time for Payment. Contractor will not be paid for expenses or overhead as separate items of cost unless such items are specifically listed in the Payment Schedule, and then not to exceed the amounts so provided. In any event, Agency is not required to pay Contractor a total amount for goods, services and expenses which exceeds the Contract Price.

b) Contractor may make requests for payment, after the Completion Date and through the Billing Date, for services performed or materials provided to the Contract work on or before the Completion Date. The Agency shall make payments due under this Contract on or before the Final Date.

c) As a condition for payment, Contractor must submit billing statements, in duplicate, not less than ten (10) business days before the date of a requested payment. Such billing statements shall specify the dates on which the work was performed; the nature of the work performed; the percentage of the total work performed; the name of the individual performing each element of the work; the respective hourly billing rates; a list of all expenses for which reimbursement is sought; and the requested payment date.

d) Within ten (10) days following a written request received from Agency, Contractor must provide a bill to Agency for all work done as of the request date. Agency is entitled to make similar requests at intervals of not less than thirty (30) days following the initial request.

7. INDEMNIFICATION. Contractor shall indemnify, save harmless and defend the Housing Authority of the City of Sacramento, the Housing Authority of the County of Sacramento, the Redevelopment Agency of the City of Sacramento, the Redevelopment Agency of the County of Sacramento, the Sacramento Housing and Redevelopment Agency, the City of Sacramento and the County of Sacramento, their respective officers, directors, commissioners, advisory committee members, agents, and employees from liability, claims, demands, attorney's fees or litigation and related costs, including without limitation, court costs and investigator, witness, arbitrator and mediator fees, for any and all injury or damages to persons including hired independent contractors or property, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and its officers, employees or agents.

Agency shall indemnify, defend and save harmless the Contractor, its officers, agents and employees from liability, claims, demands, attorney's fees or litigation and related costs, including without limitation, court costs and investigator, witness, arbitrator and mediator fees, for any injury or damages to persons or property directly related to this Contract and directly caused by the negligence, recklessness, or willful misconduct of Agency, or of its officers, employees, or agents acting within the scope of their authority.

8. NO WAIVER OF RIGHTS AND REMEDIES. Agency's failure, at any time, to object to any breach of covenant or obligation, to any failure of performance, or to any other default on the part of the Contractor shall not constitute a continuing waiver of subsequent breaches or defaults. Agency's making of any payment to the Contractor shall not, under any circumstances, be considered as a waiver by Agency. Agency's making of any payment while any breach or default by Contractor exists shall in no way impair any right or remedy available to Agency related to such breach or default, including without limitation, the right to withhold future payments.

9. HIRING OF OTHERS. Unless consultants, specialists, experts or other third parties are listed in the Scope of Work, Contractor must not employ any of them or incur any obligation to pay any of them for services performed under this Contract without the prior written approval of Agency. Agency's written approval shall not create any obligation of the

Agency with regard to any such third party. Contractor has no authority to, and must not purport to, employ, hire or contract with any such third party as agent of the Agency or otherwise on behalf of Agency.

10. TERMINATION OF CONTRACT FOR CAUSE. If either party fails to fulfill its obligations under this Contract in a timely and proper manner or violates any of the covenants, agreements, or stipulations of this Contract, and if such failure or violation is material and substantial, the other party shall have the right to terminate this Contract by written notice to the defaulting party.

a) If Contractor defaults and Agency terminates the Contract, all finished or unfinished work, products, documents, electronic media, data, studies, artwork, renderings, models, software programs, and reports prepared by Contractor under this Contract shall, at the option of Agency, become property of the Agency, upon payment to Contractor of just and equitable compensation for such work which is completed and which is reasonably satisfactory to Agency. Agency's exercise of its option to own such properties does not relieve Contractor of liability to Agency for damages on account of Contractor's default, and Agency may withhold any payments to Contractor for the purpose of setoff until such time as the exact amount of damages due Agency from Contractor is determined.

b) If Agency defaults and Contractor terminates the Contract, upon Contractor's submission of the billings and receipts required by this Contract, Agency must pay to Contractor an amount which bears the same ratio to the total compensation under this Contract as the services actually performed by Contractor bear to the total services of Contractor covered by this Contract, less payments of compensation previously made. (By way of example if the work is eighty percent complete, Agency must pay eighty percent of the compensation less any amounts previously paid for the work.) In addition, Agency must reimburse Contractor for all unreimbursed expenses that are reimbursable under this Contract upon Contractor's submission of the billings and receipts required by this Contract for reimbursement. If less than fifty percent (50%) of the services covered by this Contract have been performed as of the termination date, Agency must also pay Contractor for that portion of the actual out-of-pocket expenses incurred by Contractor during the Contract period which are directly attributable to the uncompleted portion of the services covered by this Contract.

11. TERMINATION FOR CONVENIENCE OF AGENCY. Agency may terminate this Contract, at any time and without cause, by a notice in writing from Agency to Contractor. Upon such termination, Agency must pay Contractor the same amounts as Agency would have paid under Section 10.b) as a termination for Agency default.

12. CHANGES. Agency may, from time to time, request changes in the Scope of Work to be performed by Contractor. Such changes, including any increase or decrease in Contractor's compensation, must be by written amendment to this Contract executed in advance by Agency and Contractor.

13. PERSONNEL, FACILITIES AND EQUIPMENT. Contractor represents that he has, or will, secure at his own expense all personnel, facilities and equipment required in performing the services under this Contract. Such personnel must not be Agency employees or have any contractual relationship with Agency, except with Agency's prior written approval.

a) All the services required under this Contract will be performed by Contractor or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.

b) No person who is serving sentence in a penal or correctional institution shall be employed on work under this Contract.

14. SUBCONTRACTING. Contractor must not enter into any subcontract for performance of the services covered by this Contract without the prior written consent of Agency. In any event, Contractor shall be as fully responsible to Agency for the acts and omissions of his subcontractors and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him. In any event, Contractor must insert in each subcontract appropriate provisions requiring compliance with the labor standards provisions, insurance and other relevant provisions of this contract.

15. EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS. During the performance of this Contract, Contractor agrees as follows:

a) Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by Agency setting forth the provisions of this nondiscrimination clause.

b) Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

16. INTERESTS OF OFFICIALS. No member of the governing body of Agency, and no other officer, employee or agent of Agency who exercises any functions or responsibilities in connection with the carrying out of the project to which this Contract pertains, shall have any personal interest, direct or indirect, in this Contract. No member of the governing body of the locality in which the project is situated, and no other public official of such locality, who exercises any functions or responsibilities in the review or approval of the carrying out of the project to which this Contract pertains, shall have any personal interest, direct or indirect, in this Contract. If federal funds are expended by the Agency for this Contract, no member of or delegate to the Congress of the United States, and no Resident Commissioner, shall be admitted to any share or part of this Contract or to any benefit arising from this Contract. Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, in any portion of the project to which this Contract pertains, or any other interest which would conflict in any manner or degree with the performance of his services under this Contract. Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed by Contractor.

17. CONFLICTS OF INTEREST STATEMENT. Contractor shall, upon Agency request, complete and submit a conflict of interest statement to the Agency in form approved by the Agency.

18. MONITORING AND REPORTING. Agency may monitor the adequacy of Contractor's performance in any manner which Agency deems most effective. Contractor must cooperate with Agency in such monitoring. If requested by the Agency staff, in writing, Contractor must provide Agency with detailed reports outlining the most current status involving all Agency activities and projects being handled by Contractor. Such reports may be required no more often than monthly. Agency shall have the right to audit such reports, including the right to review all records of Contractor related to such reports.

19. OWNERSHIP OF PROFESSIONAL AND TECHNICAL INFORMATION. All professional and technical information, in the form of original designs, drawings, data, computations, specifications, report texts, estimates, writings, artwork, renderings, models, software programs, and any other material, data and information collected or developed in connection with the work under this Contract, and all original documents shall be forwarded to and become the sole property of Agency. Neither Contractor nor any of its associates or consultants shall have any rights or interest in such information, documents and material. Contractor and its associates and consultants may retain such copies or reproductions, at their expense, of the original documents as necessary for their files, records and reference.

20. NO INTELLECTUAL PROPERTY RIGHTS OR ARTIST'S RIGHTS IN CONTRACT WORK. In any event, without the prior written approval of the Agency, Contractor and any person or entity acting on behalf of Contractor shall not obtain nor have, and expressly waives, any rights, in law or in equity, in any intellectual property developed in furtherance of this Agreement, including without limitation, copyright, trademark, service mark, patent or rights of an artist in a work of art. Artists preparing any artwork under this Agreement waive any rights to notice or to take any action regarding the use, removal, relocation or destruction of any artwork so prepared. Contractor represents and acknowledges that Contractor has or shall obtain such waivers in writing for all persons or entities doing work under this Agreement

21. COMPLIANCE WITH LAWS. Contractor must comply with all applicable laws, ordinances and codes of the federal, state and local governments, and must commit no trespass on any public or private property in performing any of the work embraced by this Contract.

22. **ASSIGNABILITY.** Contractor is prohibited from assigning and waives all rights to assign or transfer any interest in this Contract without the prior written approval of Agency. Any purported assignment of any of Contractor's rights and obligations under this Contract without the prior written consent of the Agency is a breach of this Contract.
23. **AGENCY COOPERATION.** Agency will reasonably cooperate with Contractor regarding this Contract. As and when requested by Contractor, Agency will furnish to Contractor any and all pertinent information which Agency may possess during the time of performance of Contractor's duties under this Contract.
24. **CONFIDENTIALITY.** All information prepared or assembled by the Contractor under this Contract is confidential. Contractor must not make this information available to any individual or organization without the prior written approval of Agency. Contractor must immediately forward to Agency all requests for information related to this Contract made by a third party to Contractor. Contractor must not disclose or permit the disclosure of any confidential information of the Agency, except to its agents, employees and other consultants, approved by Agency, who need such confidential information for the proper performance of their duties related to this Contract or on behalf of the Agency.
25. **CONTRACTOR'S STATUS.** Contractor for all purposes under this Agreement is an independent Contractor and must maintain any and all licenses required by law for the performance of Contractor's obligations under this Contract. Except as expressly stated in this Contract, Agency is prohibited from directing the methods of Contractor's work under this Contract, requiring Contractor's use of an Agency office for Contractor's performance or setting regular working hours for Contractor or Contractor's employees.
26. **CONTRACT CONSTRUCTION AND ENFORCEABILITY.** The existence, validity, construction and operation of this Contract, and all its representations, terms and conditions shall conform to the laws of the State of California, exclusive of its conflicts of law rules. Throughout this contract, the use of singular and plural forms, or the various gender forms, shall each include the other as the context may indicate. If any provision of this Contract is held in whole or in part to be unenforceable for any reason, the remainder of that provision and the entire Contract will be severable and remain in effect.
27. **NOTICES.** Any notices, bills, invoices, or reports required by this Contract shall be sufficient if sent by the parties in the United States mail, postage paid, to the address of the other party as indicated in this Contract.
28. **ENTIRE CONTRACT.** This Contract contains the entire agreement of the parties. No other agreement, statement or promise made on or before the date of this Contract will be binding on the parties. No changes to this Contract are valid unless they are made by written amendment duly executed by the parties.
29. **VENUE.** Unless otherwise agreed in writing by the parties, the venue for all actions related to this Contract is Sacramento County, California

ATTACHMENT 2: CDBG AND OTHER FEDERAL REQUIREMENTS

The following provisions shall be applicable to this Contract and binding on Subrecipient and Agency only if all or part of the funds to be paid for work performed under this Contract are provided under the Community Development Block Grant Program administered by the United States Department of Housing and Urban Development. In the event of a dispute as to the applicability of any of the following provisions to Subrecipient's work under this Contract, Agency's determination shall be final.

DEFINITIONS. For purposes of this Contract and in addition to definitions made elsewhere in this Contract, the following capitalized words and phrases contained in this Contract shall have the following meanings:

The "Act" is the federal Housing and Community Development Act of 1974, as amended.

"CDBG" is the federal Community Development Block Grant program administered by HUD. "CFR" is the Code of Federal Regulations.

The "CDBG Requirements" are the laws, rules and regulations (other than the Act) which are specifically applicable to this Contract. A substantial portion of the Federal Requirements included in this Attachment 2.

"Contract Provisions" refers to "Attachment 1: Contract Provisions". This Attachment 2 contains the provisions common to all Agency administered CDBG agreements.

"Exhibits" to this Attachment 2 contain a substantial portion of the Federal Requirements, and are incorporated into this Contract in the form of a Compact Disc (CD). Subrecipient acknowledges receipt of the CD by initialing here: ____ The Exhibits include the following:

- I. Exhibit 1 – CDBG Regulations: 24 CFR 570 et seq.
- II. Exhibit 2 – Requirements for Nonprofit Subrecipients. 24 CFR 84
- III. Exhibit 3 – OMB Circular A-110; Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations [*applies only to Subrecipients who are not a state or local government or a public agency*]
- IV. Exhibit 4 – OMB Circular A-122; Cost Principles for Nonprofit Organizations [*applies only to Subrecipients who are not a state or local government, a public agency or an educational institution*]
- V. Exhibit 5 – OMB Circular A-133; Audits of Institutions of Higher Education and Other Nonprofit Organizations [*applies only to Subrecipients who are not a state or local government or a public agency*]
- VI. Exhibit 6 – OMB Circular A-21; Cost Principles for Educational Institutions [*applies only to Subrecipients who are an educational institution*]
- VII. Exhibit 7 – OMB Circular A-87; Principles for determining Costs Applicable to Grants and Contracts with State, Local and Federally-Recognized Tribal Indian Governments [*applies only to Subrecipients who are a state or local government, a public agency. 2 CFR Part 225*]
- VIII. Exhibit 8 – Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 24 CFR 85
- IX. Exhibit 9 – New Restrictions on Lobbying. 24 CFR 87
- X. Exhibit 10 – Federal Labor Standards Provisions; 29 CFR 5.5
- XI. Exhibit 11 – Executive Order 12432 – M/WBE

- XII. Exhibit 12 – Executive Order 12138 – M/WBE
- XIII. Exhibit 13 – Executive Order 11625 – M/WBE and Agency-assembled M/WBE material
- XIV. Exhibit 14 – Executive Order 11246, as amended – Equal Opportunity
- XV. Exhibit 15 – Executive Order 13166 – Limited English Proficiency Access
- XVI. Exhibit 16 – Annual Reports

“HUD” is the United States Department of Housing and Urban Development.

“OMB” is the federal Office of Management and Budget.

“Subrecipient” is the Contractor as defined elsewhere in this Contract.

“Program Income” is defined in 24 CFR 570.500(a). Generally, Program Income is income to Subrecipient that is generated from the use of CDBG funds under this Contract. Program Income may include, without limitation, proceeds of the sale, rent or lease of real or personal property acquired with such CDBG funds, principal and interest payments on loans of such CDBG funds, and interest earned on other Program Income.

“Project Funds” are the funds to be paid to Subrecipient under this Contract. All Project Funds are funds disbursed to the Recipient and Agency under the CDBG Program.

“Quarterly Reports” are the reports required to be submitted by Subrecipient under Attachment 2 Exhibit 14 - Quarterly Reports.

FINDINGS AND REPRESENTATIONS. This Contract has been made for the following purposes and based upon the following representations of the parties:

In accordance with the provisions of California Government Code Section 53703, Agency possesses full powers for the purpose of administering the expenditure of funds received under the federal Housing and Community Development Act of 1974, as amended, Community Development Block Grant program, administered by the United States Department of Housing and Urban Development.

Agency has determined that the fulfillment of Subrecipient’s obligations under this Contract serves the purposes of community improvement and welfare.

Pursuant to the provisions of California Government Code Section 53703 and after public hearing, Subrecipient has been allocated CDBG funds for the uses and activities of this Contract.

Agency and Subrecipient are subject to all laws, rules and regulations regarding the use of CDBG funds for the purposes and activities stated in this Contract.

ADDITIONAL RESTRICTIONS ON FUNDS. Subrecipient acknowledges that the funds for this Contract are CDBG funds, the amount of which has been established after public hearing and that Agency has no authority to change the Project Funds except after public hearing and Recipient approval. Therefore, and notwithstanding any other provision of this Contract, the parties agree that the total compensation and reimbursement for all services and expenses required during the term of this Contract shall not exceed the Project Funds. Subrecipient shall provide, from whatever source, all additional funds necessary to fulfill Subrecipient’s obligations under this Contract

If Subrecipient incurs additional expenses or does additional work related to this Contract, Subrecipient shall bear all such costs and expenses unless the Agency has executed a written amendment to this Contract prior to Subrecipient’s having incurred such costs and expenses.

Subrecipient shall use proceeds of this Contract only for the purposes stated in this Contract, as described in the Scope of Work, and strictly in compliance with all applicable laws, rules and regulations.

If Subrecipient is not a state or local government, educational institution or public agency, Subrecipient shall fully comply with the regulations, policies, guidelines and requirements of OMB Circular No. A-122 and applicable provisions

of OMB Circular No. A-110 (specifically including Attachments A "Cash Depositories" except Paragraph; B "Bonding and Insurance"; C "Retention and Custodial Requirements for Records" except the starting date for the retention period; F "Standards for Financial Management Systems" except the provisions of paragraph 2(h) superseded by OMB Circular A-133; H "Monitoring and Reporting Program Performance" paragraph 2; N "Property Management Standards" with modifications to paragraphs 6 and 7 regarding sale or retention of personal property; and O "Procurement Standards") and 24 CFR 85 as outlined in 24 CFR 570.502 (a) as they relate to the application, acceptance, and use of federal funds. If Subrecipient is a state or local government or a public agency, Subrecipient shall fully comply with the regulations, policies, guidelines and requirements of OMB Circular No. A-133 and OMB Circular No. A-87. Educational institutions shall comply with Circular A-21, A-133 and applicable provisions of OMB Circular No. A-110.

Subrecipient shall deposit any advance under this Contract in an interest bearing account and, unless specified otherwise in this Contract, shall remit any interest earned over \$100 to the Agency.

Project Funds shall not be used for any religious purposes, which prohibition is further described in 570 CFR 200(j).

In the event of suspension or termination of this Contract, Subrecipient shall return unused funds to the Agency in accordance with 24 CFR 570.503(b)(7). If the Subrecipient improperly retains funds, the Agency may retain funds from future disbursements to the Subrecipient in accordance with the procedures described in 24 CFR 570.504 (b) (2). In accordance with 24 CFR 85.43, suspension or termination may occur if Subrecipient materially fails to comply with any term of the award, and the award may be terminated for convenience in accordance with 24 CFR 85.44.

RETURN OF PROGRAM INCOME. Subrecipient shall report receipt of all Program Income and return all Program Income to the Agency.

ANTI-KICKBACK RULES. Monthly, or more often, Subrecipient must, without condition, pay the salaries of architects, draftsmen, technical engineers and technicians performing work under this Contract. Such payments shall be made without deduction or rebate, excepting only such payroll deductions as are mandatory by law or permitted by applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1937 (48 U.S.C. 948; 62 U.S.C. 740; 63 U.S.C. 108; 18 U.S.C., Section 874; and 40 U.S.C., Section 276(C)). Subrecipient shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Contract to insure compliance by subcontractors with such regulations. Subrecipient shall be responsible for the submission of affidavits required of subcontractors under this Contract, except for such variations or exemptions as the Secretary of Labor may specifically allow.

WORK HOURS. Subrecipient must comply with the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) and must cooperate with Agency in implementing and enforcing the provisions of such Act. Among other requirements of the act, Subrecipient must pay not less than one and one-half times the basic rate of pay for the work of Subrecipient's employee in excess of eight hours in one day or forty hours in one week in the performance of this Contract. Subrecipient must insert appropriate provisions in all subcontracts covering work under this Contract to insure compliance with such Act. Subrecipient must meet and cooperate with Agency's Labor Compliance officer to assure compliance with such Act.

WITHHOLDING OF SALARIES. If, in the performance of this Contract, there is any underpayment of salaries by Subrecipient or by any subcontractor, Agency must withhold from Subrecipient out of payments due to him any amount sufficient to pay employees underpaid the difference between the salaries required under this Contract to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by Agency for and on account of Subrecipient or subcontractor to the respective employees to whom they are due.

CLAIMS AND DISPUTES PERTAINING TO SALARY RATES. Claims and disputes pertaining to salary rates or to classification of architects, draftsmen, technical engineers and technicians performing work under this Contract must be promptly reported in writing by Subrecipient to Agency for the latter's decision which shall be final with respect thereto.

9. EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS.

a) Subrecipient will send to each labor union or representative of workers with whom he has a collective bargaining agreement or other contract or understanding, a notice to be provided by Agency, advising the labor union or workers representative of Subrecipient's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

b) Subrecipient will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

c) Subrecipient will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

10. CONFLICT OF INTEREST. No member, officer or any employee of Subrecipient, or its designees or agents, who exercises any functions or responsibilities with respect to the program during his tenure or for one (1) year thereafter, shall have an interest, direct or indirect, in any contract or its proceeds, for work to be performed in connection with the program assisted under this Contract. Subrecipient must incorporate, or cause to be incorporated, in all subcontracts a provision prohibiting such interest pursuant to the purposes of this Section. In the procurement of supplies, equipment, construction, and services by Subrecipient, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, shall apply.

11. DISCRIMINATION BECAUSE OF CERTAIN LABOR MATTERS. No person employed on the work covered by this Contract shall be discharged or in any way discriminated against because he has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable to his employer under this Contract.

12. RECORDS AND MONITORING. Subrecipient must keep all necessary books and records, including loan documentation and financial records, in connection with the operation and services performed under this Contract, in accordance with the provisions of OMB Circular No. A-102 Attachment G (as amended), and must document all transactions so Agency may properly audit all expenditures made pursuant to this Contract. Subrecipient must maintain and preserve all records related to this Contract in its possession for a period of three (3) years from the effective date of this Contract, unless otherwise directed by Agency. All books, records and accounts kept by Subrecipient in connection with the performance of this Contract shall be made available for inspection by representatives of the federal government and/or Agency staff as required to monitor or audit the program.

In addition to the reports specified in this Contract, Subrecipient shall retain the records required by the applicable provisions of 24 CFR 570.506 and provide the Agency with the reports required pursuant to 24 CFR 570.507, and such other records and reports as the Agency may reasonable require in the administration of this Contract. Subrecipient shall keep all other necessary books and records, including property, personnel, loan documentation and financial records, in connection with the operation and services performed under this Contract, in accordance with the provisions of OMB Circulars No. A-102, A-110 and A-122, and Executive Order 11246 and 24 CFR 85.42. Subrecipient shall conduct annual audits in accordance with OMB Circular A-133 (as set out in 24 CFR Part 45). Subrecipient shall document all transactions sufficiently for Agency to properly monitor and audit all expenditures made pursuant to this Contract.

13. DRUG FREE WORKPLACE. Subrecipient must comply with the Drug-Free Workplace Act of 1988 (final rule published on May 25, 1990) and Agency's policies and rules promulgated under the Act. Subrecipient must obtain such policies and rules from the Agency.

14. RESTRICTIONS ON LOBBYING; FILING CERTIFICATION AND DISCLOSURE FORMS. Subrecipient shall not use any funds paid under this Contract, directly or indirectly, for any political activity, whatsoever or to influence any public official or employee. In any event, Subrecipient shall comply with the restrictions on lobbying stated in 24 CFR Part 87. Subrecipient shall sign and return to the Agency the certification described in 24 U.S.C.F.R. 87, Appendix A and the disclosure form described in 24 CFR Part 87, Appendix B. Subrecipient shall require any person receiving proceeds of this Contract from Subrecipient to comply with 24 CFR Part 87, including the submission to Agency of completed certifications under Appendix A and disclosure forms under Appendix B.

15. ELIGIBILITY AND NON-DISCRIMINATION (SECTION 109). Subrecipient shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, color, religion, sex, national origin, ancestry, or physical or mental handicap, or age as more specifically set forth in 24 CFR 570.602 which requires compliance with Section 109 of the Act (42 USC 5301) and Section 504 of the Rehabilitation Act of 1973.

16. CIVIL RIGHTS COVENANT. As provided in 24 CFR 570.600 and 570.601, and depending upon the type and nature of the grant of CDBG funds, this Contract may be subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) and HUD regulations. Subrecipient certifies that its

activities under this Contract shall be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) and that it will comply with the other provisions of Title 24 of the CFR and with other applicable laws, to the full extent of their application. Further pursuant to Executive Order 11063 (as amended pursuant to Executive Order 12259) set out in 24 CFR Part 107, in the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under the Contract, Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination upon the basis of race, color, religion, sex, or national origin, in the sale, lease or rental, or in the use or occupancy of such land or any improvements erected or to be erected thereon, and providing that the Agency and the United States are beneficiaries of and entitled to enforce such covenant. Subrecipient, in undertaking its obligation in carrying out the program assisted hereunder, shall take such measures as are necessary to enforce such covenant and shall not itself so discriminate.

17. MINORITY/WOMEN'S BUSINESS ENTERPRISES REQUIREMENTS. This Contract is subject to minority and women's business enterprises requirements set forth in Executive Order 12432, Executive Order 11625, and Executive Order 12138. Subrecipient shall take all reasonable steps necessary to encourage the participation of minority and female owned businesses in work under this Contract.

With regard to any work of construction funded with Project Funds, such steps may include, without limitation, the following:

Obtaining the minority and Women's Business Enterprises Registry from the Agency MBE/WBE Coordinator to ensure such contractors receive an invitation to bid.

Advertising the invitation to bid or to submit proposals in the El Hispano and the Sacramento Observer as well as in a newspaper of general circulation in the Sacramento metropolitan area.

Reviewing the telephone directory or professional organization membership lists, or making direct contact with minority- or female-owned businesses for specialized trades and services, and inviting such firms to bid.

Subrecipient shall include the Minority and Women's Business Enterprises requirements, in the form prescribed by the Agency, in all contracts for use of funds under this Contract, and Subrecipient shall coordinate purchases of goods and services over \$10,000 with the Agency's MBE/WBE Coordinator.

Subrecipient shall maintain documentation of outreach efforts to minority and/or female owned businesses. Additionally, Subrecipient shall maintain documentation of contract awards for the Quarterly Reports.

18. FLOOD DISASTER PROTECTION. Pursuant to the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4104), Subrecipient shall not use or permit the use of any portion of the assistance provided under this Contract for acquisition or construction purposes as defined by the Director of the Federal Emergency Management Agency (42 USC 4003(a) (4)), for use in an area identified by the Director of the Federal Emergency Management Agency as having special flood hazards unless the community in which such area is located is then participating in the national flood insurance program (described at 42 USC 4011) and the use of any such assistance shall be subject to the mandatory purchase of flood insurance requirements of 42 USC 4012a.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Director as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, 42 USC 7401 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under the Flood Disaster Protection Act of 1973 (42 USC 4012a). Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Contract.

19. COMPLIANCE WITH AIR AND WATER ACTS. This Contract is subject to the applicable requirements of the Clean Air Act (42 USC 7401 et seq.), the Federal Water Pollution Control Act, (33 USC 1251 et seq.), and the corresponding regulations of the Environmental Protection Agency (40 CFR Part 15). In compliance with said regulations, Subrecipient shall cause or require to be inserted in all contracts and subcontracts funded with Project Funds, and with respect to any transaction which is not otherwise exempt from such laws and regulations, all of the following requirements:

A stipulation by the contractor or subcontractor that any facility to be utilized in the performance of the contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.10.

Compliance with all the requirements of Section 114 of the Clean Air Act, (42 USC 7414c-8) and Section 308 of the Federal Water Pollution Control Act, (33 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

A stipulation that, as a condition for the award of the contract, prompt notice shall be given to Agency by Subrecipient or the prospective contractor or subcontractor of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

Contract by the contractor that he shall include or cause to be included the criteria and requirements in this Section 19a. through 19c. of this Section in every non-exempt subcontract and requiring that the contractor shall take such action as the government may direct as a means of enforcing such provisions.

In no event shall any amount of the assistance provided under this Contract be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) (42 USC 7413) of the Clean Air Act or Section 309(c) (42 USC 1319) of the Federal Water Pollution Control Act.

20. RELOCATION. This Contract is subject to the requirements of Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601 et seq.) and HUD implementing regulations at 24 CFR Part 42 and CFR 570.606. Subrecipient shall not undertake any of the work contemplated under this Contract if relocation is involved without first obtaining written approval from Agency. Subrecipient shall inform affected persons of the relocation assistance policies and procedures set forth in the regulations at 24 CFR Part 42 and 24 CFR 570.606.

21. PROPERTY OWNERSHIP AND PROCUREMENT. The Subrecipient, shall, in the acquisition or improvement of real and personal property with funds provided under this Contract, be subject to all applicable provisions of the Federal Requirements.

a) Any real property under Subrecipient's control which was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 must be either used to meet one of the national objectives in 24 CFR 570.208 for five years after the expiration or termination of this Contract, or disposed of in a manner that results in the Agency being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property.

b) General property and procurement guidelines are contained in 24 CFR Part 570 and OMB Circular Number A-133, Attachments N and O (attached hereto and made a part hereof). In all cases in which personal property is sold, the proceeds shall be transferred to Agency for the CDBG program or shall be Program Income, and, personal property not needed by the Subrecipient shall be transferred to Agency for the CDBG program or shall be retained by Subrecipient after compensating the Agency.

c) Real property shall be acquired in accordance with Title III, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (at CFR Part 42).

22. USE OF DEBARRED, SUSPENDED OR PROHIBITED PARTIES. Subrecipient shall not use any Project Funds, directly or indirectly, to award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension or placement in ineligibility status under the provisions of 24 CFR Part 570. Subrecipient will verify that the Federal Debarred List Registry does not include any contractor or subrecipient prior to awarding contracts and that they will record the date that the Registry was consulted. Subrecipient acknowledges this requirement by initialing here:

____ Subrecipient initials

23. DAVIS-BACON ACT AND STATE PREVAILING WAGES. If this Contract is for construction, alteration, or repair (including painting and decorating) of public buildings or public works, Subrecipient must comply with the provisions of the Davis-Bacon Act (40 U.S.C. 276a - 276a-5) and all rules, regulations and orders promulgated under said act, unless a determination of exemption from requirements of the Davis-Bacon Act is made and unless the exemption is expressly stated elsewhere in this Contract. Among other provisions, said act establishes minimum wages and fringe benefits; prohibits deductions or rebates from payments; provides for the withholding of funds to assure compliance with wage provisions; and provides for the termination of the Contract and debarment of the Subrecipient for failure so to comply. Additionally, California State Prevailing wages may apply (Section 1720 et seq. of California Labor Code), in which case prevailing wages shall be the higher of either the Davis Bacon wages or the State prevailing wage, as determined by trade.

Prior to starting Project construction, Subrecipient must obtain the Department of Labor General Wage Decision for Sacramento County. The Bid opening shall serve as the Subrecipient's federally-required ten (10) day call, and serves to lock-in applicable prevailing wages throughout the construction phase.

24. CONSTRUCTION PROVISIONS. Subrecipient shall comply with the provisions of this Section 24 for all activities pertaining to the construction, prosecution, completion or repair of any building or work financed in whole or in part by CDBG funds provided pursuant to this Contract.

25. FEDERAL LABOR STANDARDS. Pursuant to 24 CFR 570.603, for construction, rehabilitation, alteration, or repair of real property (other than residential property containing less than eight units) funded with Project Funds, Subrecipient shall comply, and shall cause all subcontractors on such work to comply, with the applicable provisions of the Davis-Bacon Act, as amended, (40 USC 276a, 276a-5), the Contract Work Hours and Safety Standards Act, as amended, (40 USC 327 et seq.) and all rules, regulations and orders promulgated under said Acts. Among other provisions, said Acts establish minimum wages and fringe benefits; prohibit deductions or rebates from payments; provide for the withholding of funds to assure compliance with wage provisions; and provide for the termination of the contract and debarment of the contractor for failure so to comply. Subrecipient shall also comply, and shall cause all subcontractors on such work to comply, with all other applicable HUD labor requirements, including, without limitation, the requirements of 29 CFR Parts 3 and 5 which govern the payment of wages and the ratio of apprentices and trainees to journeymen. If wage rates higher than those required under such regulations are imposed by state or local law, nothing in this Contract is intended to relieve Subrecipient of its obligations, if any, to require payment of the higher rates. Subrecipient shall cause or require to be inserted, in all such contracts, provisions which subject the parties to the Federal Labor Standards Provision and all other applicable regulations and requirements of HUD. Subrecipient shall not award any contract subject to the provisions of this Section 24.a. of the Contract to any contractor who is at the time ineligible under the provisions of any applicable regulations of the Department of Labor to receive an award of such contract.

26. SECTION 3 CLAUSE. For construction work in excess of \$100,000, Subrecipient shall be subject to the following clause (commonly referred to as the "Section 3 Clause"), and shall cause the following clause to be included in all contracts for work funded pursuant to this Contract:

a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing, residents of the project area, and 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 contract will comply with the provisions of said Section 3 and HUD's regulations in 24 CFR Part 135, which implement Section 3, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with these requirements.

c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under Section 3, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

d) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 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) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

f) Good Faith Effort. The contractor and subcontractors undertaking work in connection with a Section 3 covered project must fulfill their obligation to utilize lower income project area residents as employees to the greatest extent feasible by:

(1) Identifying the number of positions in the various occupational categories including skilled, semi-skilled, and unskilled labor, needed to perform each phase of the Section 3 covered project;

(2) Identifying within the positions described in Subparagraph (f)(i) of this Section, the number of positions in the various occupational categories which are currently occupied by regular, permanent employees;

(3) Identifying the positions described in Subparagraph (f)(i) of this Section, the number of positions in the various occupational categories which are not currently occupied by regular permanent employees;

(4) Establishing for the positions described in Subparagraph (f)(iii) of this Section, a goal which is consistent with the purpose of this subpart within each occupational category of the number of positions to be filled by lower income residents of the Section 3 covered project area; and

(5) Making a good faith effort to fill all of the positions identified in Subparagraph (f)(iv) of this Section with lower income project area residents.

Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

g) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

27. ARCHITECTURAL BARRIERS ACT. Subrecipient shall comply with the Architectural Barriers Act of 1968 (42 USC 4151), as applicable, which Act requires that the design of any facility, except a private residence, that is constructed, renovated, remodeled or rehabilitated with funds received pursuant to this Contract shall comply with the "American Standard Specification for Making Buildings and Facilities Accessible, and Usable by, the Physically Handicapped", as described in 41 U.S.C.F.R. 10119.6, and Subrecipient shall cooperate with the Agency in its inspections pursuant to such provisions.

28. LEAD-BASED PAINT. The use of lead-based paint is prohibited in any residential structure constructed or rehabilitated with Project Funds, which prohibitions are further described in 24 CFR Part 35, Subpart F. For those properties constructed prior to 1978, Subrecipient shall assure that rehabilitation applicants, purchasers or tenants, as the case may be, shall be notified (i) that the property may contain lead-based paint, (ii) of the hazards of lead-based paint, (iii) of the symptoms and treatment of lead-based poisoning (iv) of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards), (v) of the advisability and availability of blood level screening for children under the age of seven years of age, and (vi) that in the event lead-based paint is found on the

property, appropriate abatement procedures may be undertaken. Subrecipient shall follow the procedures for the elimination of lead-based paint hazards, to the extent required under 24 CFR 570.608 (c).

29. OTHER PROGRAM REQUIREMENTS. Agency must provide Subrecipient with all relevant program information regarding the federal programs having jurisdiction over this Contract. Agency must assist Subrecipient in the interpretation of the requirements of such programs. Subrecipient shall be considered to be familiar with the requirements of such programs and shall comply with such requirements.

Attachment B

INSURANCE REQUIREMENTS.

Basic Requirements

Any questions or concerns regarding insurance coverage should be discussed with Procurement Services, General Counsel, or Risk Management. Work should not proceed until insurance issues / concerns are resolved.

During the term of the contract, the vendor must maintain the following insurance coverage from insurance providers licensed to do business in California and having a Best's rating of at least A-VII, or a rating of such other rating service as the Agency, in its sole discretion, shall require.

1. Commercial General Liability – A policy of comprehensive general liability insurance which shall include, without limitation, coverage for contractual liability, public liability and property damage, written for not less than the single limit liability coverage stated.
 - a. Contractor shall provide Commercial General Liability Insurance using ISO “Commercial General Liability” policy form CG 00 01, with limits of no less than \$1,000,000 per occurrence for all covered losses and \$2,000,000 general aggregate and having a deductible of Twenty-five Thousand Dollars (\$25,000) or less.
 - b. Infrastructure projects and projects over one million dollars need to be reviewed by General Counsel to determine insurance limits.
2. Automobile Liability – If motor vehicles are used in performing services in connection with this Contract, a policy of automobile liability insurance written for not less than the liability coverage stated.
 - a. If motor vehicles are used in connection with this Contract, Three Hundred Thousand Dollars (\$300,000) or more of automobile liability coverage having a deductible of Five Thousand Dollars (\$5,000) or less.
 - b. For construction and maintenance service contracts, contractor shall provide auto liability coverage for owned, nonowned, and hired autos using ISO Business Auto Coverage form CA 00 01 or the exact equivalent with a limit of no less than \$1,000,000 per accident and having a deductible of Five Thousand Dollars (\$5,000) or less.
 - c. For contracts where a motorized vehicle is required for the performance of contracted services (appraisers, real estate brokers, etc.), contractor shall provide auto liability coverage for owned, nonowned, and hired autos using ISO Business Auto Coverage form CA 00 01 or the exact equivalent with a limit of no less than \$1,000,000 per accident and having a deductible of Five Thousand Dollars (\$5,000) or less.

3. Workers compensation – A workers compensation policy which covers all employees of vendor and each and every subcontractor and which is written in accordance with California law.
 - a. Contractor shall provide Workers Compensation and Employers Liability Insurance on a state approved policy form providing benefits as required by law with employer's liability limits no less than \$1,000,000 per accident or disease.
 - b. California law requires a company to have Worker's Compensation insurance if they have one (1) or more employees. It is required whether the employee is full-time, part-time, or temporary. All employees of a company as legally defined including corporate officers and directors must be included in the Worker's Compensation policy unless they are owners of the firm. An owner of a firm is defined as having a 25% interest in the firm.
 - c. A family member is an employee unless he/she is an owner in the firm. An owner of a firm is defined as having a 25% interest in the firm.
 - d. Roofers are required to have Worker's Compensation for the owner. It does not matter whether or not the company has employees; the company must have Worker's Compensation, because the owner must be covered.
4. Product Liability or Excess Liability – Construction contracts for work over \$5,000 require Product Liability or Excess Liability insurance for the coverage stated.
 - a. For construction contracts over \$5,000.
 - b. Contractor shall provide "all risk" coverage for the completed value of the project. Policies shall contain the following provisions: (1) SHRA shall be named as loss payee; and (2) the insurer shall waive all rights of recovery against SHRA.
 - c. Not required for modernization work which does not involve structural alterations or additions and where SHRA's existing fire and extended coverage policy can be endorsed to include such work.
 - d. The Contractor shall obtain and maintain, during the term of the Contract, property insurance upon the Project at an amount equal to the full insurable value of the Project at all times. The insurance shall include the interest of SHRA and the contractor as named insured, and all subcontractors and sub-contractors as their interest may appear, in the Project and shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss and damage including without duplication of coverage, theft, vandalism, and malicious mischief.
5. Professional Liability (Errors or Omissions) – only required for Design Professionals. The architect / engineer shall maintain errors and omissions insurance at all times the Contract is in effect and for a period of five years (or for as long as available at commercially reasonable rates) after final completion of the Project.

- a. Coverage of not less than \$1,000,000 per occurrence and a deductible of not more than \$25,000.
6. Failure to maintain the required insurance coverage is a material breach of the Contract. SHRA shall, nevertheless, have the right, without obligation, to pay any delinquent insurance premiums and any other charges to reinstate or maintain the required insurance policies and coverage. Vendor must immediately reimburse SHRA for any and all costs incurred by SHRA in obtaining or maintaining such insurance. If SHRA does incur such costs, SHRA shall have the right to withhold such amount from any payment due to the vendor under the Contract and to reduce the compensation payable to the vendor under the Contract by such amount.
7. Before beginning any work under the Contract, vendor must provide Agency with certificates of insurance with attached endorsements. Vendor may be requested to provide complete copies of the insurance policies demonstrating the required coverage. Vendor must assure that such certificates are in a form reasonably acceptable to the Agency and reflect fulfillment of all of the requirements of the Contract.

Agency as Additional Insured

All of the insurance policies, except the workers compensation policy, shall name Agency, its officers, directors, commissioners, agents, consultants and employees, as additional insureds. The certificate must read Sacramento Housing and Redevelopment Agency and its constituent entities.

30-Day Cancellation

1. For contracts which require more than 30 days for the performance of work, the vendor must assure that the coverage afforded under the policies can only be canceled after thirty (30) days prior written notice to the Agency of the pending cancellation. **All** insurance certificates and the underlying policies shall each contain a provision stating that coverages afforded under the policies shall not be canceled until at least thirty (30) days prior written notice has been given to SHRA at the following address:

Sacramento Housing & Redevelopment Agency
Procurement Services – 2nd Floor
801 12th Street
Sacramento, CA 95814

2. There are two ways to satisfy this requirement:
 - a. The cancellation clause on the certificate of insurance may be modified to read as follows:

Cancellation: Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the certificate holder named to the left, ~~but failure to mail such a notice shall~~

~~impose no obligation or liability of any kind upon the company, its agents or representative.~~

- b. The following statement may be included on the insurance certificate:

Notice of cancellation will be provided within ten (10) days for non-payment, and within thirty (30) days all others.

Attachment C

Instructions to Offerors Non-Construction

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing



- 03291 -

1. Preparation of Offers

(a) Offerors are expected to examine the statement of work, the proposed contract terms and conditions, and all instructions. Failure to do so will be at the offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the cover sheet and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the HA.

(c) Offers for services other than those specified will not be considered.

2. Submission of Offers

(a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

3. Amendments to Solicitations

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Offerors shall acknowledge receipt of any amendments to this solicitation by

- (1) signing and returning the amendment;
 - (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer,
 - (3) letter or telegram, or
 - (4) facsimile, if facsimile offers are authorized in the solicitation.
- The HA/HUD must receive the acknowledgment by the time specified for receipt of offers.

4. Explanation to Prospective Offerors

Any prospective offeror desiring an explanation or interpretation of the solicitation, statement of work, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

5. Responsibility of Prospective Contractor

(a) The HA shall award a contract only to a responsible prospective contractor who is able to perform successfully under the terms and conditions of the proposed contract. To be determined responsible, a prospective contractor must -

- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;

- (2) Have a satisfactory performance record;
- (3) Have a satisfactory record of integrity and business ethics;
- (4) Have a satisfactory record of compliance with public policy (e.g., Equal Employment Opportunity); and
- (5) Not have been suspended, debarred, or otherwise determined to be ineligible for award of contracts by the Department of Housing and Urban Development or any other agency of the U.S. Government. Current lists of ineligible contractors are available for inspection at the HA/HUD.

(b) Before an offer is considered for award, the offeror may be requested by the HA to submit a statement or other documentation regarding any of the foregoing requirements. Failure by the offeror to provide such additional information may render the offeror ineligible for award.

6. Late Submissions, Modifications, and Withdrawal of Offers

(a) Any offer received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it -

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
- (4) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the HA's request for "best and final" offer (if this solicitation is a request for proposals), is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) A modification resulting from the HA's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the HA after receipt at the HA.

(d) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the offer, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(e) The only acceptable evidence to establish the time of receipt at the HA is the time/date stamp of HA on the offer wrapper or other documentary evidence of receipt maintained by the HA.

Attachment C

(f) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(g) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful offer that makes its terms more favorable to the HA will be considered at any time it is received and may be accepted.

(h) If this solicitation is a request for proposals, proposals may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before award. Proposals may be withdrawn in person by a offeror or its authorized representative if the identity of the person requesting withdrawal is established and the person signs a receipt for the offer before award. If this solicitation is an invitation for bids, bids may be withdrawn at any time prior to bid opening.

7. Contract Award

(a) The HA will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the HA, cost or price and other factors, specified elsewhere in this solicitation, considered.

(b) The HA may

- (1) reject any or all offers if such action is in the HA's interest,
- (2) accept other than the lowest offer,
- (3) waive informalities and minor irregularities in offers received, and (4) award more than one contract for all or part of the requirements stated.

(c) If this solicitation is a request for proposals, the HA may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

(d) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. If this solicitation is a request for proposals, before the offer's specified expiration time, the HA may accept an offer, whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the HA.

(e) Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract.

8. Service of Protest

Any protest against the award of a contract pursuant to this solicitation shall be served on the HA by obtaining written and dated acknowledgment of receipt from the HA at the address shown on the cover of this solicitation. The determination of the HA with regard to such protest or to proceed to award notwithstanding such protest shall be final unless appealed by the protestor.

9. Offer Submission

Offers shall be submitted as follows and shall be enclosed in a sealed envelope and addressed to the office specified in the solicitation. The proposal shall show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror, on the face of the envelope.

It is very important that the offer be properly identified on the face of the envelope as set forth above in order to insure that the date and time of receipt is stamped on the face of the offer envelope. Receiving procedures are: date and time stamp those envelopes identified as proposals and deliver them immediately to the appropriate contracting official, and only date stamp those envelopes which do not contain identification of the contents and deliver them to the appropriate procuring activity only through the routine mail delivery procedure.

[Describe bid or proposal preparation instructions here:]

Attachment D

Certifications and Representations of Offerors Non-Construction Contract

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This form includes clauses required by OMB's common rule on bidding/offering procedures, implemented by HUD in 24 CFR 95.36, and those requirements set forth in Executive Order 11625 for small, minority, women-owned businesses, and certifications for independent price determination, and conflict of interest. The form is required for nonconstruction contracts awarded by Housing Agencies (HAs). The form is used by bidders/offers to certify to the HA's Contracting Officer for contract compliance. If the form were not used, HAs would be unable to enforce their contracts. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Contingent Fee Representation and Agreement

(a) The bidder/offers represents and certifies as part of its bid/offer that, except for full-time bona fide employees working solely for the bidder/offers, the bidder/offers:

- (1) ☐ has, ☐ has not employed or retained any person or company to solicit or obtain this contract; and
- (2) ☐ has, ☐ has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(b) If the answer to either (a)(1) or (a) (2) above is affirmative, the bidder/offers shall make an immediate and full written disclosure to the PHA Contracting Officer.

(c) Any misrepresentation by the bidder/offers shall give the PHA the right to (1) terminate the resultant contract; (2) at its discretion, to deduct from contract payments the amount of any commission, percentage, brokerage, or other contingent fee; or (3) take other remedy pursuant to the contract.

2. Small, Minority, Women-Owned Business Concern Representation

The bidder/offers represents and certifies as part of its bid/offer that it:

- (a) ☐ is, ☐ is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.
- (b) ☐ is, ☐ is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.
- (c) ☐ is, ☐ is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

For the purpose of this definition, minority group members are:

(Check the block applicable to you)

- | | |
|---|---|
| ☐ Black Americans | ☐ Asian Pacific Americans |
| ☐ Hispanic Americans | ☐ Asian Indian Americans |
| ☐ Native Americans | ☐ Hasidic Jewish Americans |

3. Certificate of Independent Price Determination

(a) The bidder/offers certifies that—

- (1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offers or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offers, directly or indirectly, to any other bidder/offers or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the bidder/offers to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.

(b) Each signature on the bid/offer is considered to be a certification by the signatory that the signatory:

- (1) Is the person in the bidder/offers's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
- (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the bidder/offers's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offers's organization);
(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

Attachment D

(iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

- (c) If the bidder/offeror deletes or modifies subparagraph (a)2 above, the bidder/offeror must furnish with its bid/offer a signed statement setting forth in detail the circumstances of the disclosure.

4. Organizational Conflicts of Interest Certification

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:

- (i) Award of the contract may result in an unfair competitive advantage;
- (ii) The Contractor's objectivity in performing the contract work may be impaired; or
- (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

- (b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of HA.

- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this Contract and intentionally did not disclose the conflict to the HA, the HA may terminate the Contract for default.

- (d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

5. Authorized Negotiators (RFPs only)

The offeror represents that the following persons are authorized to negotiate on its behalf with the PHA in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators):

6. Conflict of Interest

In the absence of any actual or apparent conflict, the offeror, by submission of a proposal, hereby warrants that to the best of its knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement, as described in the clause in this solicitation titled "Organizational Conflict of Interest."

7. Offeror's Signature

The offeror hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

Signature & Date:

Typed or Printed Name:

Title:
