



County of San Bernardino

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

|                                                                                                                                                                        |                 |                                     |                                                                                      |                        |                          |              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------------------------|--------------------------------------------------------------------------------------|------------------------|--------------------------|--------------|
| <input checked="" type="checkbox"/> New<br><input type="checkbox"/> Change<br><input type="checkbox"/> Cancel                                                          | FAS Vendor Code | SC                                  | Dept.                                                                                | A                      | Contract Number          |              |
| ePro Vendor Number                                                                                                                                                     |                 |                                     |                                                                                      |                        | ePro Contract Number     |              |
| County Department<br>Economic Development Agency                                                                                                                       |                 |                                     | Dept.<br>ECD                                                                         | Orgn.<br>ECD           | Contractor's License No. |              |
| County Department Contract Representative<br>Dena Fuentes, Director                                                                                                    |                 |                                     | Telephone<br>(909)387-4411                                                           |                        | Total Contract Amount    |              |
| Contract Type<br><input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input checked="" type="checkbox"/> Other: |                 |                                     |                                                                                      |                        |                          |              |
| If not encumbered or revenue contract type, provide reason:                                                                                                            |                 |                                     |                                                                                      |                        |                          |              |
|                                                                                                                                                                        |                 |                                     |                                                                                      |                        |                          |              |
| Commodity Code                                                                                                                                                         |                 | Contract Start Date<br>July 1, 2015 | Contract End Date<br>June 30, 2018                                                   | Original Amount<br>N/A | Amendment Amount<br>N/A  |              |
| Fund<br>SBA                                                                                                                                                            | Dept.<br>ECD    | Organization<br>ECD                 | Appr.<br>200                                                                         | Obj/Rev Source<br>2005 | GRC/PROJ/JOB No          | Amount<br>\$ |
| Fund                                                                                                                                                                   | Dept.           | Organization                        | Appr.                                                                                | Obj/Rev Source         | GRC/PROJ/JOB No.         | Amount<br>\$ |
| Fund                                                                                                                                                                   | Dept.           | Organization                        | Appr.                                                                                | Obj/Rev Source         | GRC/PROJ/JOB No.         | Amount<br>\$ |
| Project Name<br>FY 2015-18<br>City-County Cooperation<br>Agreement                                                                                                     |                 |                                     | Estimated Payment Total by Fiscal Year<br>FY    Amount    I/D    FY    Amount    I/D |                        |                          |              |

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name  
City of Redlands  
Address  
P.O. Box 3005  
Redlands, CA 92373  
Telephone  
(909) 798 - 7500

hereinafter called \_\_\_\_\_

Nature of Contract:

The attached Cooperation Agreement is required by the U.S. Department of Housing and Urban Development (HUD) in order to include the City of Redlands as a participant in the County's Community Development Block Grant (CDBG), HOME Investment Partnership, Emergency Solutions Grant (ESG) and other HUD grant(s) programs. It allows the City's population statistics to be included by HUD to calculate the County's grant(s) amount for each year starting in fiscal year 2015-2016 to 2017-18 and will automatically renew every three years thereafter unless revoked by either party, for so long as the County is designated as an Urban County.

The attached Contract consists of nine pages and two exhibits.

|                                                                                   |                                                       |                                                                      |
|-----------------------------------------------------------------------------------|-------------------------------------------------------|----------------------------------------------------------------------|
| Approved as to Legal Form (sign in blue ink)<br>▶<br>County Counsel<br>Date _____ | Reviewed as to Contract Compliance<br>▶<br>Date _____ | Presented to BOS for Signature<br>▶<br>Department Head<br>Date _____ |
|-----------------------------------------------------------------------------------|-------------------------------------------------------|----------------------------------------------------------------------|

Auditor-Controller/Treasurer Tax Collector Use Only

|                                            |                              |
|--------------------------------------------|------------------------------|
| <input type="checkbox"/> Contract Database | <input type="checkbox"/> FAS |
| Input Date                                 | Keyed By                     |

## **COOPERATION AGREEMENT FOR**

### **HOUSING AND URBAN DEVELOPMENT COMMUNITY DEVELOPMENT AND PLANNING GRANTS FOR FISCAL YEARS 2015-16, 2016-17, 2017-18 AND SUBSEQUENT AUTOMATIC RENEWALS, UNLESS TERMINATED**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the County of San Bernardino, of the State of California, hereinafter referred to as "COUNTY", and the City of Redlands, a City within COUNTY, hereinafter referred to as "CITY".

WHEREAS, U.S. Department of Housing and Urban Development, hereinafter called HUD, provides Community Development Block Grant, Catalog of Federal Domestic Assistance (CFDA) #14.218, HOME Investment Partnership, CFDA #14.239, and Emergency Solutions Grants, CFDA #14.231, funds and other grants directly to qualified Metropolitan Cities, and Urban Counties via their Community Planning and Development (CPD) Division; and

WHEREAS, the Housing and Community Development Act of 1974, as amended (Public Law 93-383), hereinafter referred to as ACT, provides that Community Development Block Grant, hereinafter referred to as "CDBG", funds may be used for the support of activities that provide decent housing and suitable living environments and expanded economic opportunities principally for persons of low- and moderate-income; and,

WHEREAS, the Congress of the United States has enacted the Cranston-Gonzalez National Affordable Housing Act, Title II of this Act created the HOME Investment Partnership Program, hereinafter called "HOME", that provides funds to states and local governments for the purpose of increasing the number of affordable housing opportunities for low- and moderate income families; and

WHEREAS, the Congress of the United States provides funding for the Emergency Solutions Grant Program, hereinafter called "ESG", for the purpose of assisting individuals and families in quickly regaining stability in permanent housing after experiencing a housing crisis or homelessness; and

WHEREAS, this Cooperation Agreement covers CDBG, HOME, ESG and other HUD entitlement grants; and

WHEREAS, COUNTY is a qualified Urban County and hereinafter COUNTY PROGRAM will refer to the COUNTY's CDBG, HOME, ESG and other HUD grants program as well as to the legislation and regulations that created and funded these programs; and

WHEREAS, HUD requires Metropolitan Cities and Urban Counties to re-qualify every three (3) years in order to receive an allocation of various grant funds from HUD; and

WHEREAS, CITY as a qualified Metropolitan City can receive funds directly from HUD; and

WHEREAS, CITY approached COUNTY requesting to become a part of COUNTY PROGRAM; and

WHEREAS, CITY and COUNTY both desire for CITY to continue to be a part of COUNTY PROGRAM so both entities can benefit from increased efficiencies through economies of scale created by having the City's funding allocation of these grants be added and be a part of the COUNTY PROGRAM for 2015-16, 2016-17, 2017-18 and every three (3) years thereafter; and

WHEREAS CITY and COUNTY agree that COUNTY shall be solely responsible for administering, managing and directing COUNTY PROGRAM including but not limited to the preparation of the Consolidated Plan that is required to be submitted to HUD in order for COUNTY to have access to COUNTY PROGRAM funds and

as such COUNTY has final authority for selecting activities that will be funded with COUNTY PROGRAM funds and;

WHEREAS, the execution of this Cooperation Agreement, hereinafter referred to as AGREEMENT, is necessary in order to meet the desires of both CITY and COUNTY of having CITY be a part of COUNTY PROGRAM.

NOW THEREFORE, in consideration of the mutual covenants herein set forth and the mutual benefits to be derived therefrom, the parties agree as follows:

1. GENERAL

This AGREEMENT gives COUNTY authority to undertake or assist in undertaking activities starting on July 1, 2015 for Fiscal Years 2015-2016, 2016-17, 2017-18, which will be funded from COUNTY PROGRAM funds, which will include CITY's funding allocations, and from any program income generated from the expenditure of such funds. COUNTY and CITY agree to cooperate to undertake, or assist in undertaking community renewal and affordable housing activities. This AGREEMENT shall automatically renew for a new three (3) year-period every time COUNTY re-qualifies as an Urban County, (which is every three (3) years), until such time as the City Council for the City of Redlands or San Bernardino County Board of Supervisors elects to terminate this AGREEMENT at the conclusion of the preceding three-year term. This AGREEMENT covers all COUNTY PROGRAM funds and other associated grants administered by HUD through its CPD Division or its successor.

By executing this AGREEMENT, CITY understands that it may not apply for grants under the Small Cities or State CDBG Programs from appropriations for fiscal years during the term of this AGREEMENT, and CITY may not participate in a HOME consortium other than COUNTY HOME program regardless of whether COUNTY receives a HOME formula allocation.

The purpose of the Delegate Agency Agreement, which accompanies this AGREEMENT (Exhibit 1), and subsequent ATTACHMENTS, is to enable CITY to implement projects and or programs funded with CDBG funds as described in SECTION 14.

2. TERM

The term of this AGREEMENT shall be for fiscal years 2015-16, 2016-17, 2017-18 and shall commence as of July 1, 2015. This AGREEMENT will subsequently automatically renew when COUNTY re-qualifies as an Urban County for the next three (3) year period and therefore a new three (3) year term of this AGREEMENT will begin at that time. The first of these automatic three (3) year term renewals will occur at the beginning of fiscal year 2018-2019 (July 1, 2018) and every three (3) years thereafter unless an earlier date of termination is fixed by HUD pursuant to COUNTY PROGRAM or until such time as the City Council for the City of Redlands or San Bernardino County Board of Supervisors elects to terminate this AGREEMENT at the conclusion of a 3-year term. This AGREEMENT shall remain in effect until all COUNTY PROGRAM grant funds covered under the terms of this AGREEMENT, and any program income generated from the expenditure of such funds, are expended, and the funded activities are completed. This AGREEMENT may not be terminated or withdrawn by the parties for any circumstance or reason during the term of this AGREEMENT.

In order for the automatic renewal provisions of this AGREEMENT to be approved, HUD mandates that this AGREEMENT includes a stipulation that requires CITY and COUNTY to adopt any amendment(s) necessary to meet the requirements for cooperation agreements set forth in an Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period, and to submit such amendment to HUD as provided in the Urban County Qualification Notice and that such failure to comply will void the automatic renewal for such qualification period.

In addition, as part of the Urban County re-qualification process the COUNTY goes through every three (3) years, COUNTY will notify CITY, via a letter, that CITY has the ability to terminate this AGREEMENT and not be included as part of the submission by COUNTY to HUD for re-qualifying as an Urban County for the subsequent three (3) year qualification period. CITY agrees to send a timely response letter to COUNTY stating its intentions to either continue to be a part of the COUNTY PROGRAM or to elect to terminate this AGREEMENT and not be a part of the COUNTY's upcoming submission to HUD to re-qualify as an Urban County for the subsequent three (3) year period.

The COUNTY will submit to HUD the letter notifying CITY of its ability to terminate this AGREEMENT as well as the CITY's response letter. COUNTY will also submit to HUD a written legal opinion provided by COUNTY Counsel stating that the terms and provisions continue to be authorized under state and local law and that the AGREEMENT continues to provide full legal authority for COUNTY.

The COUNTY and the CITY have both adopted a resolution (Exhibit 2) approving the CITY being a part of the COUNTY Urban County program; the resolution will be sent to HUD along with this AGREEMENT immediately after AGREEMENT has been approved as well as whenever the COUNTY re-qualifies as an Urban County.

3. PREPARATION OF APPLICATION

COUNTY, by and through its Economic Development Agency (EDA), subject to approval of the COUNTY Board of Supervisors, shall be responsible for preparing and submitting to HUD all necessary applications for the COUNTY PROGRAM entitlement grants. This duty shall include the preparation and processing of COUNTY Housing, Community and Economic Development Needs Identification Report, Citizen Participation Plans, the County Consolidated Plan, and other related items associated with COUNTY PROGRAM grants which satisfy its associated application requirements and regulations. All documents will include information provided by CITY.

4. COMPLIANCE WITH FINAL PROGRAMS AND PLANS

COUNTY and CITY shall comply in all respects with final Community Development plans and programs and the Consolidated Plan which are developed through mutual cooperation pursuant to the application requirements of COUNTY PROGRAM and their regulations and approved by HUD.

5. COMPLIANCE WITH LEGISLATION AND REGULATIONS

COUNTY and CITY shall comply with all applicable requirements of COUNTY PROGRAM and associated regulations, in utilizing grant funds under legislation that created and govern these grants, and shall take all actions necessary to assure compliance with COUNTY certifications required by Section 104(b) of Title I of ACT, as amended regarding the provisions of the National Environmental Policy Act of 1969, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11988, Section 109 of Title I of ACT which incorporates Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975, the Fair Housing Act, and affirmatively furthering fair housing and other applicable federal laws. CITY agrees that CDBG and HOME funding for activities in or in support of CITY are prohibited if CITY does not affirmatively further fair housing within its own jurisdiction or impedes COUNTY actions to comply with its fair housing certification. CITY may be required to demonstrate how it complies with the fair housing requirement. To ensure compliance with applicable regulations, CITY agrees to adhere to the Delegate Agency Agreement which is Exhibit 1 of this AGREEMENT and the accompanying Attachments.

In order for COUNTY to avoid the risk of losing CDBG funds as a result of CITY not spending CITY CDBG funds in a timely manner as required by the ACT, COUNTY and CITY both agree that COUNTY has the authority to transfer CITY CDBG funds to any CDBG-eligible project/program at COUNTY's sole discretion

if CITY is not spending its CDBG funds in a timely manner. Prior to transferring CITY CDBG funds, COUNTY will notify CITY in writing that CITY is at risk of not meeting this timeliness requirement and therefore COUNTY will transfer CITY CDBG funds if timeliness is not met. As referred to in SECTION 10 DISPOSITION OF FUNDS, CITY and COUNTY both agree that CITY CDBG funds will be spent, to the greatest extent feasible in a manner CITY desires but COUNTY shall have the final and sole decision as to how CITY CDBG funds are spent.

Furthermore, CITY hereby covenants by and for itself, its successors and assigns, and all persons claiming under or through it that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, sex, marital status, familial status, disability, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any project funded by HOME or CDBG funds, nor shall CITY itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in any project funded as a result of this AGREEMENT.

The CITY shall refrain from restricting the rental, sale or lease of any project funded as a result of this Agreement on the basis of race, color, creed, religion, sex, marital status, familial status, disability, national origin or ancestry of any person.

#### 6. CONFLICT OF INTEREST

CITY shall comply with all applicable federal and state laws, regulations and policies governing conflict of interest, including State conflict of interest regulations found in California Government Code Sections 1090, 1126, 87100 et seq., Federal conflict of interest regulations found in 24 CFR 570.611, 85.36, and 84.42, and any other applicable policies, rules and regulations related to conflict of interest.

Any person who is an employee, agent, consultant, officer, elected or appointed official of the CITY, who exercises any functions or responsibilities with respect to COUNTY PROGRAM funded activities identified in this AGREEMENT and who is in a position to participate in a decision-making process or gain inside information with regard to activities identified in this AGREEMENT, may not obtain a financial interest or benefit from the COUNTY PROGRAM assisted activities identified in this AGREEMENT or any related agreement, subcontract, or contract, either for themselves, an immediate family member or business partner, during his/her tenure. CITY shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts.

#### 7. POLICIES

CITY has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within jurisdictions.

#### 8. INDEMNIFICATION

CITY agrees to indemnify, defend and hold harmless COUNTY and its respective authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this AGREEMENT, resulting from the negligent acts, errors or omissions of the CITY, its authorized officers, employees, agents or volunteers, including, but not limited to, such liability, claims, losses, demands, and actions incurred by COUNTY as a result of the determination by HUD or its successor that activities undertaken by CITY under the program(s) fail to comply with any laws, regulations or policies applicable thereto or that any funds billed by and disbursed to CITY under this AGREEMENT were improperly expended.

COUNTY agrees to indemnify, defend and hold harmless CITY, its officers, agents, volunteers, and employees, from any and all claims, actual losses, damages and or liability that may result from the negligent acts, errors or omissions of the COUNTY, its authorized officers, employees, agents, or volunteers.

9. SELF-INSURANCE

The CITY and the COUNTY are authorized self-insured public entities for purposes of general liability, automobile liability, professional liability and workers' compensation. CITY and COUNTY warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against any liabilities arising out of their performance regarding the terms and conditions of this AGREEMENT

10. DISPOSITION OF FUNDS

Unless prohibited by Federal Regulations, COUNTY and CITY agree that, to the greatest extent feasible, CDBG funds will be allocated by COUNTY to CITY out of the funds received pursuant to ACT, according to its proportional demographics, for activities and/or projects prioritized by CITY to alleviate its identified community development needs eligible under ACT. COUNTY, through its Board of Supervisors, shall be responsible for determining the final disposition and distribution of all funds received by COUNTY under ACT and other related grants and for selecting the projects for which such funds shall be used. Both parties agree that COUNTY has the authorization to redistribute such funds when said projects are not implemented in a timely manner as described in SECTION 5, COMPLIANCE WITH LEGISLATION AND REGULATIONS.

HOME funds will be allocated by COUNTY to Developer(s) based on a competitive Notice of Funding Available process to address affordable housing needs by funding activities that are eligible under HOME regulations and COUNTY, by its Board of Supervisors, shall be responsible for determining the final disposition and distribution of all funds received by COUNTY under the HOME program as well as the other COUNTY PROGRAM funds and for selecting the projects for which such funds shall be used.

COUNTY shall be compensated for administering COUNTY PROGRAM and other related grants by utilizing allowable planning and administrative fee(s) and a project implementation fee.

11. DISPOSITION OF PROGRAM INCOME

CITY shall inform COUNTY regarding any income generated by the expenditure of COUNTY PROGRAM funds received by CITY. All said income, even if it is received after this AGREEMENT has expired, shall promptly be paid to COUNTY. COUNTY shall be responsible for monitoring and reporting to HUD on the use of any such program income; CITY is required to keep appropriate records and provide reports to COUNTY regarding program income. In the event of COUNTY PROGRAM funds close-out or change in status of CITY under COUNTY PROGRAM funds, any program income that is on hand or received subsequent to the close-out or change in status shall be paid to COUNTY. Any income generated from the disposition or transfer of real property prior to any such close-out or change of status shall be treated the same as program income. Any income generated from the disposition or transfer of real property subsequent to any such close-out or change of status shall promptly be paid to COUNTY.

12. DISPOSITION OF REAL PROPERTY

This section sets forth the standards which shall apply to real property acquired or improved in whole or in part using CDBG and HOME funds that are allocated to (within the control of) CITY. Prior to any modification or change in the use of said real property from the use or ownership planned at the time of its acquisition or improvements, CITY shall notify COUNTY and obtain authorization for said modification or change. CITY shall reimburse COUNTY with non-CDBG and non-HOME funds in an amount equal to the

current fair market value (less any portion thereof attributable to expenditures of non-CDBG or non-HOME funds) of property acquired or improved with CDBG or HOME funds that is sold or transferred for a use, which does not qualify under CDBG and HOME regulations.

13. EFFECTIVE DATES

This AGREEMENT shall be effective initially for all purposes for the period beginning July 1, 2015 and ending June 30, 2018. Thereafter, commencing July 1, 2018, this AGREEMENT will automatically renew for three-year periods every three (3) years, when the COUNTY re-qualifies as an Urban County, until such time as the CITY or COUNTY elects to terminate the AGREEMENT at the conclusion of the preceding term. This AGREEMENT will be executed by COUNTY and CITY, properly submitted to HUD, the grantor, by the designated deadline, and approved by HUD.

14. OTHER AGREEMENTS

Pursuant to federal regulations at 24 CFR 570.501(b), CITY is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement set forth in federal regulations at 24 CFR 570.503 and other related regulations. COUNTY and CITY as part of this AGREEMENT are also entering into a Delegate Agency Agreement (which is Exhibit 1 of this AGREEMENT) and accompanying ATTACHMENTS, for the purpose of having CITY implement CDBG-funded projects and or programs. COUNTY and CITY both agree it would be more effective and efficient if CITY implements projects and or programs funded with CITY CDBG funds. The purpose and intent of the Delegate Agency Agreement is to create a mechanism whereby COUNTY delegates its authority, under its Urban County agreement with HUD to CITY, thereby enabling CITY to implement projects and programs funded with CITY CDBG funds while the COUNTY ensures all associated rules and regulations are followed. Prior to disbursing any CDBG funds to CITY, COUNTY, shall execute and adhere to the Delegate Agency Agreement and related documents with CITY. Said agreement shall remain in effect during any period that CITY has control over CDBG funds, including program income.

The Delegate Agency Agreement provides a detailed account of the policies and procedures on how a project is officially assigned by COUNTY to the CITY for implementation and the steps that need to be completed by both CITY and COUNTY (above and beyond the approval of this AGREEMENT) prior to any obligation or expenditure of funds whereby the CITY will seek reimbursement from COUNTY. Any obligation and or expenditure made by CITY without the expressed written approval by COUNTY may result in CITY not being able to utilize CDBG funds.

15. AMERICAN RECOVERY AND REINVESTMENT ACT FUNDING (ARRA)

Use of ARRA Funds and Requirements

This AGREEMENT may be funded in whole or in part with funds provided by the American Recovery and Reinvestment Act of 2009 ("ARRA"), signed into law on February 17, 2009. Section 1605 of ARRA prohibits the use of recovery funds for a project for the construction, alteration, maintenance or repair of a public building or public work (both as defined in 2 CFR 176.140) unless all of the iron, steel and manufactured goods (as defined in 2 CFR 176.140) used in the project are produced in the United States. A waiver is available under three limited circumstances: (i) Iron, steel or relevant manufactured goods are not produced in the United States in sufficient and reasonable quantities and of a satisfactory quality; (ii) Inclusion of iron, steel or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent; or (iii) Applying the domestic preference would be inconsistent with the public interest. This is referred to as the "Buy American" requirement. Request for a waiver must be made to the County for an appropriate determination.

Section 1606 of ARRA requires that laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 31). This is referred to as the "wage rate" requirement.

The above described provisions constitute notice under ARRA of the Buy American and wage rate requirements. Contractor must contact the County contact if it has any questions regarding the applicability or implementation of the ARRA Buy American and wage rate requirements. Contractor will also be required to provide detailed information regarding compliance with the Buy American requirements, expenditure of funds and wages paid to employees so that the County may fulfill any reporting requirements it has under ARRA. The information may be required as frequently as monthly or quarterly. Contractor agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

Contractor may also be required to register in the Central Contractor Registration (CCR) database at <http://www.ccr.gov> and may be required to have its subcontractors also register in the same database. Contractor must contact the County with any questions regarding registration requirements.

#### Schedule of Expenditure of Federal Awards

In addition to the requirements described in "Use of ARRA Funds and Requirements," proper accounting and reporting of ARRA expenditures in single audits is required. Contractor agrees to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by the Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations." This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the recipient reports required by ARRA Section 1512 (c).

In addition, Contractor agrees to separately identify to each subcontractor and document at the time of sub-contract and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds.

Contractor may be required to provide detailed information regarding expenditures so that the County may fulfill any reporting requirements under ARRA described in this section. The information may be required as frequently as monthly or quarterly. Contractor agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

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Whistleblower Protection

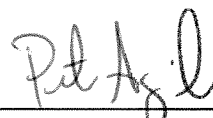
Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-Federal contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of a contract relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to the implementation or use of recovery funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds.

Contractor agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Division A, Title XV of the ARRA.

COUNTY OF SAN BERNARDINO

CITY OF REDLANDS

►  
Janice Rutherford, Chair, Board of Supervisors

By ►   
(Authorized signature - sign in blue ink)

Dated: \_\_\_\_\_

Name: Pete Aguilar  
(Print or type name of person signing contract)

SIGNED AND CERTIFIED THAT A COPY OF THIS  
DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD

Laura H. Welch  
Clerk of the Board of Supervisors  
of the County of San Bernardino

Title: Mayor  
(Print or Type)

Dated: 5/6/14

ATTEST:   
Sam Irwin, City Clerk

By \_\_\_\_\_  
Deputy

Address P.O. Box 3005, Redlands, CA 92373

|                                                                |                                                    |                                                                      |
|----------------------------------------------------------------|----------------------------------------------------|----------------------------------------------------------------------|
| Approved as to Legal Form<br>►<br>County Counsel<br>Date _____ | Reviewed by Contract Compliance<br>►<br>Date _____ | Presented to BOS for Signature<br>►<br>Department Head<br>Date _____ |
|----------------------------------------------------------------|----------------------------------------------------|----------------------------------------------------------------------|



County of San Bernardino

FAS

## STANDARD CONTRACT

|                                                                                                                                                                        |                 |                                     |              |                                        |                  |                          |              |                         |     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------------------------|--------------|----------------------------------------|------------------|--------------------------|--------------|-------------------------|-----|
| <input checked="" type="checkbox"/> New                                                                                                                                | FAS Vendor Code |                                     | <b>SC</b>    |                                        | Dept.            | <b>A</b>                 |              | Contract Number         |     |
| <input type="checkbox"/> Change                                                                                                                                        |                 |                                     |              |                                        |                  |                          |              |                         |     |
| <input type="checkbox"/> Cancel                                                                                                                                        |                 |                                     |              |                                        |                  |                          |              |                         |     |
| ePro Vendor Number                                                                                                                                                     |                 |                                     |              |                                        |                  | ePro Contract Number     |              |                         |     |
| County Department<br>Economic Development Agency                                                                                                                       |                 |                                     |              | Dept.<br>ECD                           | Orgn.<br>ECD     | Contractor's License No. |              |                         |     |
| County Department Contract Representative<br>Dena Fuentes, Director                                                                                                    |                 |                                     |              | Telephone<br>(909)387-4411             |                  | Total Contract Amount    |              |                         |     |
| Contract Type<br><input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input checked="" type="checkbox"/> Other: |                 |                                     |              |                                        |                  |                          |              |                         |     |
| If not encumbered or revenue contract type, provide reason:                                                                                                            |                 |                                     |              |                                        |                  |                          |              |                         |     |
| Commodity Code                                                                                                                                                         |                 | Contract Start Date<br>July 1, 2015 |              | Contract End Date<br>June 30, 2018     |                  | Original Amount<br>N/A   |              | Amendment Amount<br>N/A |     |
| Fund<br>SBA                                                                                                                                                            | Dept.<br>ECD    | Organization<br>ECD                 | Appr.<br>200 | Obj/Rev Source<br>2005                 | GRC/PROJ/JOB No. |                          | Amount<br>\$ |                         |     |
| Fund                                                                                                                                                                   | Dept.           | Organization                        | Appr.        | Obj/Rev Source                         | GRC/PROJ/JOB No. |                          | Amount<br>\$ |                         |     |
| Fund                                                                                                                                                                   | Dept.           | Organization                        | Appr.        | Obj/Rev Source                         | GRC/PROJ/JOB No. |                          | Amount<br>\$ |                         |     |
| Project Name<br>2015-2018 CDBG City/County<br>Delegate Agency Agreement                                                                                                |                 |                                     |              | Estimated Payment Total by Fiscal Year |                  |                          |              |                         |     |
|                                                                                                                                                                        |                 |                                     |              | FY                                     | Amount           | I/D                      | FY           | Amount                  | I/D |
| Contract Type 2 (b)                                                                                                                                                    |                 |                                     |              |                                        |                  |                          |              |                         |     |

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name

City of Redlands

hereinafter called

Address

P.O. Box 3005

Redlands, CA 92373

Telephone

(909) 798 - 7500

Federal ID No. or Social Security No.

Nature of Contract:

In compliance with the requirements of Title I of the Housing and Community Development Act of 1974, as amended, the County executed a Cooperation Agreement with the City of Redlands enabling the City to be a part of the County of San Bernardino's "Urban County" application to the federal Department of Housing and Urban Development (HUD) through mutual cooperation to undertake or assist in undertaking essential community development and housing activities. Pursuant to Section 14 of the Cooperation Agreement, this Delegate Agency Agreement and its attachments are set forth to further implement the provisions of the Cooperation Agreement. They specify the procedures, sequences, responsibilities and forms to be used to carry out CDBG activities according to local, state and federal requirements. The Delegate Agency Agreement is specifically subordinate and supplementary to and runs concurrent with the Cooperation Agreement.

The attached Contract consists of 12 pages and four attachments.

Approved as to Legal Form (sign in blue ink)

Reviewed as to Contract Compliance

Presented to BOS for Signature



County Counsel



Date



Department Head

Date

Auditor-Controller/Treasurer Tax Collector Use Only

|                                            |                              |
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| Input Date                                 | Keyed By                     |

COMMUNITY DEVELOPMENT BLOCK GRANT  
CITY-COUNTY DELEGATE AGENCY AGREEMENT  
For Fiscal Years 2015-16, 2016-17, 2017-18 and SUBSEQUENT AUTOMATIC RENEWALS  
UNLESS TERMINATED

This Agreement accompanies the Cooperation Agreement, herein after referred to as AGREEMENT, made and entered into, by and between the County of San Bernardino a political subdivision of the State of California, referred to as "COUNTY", and the City of Redlands, a municipal corporation located within the boundaries of San Bernardino County, referred to as "CITY".

WITNESSETH

WHEREAS, COUNTY has been designated an "Urban County" by the United States Department of Housing and Urban Development, hereinafter referred to as "HUD", as that term is defined in Title I of the Housing and Community Development Act of 1974 as amended, hereinafter referred to as "ACT"; and Whereas, COUNTY will administer a Community Development Block Grant (CDBG) program (CFDA No. 14.218) that includes the development of a Consolidated Submission of the HUD Housing and Community Development Grant programs, hereinafter referred to as "CONSOLIDATED PLAN", which constitutes COUNTY's application for federal assistance under said ACT; and,

WHEREAS, CITY and COUNTY have entered into a Cooperation Agreement so as to enable CITY to be a part of COUNTY's CDBG program, commencing with Fiscal Years 2015-16, 2016-17, 2017-18 and set to automatically renew for three (3) year periods while the COUNTY is designated as an Urban County, to which this Delegate Agency Agreement is subordinate and supplementary agreement per SECTION 14 of Cooperation Agreement; and

WHEREAS, COUNTY administers a CDBG program for a number of cooperating cities, and in the unincorporated areas of San Bernardino County, through its Economic Development Agency, hereinafter referred to as "EDA"; and,

WHEREAS, CITY has the ability, expertise and resources to manage and administer CDBG-funded projects/programs and agrees to adhere to all rules, regulations and related requirements associated with the utilization of CDBG funds; and,

WHEREAS, CITY desires to assume the responsibility of project implementation within its corporate limits in cooperation with COUNTY; and,

WHEREAS, both COUNTY and CITY seek to coordinate their community development and neighborhood revitalization efforts in order to fully utilize all available resources while increasing efficiencies though economies of scale associated with the planning and administration of a large scale CDBG program; and

NOW, THEREFORE, it is understood and agreed by and between the parties hereto as follows:

1. PURPOSE

This Delegate Agency Agreement, which is Exhibit 1 to the Cooperation AGREEMENT, is made pursuant to the provisions of Article 1, Chapter 5, Division 7, Title I of the Government Code of the State of California (commencing with Section 6500), relating to public agencies. The purpose of this Delegate Agency Agreement is to enable CITY to implement CITY-CDBG funded projects or programs while adhering to the provisions of the Cooperation AGREEMENT in carrying out CDBG activities that have been approved by COUNTY for CITY in accordance with the CONSOLIDATED PLAN.

The purpose will be accomplished pursuant to the requirements of the ACT, its regulations and other federal, state and county laws and policies in the manner hereinafter set forth. This Delegate Agency Agreement is not a stand alone agreement and is only valid as a component of the Cooperation AGREEMENT; whereas the Cooperation AGREEMENT is a stand alone agreement and will be valid even if this Delegate Agency Agreement no longer exists. In absence of this Delegate Agency Agreement the CITY would not be able to implement any CDBG-funded projects or programs; however the COUNTY would still be able to implement CITY or COUNTY CDBG-funded projects and or programs as authorized under the Cooperation AGREEMENT.

Unless specified otherwise, EDA shall have the authority to represent COUNTY regarding the terms and conditions of this Agreement and the administration thereof.

## 2. TERM

This Delegate Agency Agreement shall become initially effective starting Fiscal Years 2015-2016, 2016-17, 2017-18, beginning on July 1, 2015 and ending June 30, 2018. Thereafter, commencing July 1, 2018 this Delegate Agency Agreement, as part of the Cooperation AGREEMENT will automatically renew for three (3) year periods, when the COUNTY re-qualifies as an Urban County, until such time as the City of Redlands or County of San Bernardino elects to terminate at the conclusion of a 3-year term. Even though this Delegate Agency Agreement does not stand alone, in order to complete the construction of a previously funded project(s) it may be extend beyond the conclusion of a 3-year term. COUNTY, though its Chief Executive Officer or EDA Administrator may grant an extension of up to six months to the term of this Delegate Agency Agreement for the purpose of completing CITY's projects/activities that are underway and which can not be completed during the term of this AGREEMENT. CITY must request any such extension in writing. Any extension will only be effective if granted in writing by COUNTY. Maintenance and operation and monitoring requirements for facilities developed under the terms of this Delegate Agency Agreement, as described in SECTION 9 MAINTENANCE AND OPERATION OF FACILITIES and SECTION 15 MONITORING, shall be in effect and continue in full force as prescribed in SECTION 2 TERM of the Cooperation AGREEMENT and continue even if AGREEMENT is terminated or has expired.

## 3. AUTHORIZATION OF PROJECT/ACTIVITY

CITY shall not initiate nor incur expenses for any CDBG-funded project or activity covered under the terms of this Delegate Agency Agreement prior to receiving written authorization from COUNTY. Written authorization will be accomplished when Attachments A (Request to Initiate Project or Activity) and B (Project or Activity Description) to this Delegate Agency Agreement have been completed for a CDBG-funded project or activity and signed by CITY and countersigned by EDA. Any such authorized Project or Activity shall hereinafter be referred to as an "AUTHORIZED PROJECT".

## 4. IMPLEMENTATION OF AUTHORIZED PROJECT

CITY agrees to implement AUTHORIZED PROJECTS in the manner prescribed in the Delegate Agency Coordination Procedures (Attachment C), using the forms and language contained in the Delegate Agency Construction Contract Provisions (Attachment D), and agrees to comply with all applicable local county, state and federal regulations associated with the implementation of CDBG projects and with AGREEMENT.

CITY may contract for all necessary services to complete AUTHORIZED PROJECTS described on its executed Attachments A and B provided that contracts are submitted to and approved in writing by EDA prior to their execution. CITY Attorney is responsible for assuring and certifying that the AUTHORIZED PROJECT undertaken by CITY's contracting party complies with all applicable regulations and statutes, as amended, listed in Attachment C, the Delegate Agency Construction Contract, Section IV.

5. MODIFICATION OF AUTHORIZED PROJECTS

All modifications to AUTHORIZED PROJECT must be pre-approved by COUNTY in order to be considered a part of AUTHORIZED PROJECT and eligible for reimbursement by COUNTY. CITY may request modification(s) to CDBG funding levels authorized by Attachment A or the pertinent Project Description (i.e. Scope of Activity) authorized by Attachment B. Upon receipt of a written request from CITY, and approval by COUNTY, COUNTY will revise Attachments A and B.

6. CONSOLIDATED PLAN AMENDMENT

Requests by CITY to add, delete or substantially modify an activity listed in CONSOLIDATED PLAN must be made in writing to COUNTY. Requests to add new activity(ies) must be accompanied by a CDBG project proposal application.

Substantial modifications are defined as follows: 1) an increase in funding for a CDBG public service-type activity in an amount greater than \$50,000 over the current funded amount; or 2) an increase in the funding for other activities (public facility improvements, code enforcement, acquisition, etc.) in an amount greater than \$400,000 over the current funded amount; or 3) A new activity not previously listed and described in the Consolidated Plan/Annual Action Plan; or 4) a change in the type of activity; or 5) a change in the location of the activity; or 6) a change in the beneficiaries of the activity.

Requests for additions and substantial modifications will be reviewed by COUNTY for eligibility and compatibility with CONSOLIDATED PLAN. Additions, deletions and substantial modifications must be approved by CITY Council action and supportive documentation for said action must be sent to COUNTY. CITY shall comply with the requirements of and participate in the implementation of the citizen participation portion of CONSOLIDATED PLAN.

7. COUNTY RESPONSIBILITIES

COUNTY, through EDA, is empowered to enforce all federal regulations pertaining to CDBG-funded projects undertaken by CITY under AGREEMENT. CITY recognizes that COUNTY, as the formal grantee of the CDBG, has full responsibility and obligations to HUD for undertaking the CDBG Program and has full authority in administering and allocating funds. CITY will have no direct responsibilities or obligations to HUD, except as identified, under AGREEMENT. COUNTY will provide technical assistance to CITY in a timely and expeditious manner upon written request to EDA Administrator.

8. CONFORMANCE TO COUNTY PROCEDURES

Under this Delegate Agency Agreement, CITY elects to be responsible for implementing CDBG-funded projects. However, in implementing said projects, CITY must perform all services and activities in accordance with federal and state statutory requirements and with the policies and procedures established by the Board of Supervisors, and shall comply with the following:

A. COMMUNITY DEVELOPMENT ADMINISTRATOR

Upon COUNTY and CITY's mutual assent to this Delegate Agency Agreement, CITY will designate a "Community Development Administrator" by filling in the name of said person in the space provided below. The Community Development Administrator is the responsible authority for all correspondence with COUNTY, and is the signatory on AUTHORIZED PROJECT Attachments A and B and shall advise the CITY Council, CITY administration and CITY staff, as appropriate regarding the CDBG program. CITY may, by written notification as set forth below, change the Community Development Administrator.

CITY's Community Development Administrator for this Delegate Agency Agreement is

N. Enrique Martinez, TITLE: City Manager

B. FISCAL CONTACT PERSON

For purposes of this Delegate Agency Agreement, CITY shall also designate a fiscal contact person by filling in the space provided below. The fiscal contact person shall be responsible for billing and fiscal procedures regarding the CDBG program and will serve as the primary contact for technical fiscal matters. CITY may, by written notification as set forth below, change the fiscal contact person.

CITY Fiscal Contact person for this Delegate Agency Agreement is

N. Enrique Martinez, TITLE: City Manager

- C. CITY shall be responsible for maintaining complete and separate fiscal accounts for CDBG funds which come under its control in such manner as to permit the reports required by COUNTY to be prepared therefrom and to permit the tracing of CDBG funds to their final expenditure. CITY will submit to EDA complete and detailed project descriptions, budgets, and expenses for each project that CITY implements with CDBG funds along with monthly reports of grant expenditures.

9. MAINTENANCE AND OPERATION OF FACILITIES

CITY shall provide maintenance and operation for the life of any and all facilities constructed with CDBG funds under AGREEMENT that are CITY owned or operated, for the life of the facility, not less than 10 years. This Section shall survive the termination of this Delegate Agency Agreement and or AGREEMENT.

10. FUNDING LIMITS

CDBG funding of AUTHORIZED PROJECTS is limited to the amount allocated to CITY as listed in the Attachment A (Request to Initiate Project or Activity).

11. DISBURSEMENT OF FUNDS

All CDBG funds allocated to CITY'S AUTHORIZED PROJECT(S) shall be received from the federal government by COUNTY under ACT. EDA will disburse the funds to CITY on a cost reimbursement basis. Billing shall be accompanied by all pertinent source documentation to be presented to EDA by CITY on or about the first day of each month, allowing 30 days for payment on the part of EDA. COUNTY shall be entitled to retain from such funds such amount as is calculated as the direct costs (including, but not limited to, salaries, benefits, mileage, actual cost of materials, meals and other authorized expenses allowable under the Travel Code Section 13.0638 County of San Bernardino) incurred by COUNTY in implementing CITY's AUTHORIZED PROJECTS.

12. WITHHOLDING OF FUNDS

COUNTY shall retain the right to withhold funds for any programs carried out by CITY, CITY's Contractor, or CITY's subcontractor upon giving written notice to CITY indicating that COUNTY has determined that CITY has not performed its obligations as stated in this Delegate Agency Agreement and or Cooperation AGREEMENT in a satisfactory or timely manner consistent with federal regulations or policy. COUNTY shall notify CITY in writing of this determination, specifying the objection(s) to

CITY's performance. CITY shall then have a maximum of ten (10) days in which to remedy said deficiencies. Should said deficiencies not be remedied within the above mentioned ten (10) day period, COUNTY shall have full authority to reallocate CITY's CDBG program funding to any other eligible activity(ies), which can be implemented or to assume sole responsibility for carrying out any and/or all AUTHORIZED PROJECTS, upon written notice to CITY. Upon such notice, CITY agrees to cease all activity provided hereunder, as specified in said notice.

13. PROGRAM INCOME

Program income represents net income directly generated from the use of CDBG funds by CITY as a result of the activity funded under the terms of AGREEMENT. When such income is generated by an activity only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used. CITY shall return program income to COUNTY even if it is received after this AGREEMENT has expired. COUNTY shall have full authority to reallocate program income funding to any other eligible activity(ies), which can be implemented in a satisfactory or timely manner consistent with federal regulations or policy. Program income shall be returned to COUNTY within 30 days after: a) disposition or sale of real or personal property occurs or; b) cumulative program income reaches increments of \$1,000; or c) the end of each fiscal year. CITY shall include in the reports required by Section 14, PROGRAM REPORTING AND RETENTION OF RECORDS, all sources and amounts of program income on a monthly and year-to-date basis.

Program income returned by COUNTY to CITY will be spent by CITY on only those costs authorized under this Delegate Agency Agreement. All provisions of AGREEMENT shall apply to said use of program income funds. CITY shall account for the receipt and use of program income in such a way that program income is spent on AUTHORIZED PROJECTS before additional CDBG funds are spent.

Any program income on-hand when this AGREEMENT expires or is received after such expiration will be paid to COUNTY within thirty (30) days.

14. PROGRAM REPORTING AND RETENTION OF RECORDS

CITY agrees to prepare and submit financial, program progress, and other reports as required by HUD or COUNTY directives. CITY shall maintain such program, property, personnel, financial, statistical and other records, supporting documents, and accounts as are considered necessary by HUD or COUNTY to assure proper accounting for all AGREEMENT funds. Said records, documents and accounts are to be retained by CITY for a minimum of five years. The retention period starts from the date the COUNTY submits its annual performance and evaluation report, as prescribed in 24 CFR 91.520, in which the service under the terms of this AGREEMENT is reported on for the final time. Said COUNTY submission will follow CITY's final submission to COUNTY of reports identified under this paragraph. Records and accounts subject to litigation or audit must be maintained for five years or until the issue is resolved, whichever is longer.

Records that pertain to real estate transactions must be maintained for five years or the number of years that there is an outstanding obligation, whichever is longer. The starting date for retention of records on CDBG-purchased equipment begins at the end of the equipment's use, when it is disposed of or transferred. The retention period for records relating to program income begins on the last date of COUNTY fiscal year in which the income is earned. All CITY's records, with the exception of confidential client information, shall be made available to representatives of COUNTY and the appropriate federal agencies. CITY is required to submit data necessary to enable the COUNTY to complete any and all necessary reports in accordance with HUD regulations in the format and at the time designated by the EDA Administrator or his designee.

15. MONITORING

EDA Administrator or designee will conduct periodic monitoring of CITY administration of AUTHORIZED PROJECTS. Monitoring will focus on the extent to which the CONSOLIDATED PLAN has been implemented, measurable goals achieved and effectiveness of project management, and impact of AUTHORIZED PROJECTS. Authorized representatives of COUNTY and HUD shall have the right of access to all activities and facilities operated by CITY under this AGREEMENT. Facilities include all files, records, and other documents related to the performance of this AGREEMENT. CITY will permit on-site inspection by COUNTY, and HUD representatives, and ensure that its employees furnish such information, as in the judgment of COUNTY and HUD representatives, may be relevant to a question of compliance with contractual conditions and HUD directives, or the effectiveness, legality, and achievements of the program.

16. ACCOUNTING

CITY must establish and maintain, on a current basis, an adequate accrual accounting system in accordance with generally accepted accounting principles and standards.

17. AUDITS

CITY is required to arrange and pay for an independent financial and compliance audit annually for each fiscal year during which federal funds are received under this AGREEMENT as required by Circular A-128 pursuant to the Single Audit Act of 1984, Public Law 98-502. The results of the single audit must be submitted to COUNTY within 30 days of completion. Within 30 days of the submittal of said audit report, CITY shall provide a written response to all conditions or findings reported in said audit report. The response must examine each condition or finding and explain a proposed resolution, including a schedule for correcting any deficiency. All condition or finding correction actions shall take place within six months after EDA's receipt of the audit report. An audit may also be conducted by federal, state or local funding source agencies as part of the COUNTY's audit responsibilities. COUNTY and its authorized representatives shall, at all times, have access for the purpose of audit or inspection to any and all books, documents, papers, records, property, and premises of CITY. CITY's staff will cooperate fully with authorized auditors when they conduct audits and examinations of CITY's program. If indications of misappropriation or misapplication of the funds of this AGREEMENT cause COUNTY to require a special audit, the cost of the audit will be encumbered and deducted from funds allocated to CITY's CDBG AUTHORIZED PROJECTS. Should COUNTY subsequently determine that the special audit was not warranted, the amount encumbered will be restored to said CDBG AUTHORIZED PROJECT allocations. Should the special audit confirm misappropriation or misapplication of funds, CITY shall reimburse COUNTY the amount of misappropriation or misapplication from non-CDBG funding sources.

18. REVERSION OF ASSETS

Upon AGREEMENT termination, CITY shall transfer to COUNTY all CDBG funds on-hand (including, but not limited to, program income) at the time of expiration and any accounts receivable attributable to the use of CDBG funds.

All real property acquired or improved in whole or in part with CDBG funds in excess of \$25,000 under this AGREEMENT must continue in the use that provides the service benefits and national objectives, for which it was funded until five years after expiration of this AGREEMENT as set forth in 24 CFR 570.503, or such longer period of time as determined by COUNTY; or it must be disposed of in a manner resulting in a reimbursement to COUNTY in the amount of the current fair market value of the property, as determined by COUNTY, less any portion thereof attributable to expenditures of non-

CDBG funds for the acquisition of, or improvement to the property. This Section 18 shall survive the termination of this AGREEMENT.

19. TERMINATION AND TERMINATION COSTS

This Delegate Agency Agreement may be terminated in whole or in part at any time by either party upon giving 60 days notice in writing to the other party if for whatever reason either party no longer desires to have CITY implement CDBG funded projects/programs. If the Delegate Agency Agreement is terminated, the AGREEMENT shall continue in full force until such time as described in SECTION 1 GENERAL and SECTION 2 TERM of AGREEMENT. An agreement must be reached by both parties as to conditions for termination in compliance with the provisions of federal regulations at 24 CFR Part 85.44, Termination for Convenience. EDA is hereby empowered to give said notice subject to ratification by the COUNTY Board of Supervisors.

COUNTY may immediately terminate this Delegate Agency Agreement upon the termination, suspension, discontinuation or substantial reduction in HUD CDBG funding for the Delegate Agency Agreement activity or if for any reason the timely completion of the work under this AGREEMENT is rendered improbable, infeasible or impossible. If CITY materially fails to comply with any term of this AGREEMENT, COUNTY may take one or more of the actions provided under the federal regulation at 24 CFR Part 85.43, Enforcement, which includes temporarily withholding cash, disallowing non-compliant costs, wholly or partly terminating the award, withholding future awards, and other remedies that are legally available. In such an event, CITY shall be compensated for all services rendered and all necessarily incurred costs performed in good faith in accordance with the terms of this Agreement that have been previously reimbursed, to the date of said termination to the extent that CDBG funds are available from HUD.

20. PROJECT ACKNOWLEDGMENT

Should CITY determine that the funding sources or the names of responsible public officials be displayed on a completed building or significant project, such identification should be acknowledged on a plaque, permanently mounted in an appropriate location, made of bronze or other appropriate material, acknowledging the funding source as the Department of Housing and Urban Development, San Bernardino County Community Development Block Grant. The current Board of Supervisors and the members of the CITY Council shall also be identified. When multiple funding sources are utilized to construct a project, all funding sources shall be identified. The listing order of multiple funding sources identified on the plaque shall be the largest dollar amount first, the second largest dollar amount second, etc.

21. CONTRACT COMPLIANCE

CITY will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and Labor Surplus Area Firms (a firm located in an area of high unemployment) are used when possible in compliance with provisions of Title 24 code of federal regulations Part 85.36(e).

CITY shall comply with Executive Orders 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107, (Equal Employment Opportunity), Executive Orders 11625, 12138, 12432, 12250, and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act, and other applicable federal, state and COUNTY laws, regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

CITY shall make every effort to ensure that all projects funded wholly or in part by CDBG program funds shall provide equal employment and career advancement opportunities for minorities and women. In addition, CITY shall make every effort to employ residents of the area and shall keep a report of CITY staff positions that have been funded directly by, or as a result of this program.

22. DISCRIMINATION

No person shall, on the grounds of race, sex, creed, color, religion, or national origin, be excluded from participating in, be refused the benefits of, or otherwise be subjected to discrimination in any activities, programs, or employment by CITY.

23. STANDARDS OF CONDUCT

Pursuant to Office of Management and Budget Circular A-110 Attachment O and 24 CFR 570.611, Conflict of Interest, and 24 CFR Part 85.36, Procurement, CITY shall maintain a written code or standards of conduct that shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by federal funds. No employee, officer or agent of the CITY shall participate in selection, award, or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. The employee, officer or agent;
- b. Any member of his immediate family;
- c. His or her partner; or
- d. An organization, which employs, or is about to employ, any of the above, has financial or other interest in the firm selected for award.

CITY officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-Agreements.

CITY may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

To the extent permitted by state or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by CITY's officers, employees, or agents, or by contractors or their agents.

24. FORMER COUNTY OFFICIALS

CITY agrees to provide or has already provided information on former COUNTY Administrative Officials (as defined below) who are employed by or represent CITY. The information required includes a list of former COUNTY Administrative Officials, who terminated County employment within the last five years and are now officers, or employees of CITY. The information includes the employment with or representation of CITY. For purposes of this provision, "COUNTY Administrative Official" is defined as a member of the Board of Supervisors or such Officer's staff, COUNTY Chief Executive Officer or member of such Officer's staff, COUNTY Department or Group Head, Assistant Department or Group Head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

25. RELIGIOUS PROSELYTIZING OR POLITICAL ACTIVITIES

CITY agrees that it will not perform or permit any religious proselytizing or political activities in connection with the performance of this Agreement. Funds under this AGREEMENT will be used exclusively for performance of the work required under this Agreement and no funds made available under this AGREEMENT shall be used to promote any religious or political activities.

26. INDEMNIFICATION

CITY agrees to indemnify, defend and hold harmless COUNTY and its respective authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this AGREEMENT, resulting from the negligent acts, errors or omissions of the CITY, its authorized officers, employees, agents or volunteers, including, but not limited to, such liability, claims, losses, demands, and actions incurred by COUNTY as a result of the determination by HUD or its successor that activities undertaken by CITY under the program(s) fail to comply with any laws, regulations or policies applicable thereto or that any funds billed by and disbursed to CITY under this AGREEMENT were improperly expended.

COUNTY agrees to indemnify, defend and hold harmless CITY, its officers, agents, volunteers, and employees, from any and all claims, actual losses, damages and or liability that may result from the negligent acts, errors or omissions of the COUNTY, its authorized officers, employees, agents, or volunteers.

This SECTION 26 INDEMNICATION shall survive the termination of this Delegate Agency Agreement.

27. SELF-INSURANCE

The CITY and the COUNTY are authorized self-insured public entities for purposes of general liability, automobile liability, professional liability and workers' compensation. CITY and COUNTY warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against any liabilities arising out of their performance regarding the terms and conditions of this AGREEMENT.

28. AMENDMENTS: VARIATIONS

This writing, with attachments, embodies the whole of this Delegate Agency Agreement of the parties hereto. There are no oral agreements contained herein. Except as herein provided, additions or variations of the terms of this Delegate Agency Agreement shall not be valid unless made in the form of a written amendment to this Delegate Agency Agreement formally approved and executed by both parties.

29. AMERICAN RECOVERY AND REINVESTMENT ACT FUNDING (ARRA)

Use of ARRA Funds and Requirements

This AGREEMENT may be funded in whole or in part with funds provided by the American Recovery and Reinvestment Act of 2009 ("ARRA"), signed into law on February 17, 2009. Section 1605 of ARRA prohibits the use of recovery funds for a project for the construction, alteration, maintenance or repair of a public building or public work (both as defined in 2 CFR 176.140) unless all of the iron, steel and manufactured goods (as defined in 2 CFR 176.140) used in the project are produced in the United States. A waiver is available under three limited circumstances: (i) Iron, steel or relevant manufactured goods are not produced in the United States in sufficient and reasonable quantities and of a satisfactory quality; (ii) Inclusion of iron, steel or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent; or (iii) Applying the domestic preference would be inconsistent with the public interest. This is referred to as the "Buy American" requirement. Request for a waiver must be made to the County for an appropriate determination.

Section 1606 of ARRA requires that laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects

of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 31). This is referred to as the "wage rate" requirement.

The above described provisions constitute notice under ARRA of the Buy American and wage rate requirements. Contractor must contact the County contact if it has any questions regarding the applicability or implementation of the ARRA Buy American and wage rate requirements. Contractor will also be required to provide detailed information regarding compliance with the Buy American requirements, expenditure of funds and wages paid to employees so that the County may fulfill any reporting requirements it has under ARRA. The information may be required as frequently as monthly or quarterly. Contractor agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

Contractor may also be required to register in the Central Contractor Registration (CCR) database at <http://www.ccr.gov> and may be required to have its subcontractors also register in the same database. Contractor must contact the County with any questions regarding registration requirements.

#### Schedule of Expenditure of Federal Awards

In addition to the requirements described in "Use of ARRA Funds and Requirements," proper accounting and reporting of ARRA expenditures in single audits is required. Contractor agrees to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by the Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations." This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the recipient reports required by ARRA Section 1512 (c).

In addition, Contractor agrees to separately identify to each subcontractor and document at the time of sub-contract and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds.

Contractor may be required to provide detailed information regarding expenditures so that the County may fulfill any reporting requirements under ARRA described in this section. The information may be required as frequently as monthly or quarterly. Contractor agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

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Whistleblower Protection

Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-Federal contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of a contract relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to the implementation or use of recovery funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds.

Contractor agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Division A, Title XV of the ARRA

COUNTY OF SAN BERNARDINO

CITY OF REDLANDS

►  
Janice Rutherford, Chair, Board of Supervisors

By ► Pete Aguilar  
(Authorized signature - sign in blue ink)

Dated: \_\_\_\_\_

Name: Pete Aguilar  
(Print or type name of person signing contract)

SIGNED AND CERTIFIED THAT A COPY OF THIS  
DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD

Title: Mayor  
(Print or Type)

Laura H. Welch  
Clerk of the Board of Supervisors  
of the County of San Bernardino

Dated: 5/6/14

ATTEST: [Signature]  
Sam Irwin, City Clerk

By \_\_\_\_\_  
Deputy

Address P.O. Box 3005, Redlands, CA 92373

Approved as to Legal Form

Reviewed by Contract Compliance

Presented to BOS for Signature

►  
County Counsel

►

►  
Department Head

Date \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**ATTACHMENT A - REQUEST TO INITIATE PROJECT/ACTIVITY**

PROJECT/CASE NUMBER:

DATE OF ORIGINAL ISSUE:

CFDA No.: 14.218

ORIGINAL:

REVISION No.:

TARGET AREA:

DATE OF REVISION:

Pursuant to the terms of the Delegate Agency Agreement between Economic Development Agency (EDA)/Department of Community Development and Housing (CDH), and the City of \_\_\_\_\_, dated \_\_\_\_\_, CDH hereby requests that the following project/activity be initiated. There will be no changes in Project/Activity Title, Activity Budget (Attachment A) or in the Activity Description (Attachment B) without written approval of EDA Administrator/CDH Director/ or their Designee.

PROJECT/ACTIVITY TITLE:

ACTIVITY LOCATION:

TOTAL PROJECT FUNDING: \$ \_\_\_\_\_

CITY CDBG ALLOCATION

RELEASED: \$ \_\_\_\_\_

CITY CDBG FUNDS

EXPENDED AS OF \_\_\_\_\_: \$ \_\_\_\_\_

DATE OF RELEASE OF FUNDS:

**BALANCE OF FUNDS AVAILABLE:** \$ \_\_\_\_\_

SCHEDULE OF CITY CDBG ALLOCATION:

| Year 1-37        | Year 38          | Year 39          | Year 40          | Year 41          | Year 42          | Year 43          |                 |
|------------------|------------------|------------------|------------------|------------------|------------------|------------------|-----------------|
| Act# _____       | Act# _____       | Act# _____       | Act# _____       | Act# _____       | Act# _____       | Act# _____       | TOTAL OF        |
| <u>(75-2012)</u> | <u>(2012-13)</u> | <u>(2013-14)</u> | <u>(2014-15)</u> | <u>(2015-16)</u> | <u>(2016-17)</u> | <u>(2017-18)</u> | <u>43 YEARS</u> |
| \$ _____         | \$ _____         | \$ _____         | \$ _____         | \$ _____         | \$ _____         | \$ _____         | \$ _____        |

MAINTENANCE AND OPERATION BUDGET/AGREEMENT:

OTHER PERTINENT INFORMATION:

**ACCEPTANCE OF REQUEST TO INITIATE PROJECT/ACTIVITY**

I hereby acknowledge the receipt of the Request to Initiate the above Project/Activity and agree to implement the activity described in Attachment B (Project/Activity Description) in accordance with the above Allocation and Balance of Funds Available subject to necessary approvals of the Board of Supervisors. The proposed budget for this project is as follows:

LAND ACQUISITION: \$ \_\_\_\_\_

PURCHASE OF EQUIPMENT: \$ \_\_\_\_\_

STAFF COST RELATED

CONSTRUCTION COST: \$ \_\_\_\_\_

TO LAND ACQUISITION: \$ \_\_\_\_\_

CITY STAFF COST: \$ \_\_\_\_\_

DESIGN: \$ \_\_\_\_\_

CONTINGENCY: \$ \_\_\_\_\_

CONSULTANT SERVICES: \$ \_\_\_\_\_

**TOTAL CITY CDBG ALLOCATION AVAILABLE:** \$ \_\_\_\_\_

IMPLEMENTING CITY: \_\_\_\_\_

DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

COUNTY OF SAN BERNARDINO

\_\_\_\_\_  
EDA Administrator/ CDH Director or Designee

DATE: \_\_\_\_\_

**ATTACHMENT B - PROJECT/ACTIVITY DESCRIPTION**

PROJECT/CASE NUMBER:

DATE OF ORIGINAL ISSUE:

CFDA No.: 14.218

ORIGINAL:

REVISION No.:

TARGET AREA:

DATE OF REVISION:

PROJECT/ACTIVITY TITLE:

ACTIVITY LOCATION:

ACTIVITY DESCRIPTION:

IMPLEMENTING CITY:

\_\_\_\_\_

DATE

\_\_\_\_\_

SIGNATURE

TITLE

\_\_\_\_\_

COUNTY OF SAN BERNARDINO

\_\_\_\_\_  
EDA Administrator/CDH Director or Designee

DATE

\_\_\_\_\_

**Attachment C**  
**COUNTY OF SAN BERNARDINO**  
**ECONOMIC DEVELOPMENT AGENCY**  
**DELEGATE AGENCY**  
**COORDINATION PROCEDURES**

I. Introduction

The following procedures identify the actions, responsibilities, and sequence of events for Community Development Block Grant, hereinafter referred to as "CDBG", funded projects being implemented by a coordinated effort between the County of San Bernardino Economic Development Agency hereinafter referred to as EDA and the Delegate Agency, hereinafter referred to as "DA". For each action or event listed in Section III of this attachment, the entity responsible for carrying out that action or event is referenced beside it. Section IV contains regulations and statutes applicable to CDBG funded activities.

II. Authorization to Proceed

**The Delegate Agency is not authorized to expend funds or to initiate CDBG projects until authorized to do so in writing by EDA.** Contract procurement shall be governed by all Federal regulations and statutes, as amended, listed in Section IV of the Attachment. EDA payments of DA Requests for Reimbursement will be subject to DA submittal of a complete reimbursement report package as listed in Section III, D-20.

A. Project/Activity Budget

Each project activity is initiated by an Attachment "A". The Attachment "A" is released when the project/activity is ready to be implemented and subsequent to environmental clearance and release of funds from HUD. It specifies the total funding allocation for the project/activity, the portions currently released and available to expend, the budget categories, the allocation will be expended under, and the entity responsible for maintenance and operation of the completed project.

In accepting the Attachment "A" the DA is to complete an estimated budget showing the allocation distribution to design costs, staff costs, construction costs, etc. This breakdown may also include a contingency or inflation factor not to exceed 10% of the total activity allocation.

Approval to change the project/activity budget/funds available will come from EDA in the form of a revised Attachment "A" (and corresponding Attachment "B", if appropriate).

B. Activity Description

The activity description is forwarded to the DA as Attachment "B". The preparation of the project description, both preliminary and final, is the responsibility of the EDA Community Development Division.

The description should be specific enough for use as the scope of work funded by CDBG money in a Request for Proposal (RFP) for architectural or engineering services or for a vendor in preparing a bid. It will contain, but is not limited to, the following:

1. Title of Project/Activity
2. Activity Number
3. Specific site description
4. On- and off-site improvement description
5. Size of building
6. Fixtures list (such as stove, built-in equipment)

7. Water and sewer requirements
8. Utilities
9. Specific zoning and planning requirements
10. Specific uses of the site and/or building
11. Equipment
12. Functions

Approval to change the project/activity description will come from EDA in the form of a revised Attachment "B" (and corresponding Attachment "A", if appropriate).

EDA will complete the Attachments "A" and "B" and will send two copies each to DA for signature. Once signed and fully completed, they must be returned to EDA for signature. An original of each will be returned to DA signifying authorization to proceed with actions outlined in the following sections:

### III. Actions and Responsibilities

#### A. Property Acquisition

The DA can pursue the acquisition of real property (and related relocation requirements, if necessary) through its jurisdiction or request the County's Public and Support Services Group Real Estate Services Department, hereinafter referred to as "RES", to handle the acquisition and/or relocation. If relocation is required, initiate a 90-day notice to occupant(s).

1. If DA wishes to purchase the property, the following procedures should be followed:
  - a. DA: Refers to HUD Handbook 1378 which implements the Uniform Relocation Assistance and Real Property Acquisition regulations including the Federal Relocation Assistance and Real Property Acquisition Policies Act of 1970, the Braithwaite Act of the State of California and any subsequent amendments to these acts and regulations. If relocation is required, the appropriate notices will be issued in accordance with the "Timely Notices" (49CFR 24.203) provision of the Relocation Handbook 1378.
  - b. DA: Obtains required appraisals.
  - c. DA: Reviews required appraisals and/or leases to determine if property can be acquired within the project allocation.
  - d. DA: Sends all lease documents to EDA for approval.
  - e. DA: Sends any requests for adjustments of funds for property acquisition and/or relocation to EDA for approval.
  - f. EDA: Issues approvals in relation to "d" above and sends them to DA.
  - g. DA: Initiates lease or purchase.
  - h. DA: Sends Request for Advance of Funds to EDA, 10 working days prior to expected close of escrow, with all appropriate documentation attached.

2. If DA desires to have RES handle acquisition and/or relocation activities, the DA should follow this procedure:
  - a. DA: Submits a letter to EDA requesting that RES handle the project/activity describing in detail what property is to be acquired, giving all pertinent information, and identifying who the DA contact person is to be. If relocation is required, initiate a 90-day notice to occupant(s).
  - b. EDA: Initiates appraisal process.
  - c. RES: Obtains required appraisals.
  - d. RES: Forwards appraisals to DA.
  - e. DA: Reviews appraisals and/or leases to determine if property should be acquired and/or leased. Prepares and forwards request to EDA.
  - f. EDA: Reviews request from DA, and forwards Authorization to Proceed to RES (Note: all leases and all adjustments in project allocations must be requested and approved by EDA ).
  - g. RES: Initiates purchase or lease of property. If relocation is required, the appropriate notices will be issued in accordance with the "Timely Notices" (49 CFR 24.203) provision of the Relocation Handbook 1378.

RES will work with the designated DA contact person throughout the acquisition/relocation process to assure that the DA is aware of the activities and can make any necessary decisions in relation to the activity.

**B. Architect and/or Engineer Selection**

1. The usual procedure for the selection of an architect or engineer involves a Request for Proposal (RFP) for professional services, following this process:
  - a. DA: Prepares an RFP for architectural and engineering or other consultant services.
  - b. DA: Submit draft RFP to EDA for review for contract compliance and consistency with Federal Title 24 CFR, Part 85 Section 85.36, (Procurement Standards).
  - c. DA: Incorporates EDA revisions, if any, into RFP and reviews RFP's for compliance with State, Federal, Local and EDA regulations. Requests EDA "Approval to Proceed" to Issue "RFP".
  - d. EDA: Issues to DA an "Approval to Proceed" to issue an "RFP".
  - e. DA: Advertises RFP, receives responses, interviews, requests EDA representation on selection committee and makes selection.
  - f. DA: Notifies EDA of selection. Sends back-up documentation and draft contract to EDA. Submits to EDA a "Request for Approval to Proceed" to award a "Consultant Services Contract".
  - g. EDA: Reviews final contract for compliance and issues an "Approval to Proceed" to award a "Consultant Services Contract".

- h. DA: Awards Consultant Services Contract.
- 2. Architectural and engineering services may also be negotiated under certain situations; i.e., obtained through a sole source procurement. This is an eligible alternative requiring the following steps:
  - a. DA: Determines that the situation warrants sole source procurement and that such procurement will comply with requirements and criteria specified in Federal Title 24 CFR Part 85.36, (Procurement Standards).
  - b. DA: Selects architect, engineer or other consultants.
  - c. DA: Submits to EDA a "Request for Approval to Proceed" to award a "Sole Source Consultant Services Contract" to EDA explaining why the DA has chosen the consultant and why the competitive RFP procedure is not being used.
  - d. EDA: Reviews the request and approves or denies sole source procurement request based on explanation and backup.
  - e. EDA: Issues "Approval to Proceed" to award a "Sole Source Consultant Services Contract" authorization or denial of request.
  - f. DA: Negotiates and awards the sole source contract.

C. Design Phase

- 1. DA: Monitors preparation of preliminary plans by architect.
- 2. DA: Notifies EDA of all public meetings with architect, five working days before event.
- 3. EDA/  
DA: Reviews and approves preliminary design.
- 4. DA: Secures all required permits and regulatory approvals.
- 5. DA: Secures plans, check of plans and specifications from the appropriate Building and Safety Authority.

D. Construction Phase

- 1. DA: Reviews and approves plans and specifications, and obtains current Federal Wage Decision from EDA or online at <http://www.wdol.gov/dba.aspx#0>, to be included in the bid package.
- 2. DA: Forwards construction bid package and approved plans to EDA for review and approval along with a "Request for Approval to Proceed" to issue an "Invitation to Bid" for construction services. Attachment "D" - "Construction Contract Labor Compliance Provisions" must be part of the complete bid package submitted to EDA for approval.
- 3. EDA: Reviews and approves construction bid package for compliance with Federal and local regulations and forwards "Approval to Proceed" to invite bids with changes (if any) to DA.

4. DA: Determines bid solicitation process permitted by CDBG requirements under Federal Title 24 CFR Part 85.36 (Procurement Standards), and County contracting regulations. Advertises "Invitation to Bid" and receives bids.
5. DA: Ten days prior to bid opening, DA makes telephone contact with EDA and requests from EDA or obtains online at <http://www.wdol.gov/dba.aspx#0> the current Federal Wage Decision. If the Federal Wage Decision is in any way different from that issued in the original bid package, DA will issue a bid addendum and immediately forward the latest wage decision to all bidding contractors who, in turn, submit revised bids prior to the bid opening. DA shall notify EDA of any change in the Federal Wage Decision should DA use the online option above.
6. DA: Conducts bid opening and reviews bid documents submitted by the low-bidder to assure compliance with County Policy 15-01, if applicable, and 24 CFR 85.36(e) regarding the participation of minority, disadvantaged and women business enterprises (MWBE's) in the proposed construction contract. If DA has its own plan that meets the aforementioned requirements, it may use this plan for bid document reviews.
7. DA: Submits the low-bidder information and list of subcontractors to EDA and a "Request for Approval to Proceed" to award a "Construction Services Contract". If adjustment of funds or project description is needed, the written request for reallocation of funds (revised Attachment "A") or change in project description (revised Attachment "B") should be sent at this time.
8. EDA: Prepares revisions to Attachment "A" and/or "B" as requested (if necessary).
9. EDA: Reviews Contractor/Subcontractor's eligibility to receive Federal contracts.
10. EDA: Issues "Approval to Proceed" to award a "Construction Services Contract" to DA.
11. DA: Insures completeness of contract documents prior to award of contract. **Prime and Sub-Contractor Construction contracts must contain the Labor Compliance Contract Addendum (LCCA)**, a copy of applicable Federal Wage Determination, and a copy of restrictions on public buildings and public works projects provisions.
12. DA: Awards Contract.
13. DA: Notifies EDA of pre-construction conference at least five working days prior to event. **Prime and Sub-Contractor's labor compliance personnel must attend pre-construction conference.** Submits required EDA documents (Ex: completed bid package) prior to pre-construction meetings, including Contractor Information Sheet.
14. DA: Conducts pre-construction conference (EDA attendance mandatory). EDA sets up prime contractor on LCPtracker.

15. DA/  
EDA: DA provides EDA with a copy of signed contract which incorporates the LCCA prior to start of construction. DA ensures completion of bonds and all required labor compliance documentation is accepted in LCPtracker. EDA obtains Project Wage Rate Sheet from Prime Contractor which includes all federal labor classifications that will be utilized on the project by the Prime Contractor as well as ALL Sub-Contractors.
16. DA: Keeps an up-to-date record of all encumbrances and obligations, including staff costs incurred, to assure that the remaining balance of funds is known.
17. EDA/  
DA: Ongoing observation and monitoring of projects.
18. DA: Conducts on-site interviews with contractor employees for each trade regarding their wages. Sends original signed Record of Employee Interview (HUD-11) to EDA. EDA may require Record of Employee Interview to be entered on LCPtracker.
19. DA: Ensures contractor's submission of Weekly Certified Payroll in LCPtracker.
20. DA: Receives Contractor requests for progress payments and any other documentation of expenditures and work accomplished. DA reviews labor compliance reports in LCPtracker.
21. EDA: Reviews Contractor Weekly Certified Payroll on LCPtracker during the term of construction, including non-performance payrolls.
21. EDA: Checks wages reported on Certified Payroll forms against employee interview forms for consistency between wage rates reported by contractor and wages received by employees.
22. DA: Submits to EDA during the term of the construction contract, a report package containing:
- Request for Reimbursement and accompanying documentation. Payments on said requests are subject to complete compliance with Federal Labor Standards.
23. DA: Notifies EDA of all meetings regarding EDA projects, such as Design Conferences, Public Meetings, and meetings with Community Development Advisory Commission, and DA at least five working days before event occurs.
24. DA: Processes change orders and sends copy(ies) of proposed change order(s) along with a "Request for Approval to Proceed" to issue a "Contract Change Order" to EDA. Must obtain approval from EDA regarding all change orders prior to authorizing the contractor to proceed with said changes.
25. DA: Notifies EDA of proposed changes in the list of subcontractor(s) and submits a "Request for Approval to Proceed" to add or delete subcontractor(s) from the approved list.
26. EDA: Revises Attachments "A" or "B", if necessary, and issues an "Approval to Proceed" to issue a "Change Order(s)" to DA.

- 27. DA: Notifies EDA of final inspections at least five working days before inspection date.
- 28. DA: Attends final inspections (EDA attendance optional).
- 29. DA: Secures its governing body's acceptance of completed project and filing of Notice of Completion and submits "Notice of Completion" to EDA.
- 30. EDA: Monitors project progress and contract compliance and issues, as necessary, "Notice to Submit Final Activity Costs" notices to DA.
- 31. DA: Takes necessary actions to comply with said notices.
- 32. EDA: Conducts "Annual Certification of Use of Facilities".

IV. DA must ensure compliance with the following regulations and statutes, as amended, in carrying out CDBG funded activities:

- A. Community Development Block Grant Regulations of the Housing and Community Development Act of 1974, as amended (24 CFR 570).
- B. Applicable Uniform Administrative Requirements:
  - 1) Office of Management and Budget Circular A-87
  - 2) Office of Management and Budget Circular A-128
  - 3) 24 CFR Part 85
- C. Applicable Uniform Administrative Requirements for Subrecipients that are not Governmental Entities:
  - 1) Office of Management and Budget Circular A-110
  - 2) Office of Management and Budget Circular A-122
  - 3) 24 CFR Part 84
- D. Federal Labor Standards Compliance Handbook No. 1344.1 REV-1 including:
  - 1) Davis-Bacon Act (40 U.S.C. 276a to a-7)
  - 2) Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330)
  - 3) Copeland Act (18 U.S.C. 874)
- E. Equal Employment Opportunity Requirements of Executive Order 11246, as amended
- F. Environmental Protection Agency Regulations (40 CFR Part 1500-1508)
- G. Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128)
- H. Archaeological and Historic Preservation Act of 1974
- I. Rehabilitation Act of 1973, as amended

- J. Americans With Disabilities Act
- K. Clean Air Act (42 U.S.C. 7401 et. seq.)
- L. Clean Water Act (33 U.S.C. 1368)
- M. Section 3 Regulations of the Housing and Urban Development Act of 1968, Title 24 CFR, Part 135 (12 U.S.C. 1701u)
- N. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et. seq.)
- O. Fair Housing Act (42 U.S.C. 3601-20)
- P. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601-4655)
- Q. Hatch Act
- R. Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b))



COUNTY OF  
**SAN BERNARDINO**  
COMMUNITY DEVELOPMENT AND HOUSING

**CONSTRUCTION CONTRACT  
LABOR COMPLIANCE PROVISIONS  
(Attachment D)**

## **NOTICE TO BIDDERS**

### **COUNTYWIDE VISION:**

The project(s) implemented with these funds assist in meeting an element of the Countywide Vision for sustainable infrastructures and housing as adopted by the County Board of Supervisors and SANBAG on June 30, 2011.

### **FUNDING OF PROJECTS AND FEDERAL AND STATE REQUIREMENTS**

Bidders are advised that federal funds are being used for this project and that as a result, certain requirements are to be imposed, depending upon the source of the federal funds. Sources may include: Community Development Block Grant funds (CDBG), Neighborhood Stabilization Program funds (NSP) or HOME Investment Partnerships Program funds (HOME). The use of any of these federal funds on a project will require the payment of federal prevailing wages under the Davis-Bacon and Related Acts ("DBRA") (40 USC §3142, 40 USC §§ 276a-276a-7, 29 CFR Part 5, which will be enforced when the contract amount for the Prime Contract exceeds \$2,000. The Prime Contractor is responsible for ensuring all Subcontractor(s) and lower-tier Subcontractor(s) compliance with the DBRA. The Federal Labor Standards Provisions (HUD 4010) apply to this project and are attached.

For HOME and NSP funded projects, the Prime Contractor, all Subcontractors and all lower-tier Subcontractors are required to pay their laborers and mechanics employed under the contract, a wage not less than the locally prevailing wages (including fringe benefits) listed in a David Bacon wage determination for a classification, as specified in the Federal Wage Determination. **If other funding is used on a project, California state prevailing wages (as specified in the State Wage Determination) may be triggered. If that occurs, then the higher of the two applicable wage classifications (federal or state) will be enforced for all work under the contract.** For CDBG-funded projects, the Prime Contractor, all Subcontractors and all lower-tier Subcontractors are required to pay their laborers and mechanics providing work under the contract, a wage not less than the locally prevailing wages (including fringe benefits), as specified in **both** the Federal and State Wage Determinations for the project.

**The higher of the two applicable wage classifications, either the Federal Prevailing Wage or, State Prevailing Wage will be enforced for all work under this Contract.**

**Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity** - The bidder's attention is called to the "Equal Opportunity Clause" and "Standard Federal Equal Employment Specifications" contained in the bid package. Goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, is 19% for minorities and 6.9% for women.

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## CONSTRUCTION CONTRACT PROVISIONS - DEFINITIONS

The following are definitions of state and federal provisions/documents for federally-assisted projects. Please refer to the "Required Documents Checklist" for any documents to be completed and submitted for this project.

**Affirmative Action Compliance Guidelines for Construction or Non-Construction Contractors** – Generally, affirmative action requirements apply to contracts and subcontracts in excess of \$10,000. This document provides guidelines to help Contractors meet affirmative action and equal employment opportunity requirements set forth in federal regulations 41 CFR 60.

**Bid Bond** – A bid guarantee of at least 10% of the contract price is required from each bidder and must be submitted with the Bid.

**Certificate of Owner's Attorney** – This certificate is to be completed by the owner's attorney when applicable.

**Certification of Bidder Regarding Equal Employment Opportunity** – This certification is required by Federal law (41 CFR 60) and must be completed by the Prime Contractor and submitted to the CITY/COUNTY prior to the pre-construction conference.

**Certification of Compliance with Air and Water Acts** – The prime Contractor and all Subcontractors must comply with this certification when the contract exceeds \$100,000.

**Certification by Proposed Subcontractor Regarding Equal Employment Opportunity** – This certification must be completed by all Subcontractors and every lower-tier Subcontractor and submitted to the Prime Contractor for submittal to the CITY/COUNTY prior to the pre-construction conference.

**Contractor's Certification of Compliance with Davis-Bacon and Related Acts** – This certification is required by federal law (29 CFR 5) and must be completed by the Prime Contractor and submitted to the CITY/COUNTY prior to the pre-construction conference.

**Equal Employment Opportunity Clauses/Equal Employment Opportunity Construction Contract Provisions** – These provisions are to be inserted in all applicable federally-assisted contracts and subcontracts.

**Federal Labor Standards Provisions (HUD 4010 form)** – These provisions set forth the federal labor requirements for contractors working on federally-assisted construction projects in which the prime contract exceeds \$2,000. The Prime Contractor and all Subcontractors and every lower-tier subcontractor are required to pay their laborers and mechanics working onsite a wage as specified in the FEDERALLY FUNDED PROJECTS section of this provision. *The Prime Contractor is responsible to include the Labor Compliance Contract Addendum in all executed Subcontractor contracts for this project.*

**Federal Prevailing Wage Decision** – The Federal Wage Decision contains the federal wage rates for construction projects within the County of San Bernardino. A copy of the Wage Decision is included in the bid package and can also be found at <https://www.sam.gov/portal/public/SAM/> or <http://www.wdol.gov/dba.aspx> the wage decision that applies to the project is the one in effect ten days prior to the bid opening date.

**Labor and Materials Bond** – This payment bond guarantees that employees/Subcontractors, and suppliers are paid for services rendered and materials supplied. The Labor and Materials Bond must be at least 100% of the contract price and must be submitted to the CITY/COUNTY upon award of the contract.

**Performance Bond** – This bond guarantees the Contractor's performance under the terms of the construction contract and must be at least 100% of the contract price and submitted to the CITY/COUNTY following award of the contract.

**Section 3** – This law applies to construction contracts exceeding \$100,000 on projects funded by the U.S. Department of Housing and Urban Development (HUD). To the greatest extent feasible, Contractor(s) and Subcontractor(s) must attempt to become a Section 3 business. A Section 3 business is one owned by a low-income person, a business of which 30% of the workforce is comprised of low-income individuals, or a business that contracts 25% of its work to Section 3 businesses.

## LABOR COMPLIANCE REQUIREMENTS

### Davis-Bacon and Related Acts:

The Prime Contractor is responsible for ensuring all Subcontractor(s) and lower-tier Subcontractor(s) compliance with all requirements of Davis-Bacon and Related Acts (DBRA). The Federal Labor Standards Provisions (HUD 4010) apply to this project and are attached.

A copy of the Federal Prevailing Wage Decision, (and upon request the State Wage Decision) the date of which reflects the latest applicable modification at the time of this bid advertisement, is included in the Contract Documents and Specifications. Bidders shall be notified, via Addendum, of modifications, if any, which supersede that modification included herein, up until a minimum of ten days prior to the actual Bid Opening for this project.

A weekly Certified Payroll Report (CPR) is required during the term of construction on the project. Payment(s) of invoice(s) for this project may be delayed when CPRs are not submitted weekly. The CITY/COUNTY shall make progress payments on any properly completed payment request submitted by the Prime Contractor. The payment request shall not be approved unless all CPRs for the project submitted through LCPtracker have been approved and accepted for each week worked during the time period covered by said payment request.

### LCPtracker:

As permitted by the Department of Labor (DOL), The Department of Housing and Urban Development (HUD), and Title 8, section 16404 of the California Code of Regulations, the Prime Contractor and each Subcontractor and every lower-tier Subcontractor subject to DBRA are allowed to submit CPRs electronically via LCPtracker

LCPtracker is a web-based system.. The Prime Contractor and Subcontractors and lower-tier Subcontractors will receive an email from LCPtracker providing their log-on identification and temporary password. The Contractors will need to follow the instructions in the email to set-up their permanent password and activate their account. Once their account is setup, LCPtracker Inc. provides two convenient training options:

**Option 1: Computer-Based Training Courses:** Pre-recorded videos can be viewed at any time by logging into the LCPtracker website and following these simple steps:

- Enter user name/password
- Select the "eTraining" link located at the top of the page.
- Select "Contractor Training Videos"

**Option 2: Web-Based Training Sessions:** Online training sessions facilitated by members of LCPtracker's customer support team are available several times per week. All that is needed to participate is a computer with Internet access, an email address and access to a phone.

- Enter user name/password
- Select "Book Now" on the "Projects" tab and register for the Online training sessions.

## **eDocuments:**

In order to meet labor compliance requirements, all contractors will be required to complete eDocuments which are accessed, submitted and approved through LCPtracker. All eDocuments are required to be signed by an owner/officer or authorized signer. Prior to the contractor being allowed by the system to certify CPRs, all eDocuments must be submitted to, and approved by, the County.

## **Other Required Documentation:**

One of the documents that will be required to be uploaded in LCPtracker as part of the eDocuments, is a City business license or a letter stating the reasons why no business license is required. All contractors performing work on a project site located within an *incorporated* city must possess or obtain that city's business license. However, if the project is located in an *unincorporated* area of the County, and the contractor's business is located in an *incorporated* city, the contractor must possess or obtain a business license within the city where their business is located. Exception to business license requirement: A letter explaining the exception to the business license requirement will be required if the contractor's business and the project work site are both located in the *unincorporated* area of the County.

## **Electronic Submission of Certified Payrolls:**

Use of LCPtracker may require data entry in order to certify weekly payroll(s). Data entry includes information regarding employee identification, labor classification, total hours worked on the project, wage and benefit rates paid etc. Contractors currently using a payroll software system may be capable of interfacing with LCPtracker. Submission of electronic CPRs will be required by every lower-tier Subcontractor.

**The Prime Contractor and each Subcontractor and every lower-tier Subcontractor and any Vendors subject to this provision shall comply with Title 8, Section 16404 of the California Code of Regulations.**

# **REQUIRED DOCUMENTS CHECKLIST**

## ***REQUIRED PRIOR TO CONTRACT AWARD***

- ☐ 1. Bid Package signed by Contractor or letter stating that the project specifications document is part of the contract
- ☐ 2. Signed Partnership Agreement (if applicable)

## ***REQUIRED PRIOR TO PRECONSTRUCTION CONFERENCE***

- ☐ 3. Executed Contract/Purchase Order NOTE: The Labor Compliance Contract Addendum (LCCA) which includes the HUD Form 4010 and the Federal prevailing wage determination for the project must be attached to contract
- ☐ 4. Prime Contractor Information Form
- ☐ 5. Bonds (performance/payment or labor and material bonds)
- ☐ 6. Contractor's Certification of Compliance with Davis-Bacon and Related Act Requirements (Exhibit A1)\*
- ☐ 7. Sub-Contractor's Certification of Compliance with Davis-Bacon and Related Act Requirements (Exhibit A-1)\*
- ☐ 8. Certification of Bidder Regarding Equal Employment Opportunity(Exhibit B)\*

## ***REQUIRED DURING CONSTRUCTION***

- ☐ 9. Certification of Proposed Sub-Contractor Regarding Equal Employment Opportunity (Exhibit C)\*
- ☐ 10. Affirmative Action Compliance Form for Construction Contracts over \$10,000 (Exhibit D)\*
- ☐ 11. A copy of all executed Sub-Contractor contracts NOTE: The Labor Compliance Contract Addendum (LCCA) which includes the HUD Form 4010 and the p[revaling wage determination for the project must be attached to contract
- ☐ 12. City Business License/Exception Letter
- ☐ 13. Certificate of Understanding and Authorization Form (Exhibit E)
- ☐ 14. Fringe Benefit Statement Form (Exhibit F)\*
- ☐ 15. Authorization for Payroll Deduction (Exhibit G)\*
- ☐ 16. DOL Registered Apprentice Program\*

- ☐ 17. DOL Apprenticeship Certification\*
- ☐ 18. Apprenticeship Program Appendix A\*
- ☐ 19. Project Wage Rate Sheet\*

### ***REQUIRED DURING CONSTRUCTION***

- ☐ 20. Weekly Certified Payrolls (see "Electronic Submission of Certified Payrolls" section)

\*Note: These forms are located on the LCPtracker online database discussed in "Electronic Submission of Certified Payrolls" section and will be discussed by County CDH staff at the preconstruction conference.

### 1. Applicability

The project or program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its Subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or

its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1) (ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other federal contract with the same prime Contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the Contractor or any Subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part

of the wages required by the contract, HUD or its designee may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or Subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I (b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number. The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all Subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee.

(Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i) and that such information is correct and complete;

**(2)** That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

**(3)** That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

**(c)** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

**(d)** The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

**(iii)** The Contractor or Subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or Subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and Trainees**

**(i) Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work

actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or Subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate, who is not registered and participating in a training plan approved by the Employment and Training Administration, shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**Compliance with Copeland Act requirements.** The Contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

**Subcontracts.** The Contractor or Subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 of this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier Subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a Contractor and a Subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its Subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration Transactions", provides in part: "Whoever, for the purpose of influencing in any way the action of such Administration makes, utters or publishes any statement knowing the same to be false shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any Subcontractor because such employee 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 under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

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**(1) Overtime requirements.** No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the Contractor and any Subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime contract, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime Contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

**(3)** The Contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each Subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

## SECTION 3 CLAUSE

(Information for the Section 3 Report will be input on LCPtracker)

- 3-2.2 Employment opportunities for business and lower income persons in connection with assisted projects. This clause applies to construction contracts of \$100,000 or more, on projects funded with \$200,000 or more in federal funds from the U.S. Department of Housing and Urban Development.

Assurance of compliance with regulations.

- (A) Every contract or agreement for a grant, loan, subsidy or other direct financial assistance in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities and new community facilities and new community development, entered into by the Department of Housing and Urban Development with respect to a Section 3 covered project shall contain provisions requiring the applicant or recipient to carry out the provisions of Section 3, the regulations set forth in this part, and any applicable rules and orders of the Department issued thereunder prior to approval of its application for assistance for a Section 3 covered project.
- (B) Every applicant, recipient, contracting party, Contractor and Subcontractor shall incorporate, or cause to be incorporated, in all contracts for work in connection with a Section 3 covered project, the following clause (referred to as Section 3 clause):
- a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development as 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 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns, which are located 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 the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth to 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
  - c. The Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organizations or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
  - d. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development 24 CFR 135. The Contractor will not subcontract unless the Subcontractor has first provided him with a preliminary statement of ability to comply with the requirements of these regulations.
  - e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its Contractors and Subcontractors, its successors and assigns, to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR 135

# **AFFIRMATIVE ACTION COMPLIANCE GUIDELINES FOR CONSTRUCTION AND NON-CONSTRUCTION CONTRACTORS**

# AFFIRMATIVE ACTION COMPLIANCE GUIDELINES FOR CONSTRUCTION AND NON-CONSTRUCTION CONTRACTORS

These Affirmative Action Compliance Guidelines have been designed to provide Contractors with information necessary to comply with Federal regulations found under Title 40, Part 60 of the Code of Federal Regulations. It is the intent of these guidelines to insure that equal opportunity for employment is practiced by the Contractor without regard to race, color, sex, religion, national origin, disability, and veteran's status. These guidelines provide the minimum information necessary to comply with EEO and affirmative action requirements, including the preparation of an Affirmative Action Plan that complies with federal regulations regarding Affirmative Action for federally-assisted projects. Contractors are urged to contact the implementing entity or the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) officer for any necessary technical assistance in meeting Affirmative Action requirements if they are considering bidding under this contract.

## I. AFFIRMATIVE ACTION COMPLIANCE PROGRAM

A. The Affirmative Action program embodies the following principals:

1. Discrimination because of race, color, age, sex, religion, national origin, marital status, disability, or veteran's status is inconsistent with the constitution, laws, and policies of the United States, State of California and County of San Bernardino.
2. The implementing entity is committed to insuring that there be no discrimination by vendors, Contractors (including professional services and consultants), lessors, or lessees doing business with the implementing entity.
3. Contractors and Subcontractors agree to take affirmative personnel actions to hire and promote workers who traditionally have been discriminated against in the job market, including women, minorities, members of certain ethnic and religious groups, individuals with disabilities, and veterans.

B. Affirmative Action Step Requirements for CONSTRUCTION Contractors and Subcontractors:

1. Personnel affirmative action in recruitment, hiring, and promotion is required by Contractor and Subcontractors who have entered into a federally-assisted construction or non-construction contract that exceed \$10,000 or \$10,000 in the aggregate over a 12-month period.
2. Contractors and Subcontractors who enter into a CONSTRUCTION CONTRACT in excess of \$10,000 must take 16 specific affirmative action steps to ensure equal employment opportunity. These steps are included in 41 CFR 60-4.3 (a) (7) and are also included under "Standard Federal Equal Employment Opportunity Construction Contract Specifications" of Attachment "D" of the bid package.

C. Affirmative Action Plan requirements for NON-CONSTRUCTION Contractors:

1. All Contractors who have entered into a NON-CONSTRUCTION CONTRACT and who: 1) do business in the amount of \$50,000 or more with the implementing entity in any one fiscal year and, 2) employ 50 or more employees, must develop a written Affirmative Action Program within 120 days after the contract award date.
2. All Subcontractors rendering services or supplies to a Contractor in the amount of \$50,000 or more and employ 50 or more employees, must develop a written Affirmative Action Program within 120 days after the contract award date.

D. Exemptions under 41 CFR 60:

The following persons/contracts shall be exempt from this program:

1. A contract or contracts by a Contractor that do not exceed \$10,000 in the aggregate over a 12-month period.
2. Contracts for Work outside the United States
3. State and Local Governments
4. Contracts with certain educational institutions
5. Work on or near Indian Reservations
6. Specific contracts and facilities found exempt by
7. Deputy Assistant Secretary
8. National security contracts

Any Contractor who feels qualified for an exemption should contact the local Contract Compliance Officer or the U.S. Department of Labor's OFCCP Officer for further information.

## II. SATISFYING AFFIRMATIVE ACTION PLAN

A. Affirmative Action Plan requirements for NON-CONSTRUCTION Contractors can be met through the following:

1. Completing a Contract Compliance Qualifying Report for Non-construction Contractors and Vendors, (refer to the form found in the "Additional Required Documents/Sample Documents" section of Attachment "D" of the bid package).
2. Completing a Contractor's Affirmative Action Policy, including methods of recruiting minorities and women. If the Contractor does not have its own Affirmative Action Policy, it may adopt the County's model Affirmative Action Policy (refer to the form found in the "Additional Required Documents/Sample Documents" section of Attachment "D" of the bid package).
3. Following Federal Affirmative Action Plan guidelines which comply with the requirements of 41 CFR 60.2.10.

## DEFINITIONS

Unless a provision of a contract otherwise requires, certain words and phrases shall be defined as follows:

- A. "Affirmative Action" is a commitment to increase the number of minorities and women in the work force by setting employment goals and timetables, including action to achieve objectives. Affirmative Action seeks to ensure that discrimination is eliminated in dealings with employees or applicants for employment whether the discrimination is intentional or unintentional. In addition, Affirmative Action seeks to improve job standards and productivity through the removal of artificial and unnecessary barriers to employment and promotion and ensure that all job actions are related to job performance measures.
- B. "Affirmative Action Plan" is a written affirmative plan required of Contractors and Subcontractors who have 50 or more employees and have entered into a contract with the implementing entity that exceeds \$50,000 or \$50,000 in contracts over a 12-month period.
- C. "Contract" means a federally-assisted purchase order, offer and acceptance, lease, agreement or other arrangement creating an obligation to which the implementing entity is a party, which would make one of the parties within the definition a Contractor.
- D. "Construction" means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways or other changes or improvements to real property, including facilities providing utility services.
- E. "Contractor" means a prime Contractor or Subcontractor.
- F. "Covered Area" means the geographical area described in the solicitation from which the contract resulted;
- G. "Director" means Director, OFCCP, U.S. Dept. of Labor, or any person to whom the Director delegates authority to;
- H. "Employee" means one who performs work for compensation, or a person who is permanently or regularly employed by the Contractor or Subcontractor.
- I. "Employer Identification Number" means the Federal Social Security Number;
- J. "Handicapped Status" means any person who:
  - 1. Has a physical or mental impairment, which substantially limits one or more of such person's major life activities.
  - 2. Has a record or such impairment or,
  - 3. Is generally regarded as having such an impairment.
- K. "Employer Identification Number" means the Federal Social Security Number;
- L. "Handicapped Status" means any person who:
  - 1. Has a physical or mental impairment, which substantially limits one or more of such person's major life activities.
  - 2. Has a record or such impairment, or
  - 3. Is generally regarded as having such an impairment.
- M. "Implementing Entity" means public jurisdiction who is administering the contract.
- N. "Minority" includes:
  - 1. Black (all persons having origins in any Black African racial groups not of Hispanic origin);
  - 2. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
  - 3. Asian or Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands);
  - 4. American India or Alaskan native (all persons having origins in any of the native peoples of North America and maintaining identifiable tribal affiliations through membership and participation in community identification).
- O. "Non-construction Contract" means any contract that does not fall within the definition of "Construction Contract".
- P. "Officer" means the Contract Compliance Officer of the implementing entity or U.S. Department of Labor Office of Federal Contract Compliance Program (OFCCP) Officer.
- Q. "Persons" means any individual, firm, co-partnership, public service, joint venture, association, social club, fraternal organization, corporation, estate, trust receiver, syndicate CITY, county, municipal corporation, district or other political subdivision, or any other group or combination acting as a unit.
- R. "Underutilization" means having fewer minorities or women in a particular job classification than would reasonably be expected by their availability.
- S. "Vietnam-Era Veteran" means a person who:
  - 1. Served on actual duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released there from with other than a dishonorable discharge; or
  - 2. Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

T. Violation and Appeal Procedure:

1. A Contractor found in violation of equal opportunity/affirmative action laws will be referred to the U.S. Department of Labor's OFCCP Division, and the Solicitor for Labor, Associate Solicitor of Labor Relations and Civil Rights Regional Solicitors and Regional Attorney are authorized to institute enforcement proceedings by filing a complaint and serving that complaint to the Contractor (defendant), in accordance with procedures set forth in 41 CFR 60-30.5. The complaint shall contain information on the alleged violation, a prayer regarding the relief being sought, and the name and address of the attorney representing the Government. Within 20 days after receiving the complaint, the defendant shall file an answer with the Chief Administrative Law Judge, if the case has not been assigned to an Administrative Law judge.
2. The answer shall contain a statement of the facts which constitute the ground of defense, and shall:  
1) specifically admit, explain, or deny each of the allegations of the complaint unless the defendant is without knowledge, or 2) state that the defendant admits all the allegations contained in the complaint. The answer may contain a waiver for a hearing and if not, a separate paragraph in the answer shall request a hearing. The answer shall contain the name and address of the defendant, or of the attorney representing the defendant. Failure to file an answer or plead specifically to an allegation of the complaint shall constitute an admission of such allegation.
3. Contractor agrees to fully comply with the laws and programs (including regulations issued pursuant thereto) identified herein. Such compliance is required to the extent such laws, programs and their regulations are, by their own terms, applicable to this contract. Contractor warrants that he will make himself thoroughly familiar with the applicable provisions of said laws, programs, and regulations prior to commencing performance of the contract. Copies of said laws, programs, and regulations are available upon request from the implementing entity's Contract Compliance Officer, or from the U.S. Department of Labor's OFCCP Officer to the extent applicable the provisions of said laws programs and regulations are deemed to be a part of this contract as if fully set forth herein.
4. Vietnam Era Veterans' Readjustment Assistance Acts of 1972 and 1974, as amended. Pub. L. 92-540, Title V, Sec 503(a), Pub. L 93-508. Title IV, Sec. 402. (38 USCA 2011-2013).
5. Rehabilitation act of 1973, as amended (Handicapped) Pub. L 93-112 as amended. (29 USCA 701-794).
6. California Fair Employment Practice Act. Labor Code Sec. 1410 et seq. Civil Rights Act of 1964, as amended (42 USCA 2000a to 2000H-6) and Executive Order No. 11246, September 24, 1965, as amended.

## **EQUAL OPPORTUNITY CLAUSES**

**The Contractor and Subcontractors not found exempt under 41 CFR 60-1.5, are required to comply with the following equal opportunity clauses as a condition of being awarded a federally-assisted contract. Each nonexempt prime Contractor shall include equal employment opportunity clauses in each of its nonexempt Subcontractors.**

### **EQUAL OPPORTUNITY CLAUSE FOR FEDERALLY-ASSISTED CONSTRUCTION CONTRACTS**

This clause is inserted pursuant to Executive Order 11246 of September 24, 1965, as amended, and Title VII of the Civil Rights Act of 1964, and is applicable pursuant to 41 CFR Sec. 60-1.4. The following requirements apply to Contractors and Subcontractors

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The 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, 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. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.

- (5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders
- (6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work; provided, that if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and Subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and Subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 1124 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and Subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee), refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurances of future compliance has been received from such applicant, and refer the case to the Department of Justice for appropriate legal proceedings.

In addition to the above, Contractor will agree to furnish all information and reports, including Standard form EEO-1, if applicable, to the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Labor's OFCCP, as required by Executive Order No. 11246 of September 24, 1965.

### **EQUAL OPPORTUNITY CLAUSE FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA**

This clause is inserted pursuant to Executive Order 11701 of January 24, 1973 and the Vietnam Era Veterans Readjustment Assistance Acts of 1972 and 1974 (P.L. 92-540, 93-508), and is applicable pursuant to 41 CFR Sec. 60-250.

- (1) The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam Era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam Era without discrimination based upon their disability or veterans status in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (2) The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State

- (3) Employment Service System wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.
- (4) Listings of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.
- (5) The reports required by paragraph (2) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that State Employment Service. Such reports shall indicate for each hiring location, (a) the number of individuals hired during the reporting period, (b) the number of non-disabled veterans of the Vietnam Era hired, (c) the number of disabled veterans of the Vietnam Era hired, and (d) the total number of disabled veterans hired. The reports shall include covered veterans hired for on-the-job training under 38 USC Sec. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location, copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.
- (6) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.
- (7) This clause does not apply to the listing of employment openings, which occur and are filled outside of the 50 States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.

- (8) The provisions of paragraphs (2), (3), (4) and (5) of this clause do not apply to openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer - union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer - union arrangement for that opening.
- (9) As used in this clause:
- a. "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and non-supervisory; technical; and executive, administrative and professional openings as are compensated on a salary basis of less than \$25,000 per year. The term includes full-time employment, temporary employment of more than three days duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer - union hiring arrangement or openings in an educational institution which are restricted to students of that institution. Under most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.
  - b. "Appropriate office of the State Employment Service System" means the local office of the federal - state national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Colombia, Guam, Puerto Rico and the Virgin Islands.
  - c. "Openings which the Contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.
  - d. "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer - union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of his employees.
- (9) The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (10) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (11) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era for employment, and the rights of applicants and employees.
- (12) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Vietnam Era Veterans' Readjustment Assistance Act, and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era.
- (13) The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.
- (14) Collective bargaining agreement or other contract understanding that the Contractor is bound by the terms of the Vietnam Era Veterans' Readjustment Assistance Act, and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era.
- (15) The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

## **EQUAL OPPORTUNITY CLAUSE FOR WORKERS WITH DISABILITIES**

This clause is inserted pursuant to the Rehabilitation Act of 1973 (P.L. 93-112) and 41 CFR Sec. 60-741-4.

- (1) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (2) The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (3) In the event of the Contractor's non-compliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (4) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer.
- (5) Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- (6) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- (7) The Contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500.00 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

**STANDARD FEDERAL EQUAL  
EMPLOYMENT OPPORTUNITY  
CONSTRUCTION CONTRACT PROVISIONS  
(EXECUTIVE ORDER 11246, PURSUANT TO  
41 CFR 60-4.3 (a))**

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarter Federal Tax Return. U.S. Treasury Department form 941.
- d. "Minority" includes:
  - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
  - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with the plan for those trades which have unions participating in the Plan. Contractors

must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which the contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonable the able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors performing construction work in geographical areas where they do not have a federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the FEDERAL REGISTER in notice form, and such notices may be obtained from any Office of Federal Contract Compliance programs Office or from federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period and the Contractor must have made commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the follow 16 steps:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs

to the sources compiled under 7b above.

- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the item and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
  - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Contractors and suppliers, including circulation of solicitations to minority and female Contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors; adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a – p). The efforts of a Contractor association, joint Contractor-union, Contractor-community or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on

the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation, which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

- 9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the executive order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
- 10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- 11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- 12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- 13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the director shall proceed in accordance with 41 CFR 60-4.6.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer) dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area

residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

- a) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid conditions for Federal and federally Assisted Construction published at 41 CFR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR Part 60-4 become effective.

### **Minority Goals**

The goal for the utilization of women employees on federally-assisted construction contracts is set at 6.9%.

The goal for utilization of minorities, based on the Standard metropolitan Statistical Area (SMSA) for Riverside/San Bernardino County is 19%.

For additional information on these goals, please contact the OFCCP-Pacific Region at (415) 848-6969.

## **CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS**

(Applicable to federally assisted construction contracts  
and related subcontracts exceeding \$100,000)

During the performance of this Contract, the Contractor and all Subcontractors shall comply with the requirements of the Clean Air act, as amended, 42 U.S.C. 1857 et. seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et. seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

In addition to the forgoing requirements, all nonexempt Contractors and Subcontractors shall furnish to the owner, the following:

- (1) A stipulation by the Contractor or Subcontractors, that any facility to be utilized in the performance of any nonexempt Contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
- (2) Agreement by the Contractor to comply with all requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 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.
- (3) A stipulation that as a condition for the award of the Contract, prompt notice will be given 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.
- (4) Agreement by the Contractor to include, or cause to be included, the criteria and requirements in paragraph (1) through (3) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

**-Insert-**

**CURRENT DAVIS-BACON WAGE DETERMINATION WHEN  
CONSTRUCTION PROJECT GOES OUT TO BID**



COUNTY OF  
**SAN BERNARDINO**  
ECONOMIC DEVELOPMENT AGENCY

**CONTRACTOR'S CERTIFICATION OF COMPLIANCE WITH  
DAVIS-BACON AND RELATED ACTS REQUIREMENTS**

**PRIME CONTRACTOR**

|                        |               |
|------------------------|---------------|
| PROJECT NAME:          | PROJECT CODE: |
| PROJECT ADDRESS:       |               |
| PRIME CONTRACTOR NAME: |               |

As the Prime Contractor for the above referenced project, I hereby make the following certification and acknowledgment with respect to the applicability of **"DAVIS-BACON AND RELATED ACTS"** requirements:

1. By entering into this contract I certify and acknowledge that the above referenced project is federally funded and, as the Prime Contractor, I am solely responsible for complying with the **"DAVIS-BACON AND RELATED ACTS"** requirements; and
2. The Prime Contractor and all Subcontractors are required to pay their laborers and mechanics employed a wage not less than the highest wage applicable to their work classifications. If no federal work classification appears to apply, the Prime Contractor shall make a written request to the County of San Bernardino to obtain the applicable work classification and wage rate prior to the start of construction. The Prime Contractor is solely responsible for ensuring that all Subcontractors are in compliance with the **"DAVIS-BACON AND RELATED ACTS"** requirements.

|                            |       |
|----------------------------|-------|
| PRIME CONTRACTOR           | DATE  |
| PRIME CONTRACTOR SIGNATURE | TITLE |

IF PRIME CONTRACTOR IS A CORPORATION OR PARTNERSHIP  
LIST THE LEGAL NAMES AND TITLES OF ALL PARTNERS OR CORPORATE OFFICERS.

|      |       |
|------|-------|
| NAME | TITLE |
| NAME | TITLE |
| NAME | TITLE |
| NAME | TITLE |
| NAME | TITLE |



COUNTY OF  
**SAN BERNARDINO**  
ECONOMIC DEVELOPMENT AGENCY

**SUBCONTRACTOR'S CERTIFICATION OF COMPLIANCE WITH  
DAVIS-BACON AND RELATED ACTS REQUIREMENTS**

**SUBCONTRACTOR**

|                        |               |
|------------------------|---------------|
| PROJECT NAME:          | PROJECT CODE: |
| PROJECT ADDRESS:       |               |
| PRIME CONTRACTOR NAME: |               |
| SUBCONTRACTOR NAME:    |               |

As the undersigned Subcontractor, having executed a contract with the above named contractor on the above referenced project, hereby make the following certification and acknowledgment with respect to the applicability of **"DAVIS-BACON AND RELATED ACTS"** requirements:

1. By executing a contract with the above named contractor, I/we certify and acknowledge that the above referenced project is federally funded and will comply with the **"DAVIS-BACON AND RELATED ACTS"** requirements.
2. I/we have read the **"LABOR COMPLIANCE CONTRACT ADDENDUM"** including the wage determination for the above referenced project. I/we acknowledge the receipt and adherence to following provisions set forth in the **"FEDERAL LABOR STANDARDS PROVISIONS"** before participation on this project.
3. I/we will include the **"LABOR COMPLIANCE CONTRACT ADDENDUM"** including the wage determination for the above referenced project in any lower tier subcontracts/purchase orders executed. I/we will forward to Prime Contractor a copy of all executed subcontracts/purchase orders to any lower tier subcontractors within seven (7) days of the execution date.

\_\_\_\_\_  
SUBCONTRACTOR

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SUBCONTRACTOR SIGNATURE

\_\_\_\_\_  
TITLE

IF SUBCONTRACTOR IS A CORPORATION OR PARTNERSHIP  
LIST THE LEGAL NAMES AND TITLES OF ALL PARTNERS OR CORPORATE OFFICERS.

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE



COUNTY OF  
**SAN BERNARDINO**  
ECONOMIC DEVELOPMENT AGENCY

**CERTIFICATION OF BIDDER REGARDING  
EQUAL EMPLOYMENT OPPORTUNITY**

**PRIME CONTRACTOR**

PROJECT NAME:

PROJECT CODE:

PROJECT ADDRESS:

**INSTRUCTIONS**

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed Subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the **Equal Opportunity Clause**; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven (7) calendar days after bid opening. No contract shall be awarded unless such report is submitted.

**BIDDER'S CERTIFICATION**

BIDDER'S NAME:

ADDRESS:

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

☐ Yes ☐ No (IF YES, identify the most recent contract.) \_\_\_\_\_

(IF NO, contractor may be required to submit an EEO-1 survey or other reports to the Equal Employment Opportunity Commission, EEOC at 800-669-4000 or online at <http://www.eeoc.gov/eeo1survey/index.html>.

2. Compliance reports were filed in connection with such contract or subcontractor with the Joint Reporting Committee, the Deputy Assistant Secretary or the Equal Employment Opportunity Commission.

☐ Yes ☐ No ☐ None Required

3. Has Bidder ever been or is bidder being considered for sanction due to violation of EXECUTIVE ORDER 11246, as amended. <http://www.dol.gov/compliance/laws/comp-eeo.htm>

☐ Yes ☐ No

**Certification:** The information above is true and complete to the best of my knowledge and belief.

\_\_\_\_\_  
PRIME CONTRACTOR (Print Name)

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
CONTRACTOR SIGNATURE

\_\_\_\_\_  
DATE



COUNTY OF  
**SAN BERNARDINO**  
ECONOMIC DEVELOPMENT AGENCY

**CERTIFICATION BY PROPOSED SUBCONTRACTOR  
REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

**SUBCONTRACTOR**

PROJECT NAME:

PROJECT CODE:

PROJECT ADDRESS:

**INSTRUCTIONS**

**This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective Contractor, or any of their proposed Subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the Equal Opportunity Clause; and, if so, whether it has filed all compliance reports due under applicable instructions.**

**Where the certification indicates that the Subcontractor has not filed a compliance report due under applicable instructions, such Subcontractor shall be required to submit a compliance report before the Prime Contractor approves the subcontract or permits work to begin under the subcontract. No contract shall be awarded unless such report is submitted.**

**SUBCONTRACTOR'S CERTIFICATION**

SUBCONTRACTOR'S NAME:

ADDRESS:

1. Subcontractor has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

☐ Yes ☐ No (IF YES, identify the most recent contract.) \_\_\_\_\_

(IF NO, contractor may be required to submit an EEO-1 survey or other reports to the Equal Employment Opportunity Commission contact EEOC at 800-669-4000 or online at <http://www.eeoc.gov/eo1survey/index.html>.

2. Compliance reports were filed in connection with such contract or subcontractor with the Joint Reporting Committee, the Deputy Assistant Secretary or the Equal Employment Opportunity Commission.

☐ Yes ☐ No ☐ None Required

3. Subcontractor has ever been or is being considered for sanction due to violation of EXECUTIVE ORDER 11246, as

amended. <http://www.dol.gov/compliance/laws/comp-eeo.htm>

☐ Yes ☐ No

**Certification: The information above is true and complete to the best of my knowledge and belief.**

SUBCONTRACTOR (Print Name)

TITLE

SUBCONTRACTOR SIGNATURE

DATE



COUNTY OF  
**SAN BERNARDINO**  
ECONOMIC DEVELOPMENT AGENCY

**AFFIRMATIVE ACTION COMPLIANCE FORM  
FOR CONSTRUCTION CONTRACTS OVER \$10,000**

| PRIME CONTRACTOR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  | SUBCONTRACTOR  |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------|--|
| PROJECT NAME:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  | PROJECT CODE:  |  |
| COMPANY – CONTRACTOR NAME:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  |                |  |
| <p><b>Please check the box that applies to your company to affirm an understanding and implementation of <u>AFFIRMATIVE ACTION COMPLIANCE</u> requirements and that you have read and completed the requirements for the project as noted below:</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |                |  |
| <p><input checked="" type="checkbox"/> I / We have reviewed and understand the "<u>CONSTRUCTION CONTRACT LABOR COMPLIANCE PROVISIONS (ATTACHMENT D)</u>" of the bid package and/or "<u>LABOR COMPLIANCE CONTRACT ADDENDUM</u>".<br/>MANDATORY REQUIREMENT</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                |  |
| <p><input type="checkbox"/> I / We <u>DO</u> currently maintain an effective Affirmative Action Program. The Affirmative Action Program complies with the <u>Standard Federal Equal Employment Opportunity Construction Contract Provisions Executive Order 11246, pursuant to 41 CFR 60-4.3 (a) and will furnish a copy upon request.</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |                |  |
| <p><input type="checkbox"/> I / We <u>DO NOT</u> currently maintain an Affirmative Action Program. I / We agree to the <u>Equal Opportunity Clause for Federally-Assisted Construction Contracts (Executive Order 11246), as amended, and Title VII of the Civil Rights Act of 1964, and is applicable pursuant to 41 CFR 60-1.4) of "CONSTRUCTION CONTRACT LABOR COMPLIANCE PROVISIONS (ATTACHMENT D)" of the bid package and/or "LABOR COMPLIANCE CONTRACT ADDENDUM".</u></p> <p>Personnel affirmative action in recruitment, hiring and promotion is required by Contractors and Subcontractors who have entered into a federally-assisted construction contract that exceeds \$10,000 or \$10,000 in the aggregate over a 12-month period. Contractors or Subcontractor who enter into a "Construction Contract" in excess of \$10,000 must take 16 specific affirmative action steps to ensure equal employment opportunity. These steps are included in <u>41 CFR 60-4.3 (a) (7) and are also included under "Standard Federal Equal Employment Opportunity Construction Contract Specifications" of "CONSTRUCTION CONTRACT LABOR COMPLIANCE PROVISIONS (ATTACHMENT D)" of the bid package and/or "LABOR COMPLIANCE CONTRACT ADDENDUM".</u></p> |  |                |  |
| I certify the information above is true and complete to the best of my knowledge and belief.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  |                |  |
| _____<br>CONTRACTOR (Print Name)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  | _____<br>TITLE |  |
| _____<br>CONTRACTOR SIGNATURE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  | _____<br>DATE  |  |



COUNTY OF  
**SAN BERNARDINO**  
ECONOMIC DEVELOPMENT AGENCY

CERTIFICATE OF UNDERSTANDING  
AND AUTHORIZATION FORM

PRIME CONTRACTOR

SUBCONTRACTOR

**\*\* Complete If Owner/Officer Is NOT Signing Statement of Compliance \*\***

PROJECT NAME:

PROJECT CODE:

COMPANY – CONTRACTOR NAME:

The undersigned certifies that the company principal(s), and the authorized payroll officer have read the most current "DAVIS-BACON LABOR STANDARDS" (A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects) and understand the labor standards clauses pertaining to this project including the pre-construction conference discussions and all related documents required for this project by the implementing agency in the pre-construction checklist package.

THE FOLLOWING PERSON(S) IS DESIGNATED AS THE PAYROLL OFFICER FOR THE UNDERSIGNED COMPANY CONTRACTOR AND IS AUTHORIZED TO SIGN THE STATEMENT OF COMPLIANCE WHICH WILL ACCOMPANY EACH WEEKLY CERTIFIED PAYROLL REPORT FOR THIS PROJECT.

\_\_\_\_\_  
PAYROLL AGENT (PRINT NAME)

\_\_\_\_\_  
PAYROLL AGENT (SIGNATURE)

\_\_\_\_\_  
OWNER/OFFICER (PRINT NAME)

\_\_\_\_\_  
OWNER/OFFICER (SIGNATURE)

\_\_\_\_\_  
TITLE (PARTNER/CORPORATE OFFICER OR OWNER)

\_\_\_\_\_  
DATE

**\*\*\* A PAYROLL OFFICER MAY SELF-CERTIFY AUTHORIZATION TO SIGN PAYROLL REPORTS ONLY IF A SOLE-PROPRIETOR. ALL OTHERS MUST HAVE AUTHORIZATION FROM A SECOND CORPORATE OFFICER / PARTNER OR OWNER. \*\*\***

EXHIBIT: E

# FRINGE BENEFIT STATEMENT FORM

| PRIME CONTRACTOR                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                | SUBCONTRACTOR                 |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------|--|
| PROJECT NAME:                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                | PROJECT CODE:                 |  |
| COMPANY – CONTRACTOR NAME:                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                |                               |  |
| Use this form to identify those <i>bona fide</i> Fringe Benefit Plan(s) in which your employees are participating. List all third party plans, funds or trustees to which your firm makes fringe benefit payments in the interest of your employees. Provide an hourly equivalent of each fringe type (in dollars) below. Payrolls will be monitored to ensure the proper Fringe Benefit rates are being paid. Additional documentation may be required. |                                                                |                               |  |
| CLASSIFICATION:                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                | EFFECTIVE DATE:               |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                | SUBSISTENCE OR TRAVEL PAY \$: |  |
| FRINGE BENEFIT HOURLY AMOUNT:                                                                                                                                                                                                                                                                                                                                                                                                                            | NAME, ADDRESS AND CONTACT INFORMATION OF PLAN, FUND OR PROGRAM |                               |  |
| VACATION/HOLIDAY \$:                                                                                                                                                                                                                                                                                                                                                                                                                                     | NAME:<br>ADDRESS:<br>CONTACT INFORMATION:                      |                               |  |
| HEALTH & WELFARE \$:                                                                                                                                                                                                                                                                                                                                                                                                                                     | NAME:<br>ADDRESS:<br>CONTACT INFORMATION:                      |                               |  |
| PENSION \$:                                                                                                                                                                                                                                                                                                                                                                                                                                              | NAME:<br>ADDRESS:<br>CONTACT INFORMATION:                      |                               |  |
| APPRENTICE/TRAINING \$:                                                                                                                                                                                                                                                                                                                                                                                                                                  | NAME:<br>ADDRESS:<br>CONTACT INFORMATION:                      |                               |  |
| OTHER \$:                                                                                                                                                                                                                                                                                                                                                                                                                                                | NAME:<br>ADDRESS:<br>CONTACT INFORMATION:                      |                               |  |
| CLASSIFICATION:                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                | EFFECTIVE DATE:               |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                | SUBSISTENCE OR TRAVEL PAY \$: |  |
| FRINGE BENEFIT HOURLY AMOUNT:                                                                                                                                                                                                                                                                                                                                                                                                                            | NAME, ADDRESS AND CONTACT INFORMATION OF PLAN, FUND OR PROGRAM |                               |  |
| VACATION/HOLIDAY \$:                                                                                                                                                                                                                                                                                                                                                                                                                                     | NAME:<br>ADDRESS:<br>CONTACT INFORMATION:                      |                               |  |
| HEALTH & WELFARE \$:                                                                                                                                                                                                                                                                                                                                                                                                                                     | NAME:<br>ADDRESS:<br>CONTACT INFORMATION:                      |                               |  |
| PENSION \$:                                                                                                                                                                                                                                                                                                                                                                                                                                              | NAME:<br>ADDRESS:<br>CONTACT INFORMATION:                      |                               |  |
| APPRENTICE/TRAINING \$:                                                                                                                                                                                                                                                                                                                                                                                                                                  | NAME:<br>ADDRESS:<br>CONTACT INFORMATION:                      |                               |  |
| OTHER \$:                                                                                                                                                                                                                                                                                                                                                                                                                                                | NAME:<br>ADDRESS:<br>CONTACT INFORMATION:                      |                               |  |
| I certify under penalty of perjury that fringe benefits are paid to the approved plans, funds or programs as listed above:                                                                                                                                                                                                                                                                                                                               |                                                                |                               |  |
| _____<br>CONTRACTOR (PRINT NAME)                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                | _____<br>TITLE                |  |
| _____<br>OWNER/CONTRACTOR SIGNATURE                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                | _____<br>DATE                 |  |

EXHIBIT: F

# FRINGE BENEFIT FORM INSTRUCTIONS

**Supplemental statements MUST be submitted during the progress of work should a change in rate of any of the classifications be made.**

**NOTE:** To receive credit for employer paid benefit contributions, plans must be bona fide and contributions must be documented. On the Fringe Benefit Statement, indicate the name, address and phone number of the administrator of the Plan, Fund or Program.

**VACATION PLAN/PAID HOLIDAY DOCUMENTATION:** Please submit copies of your company's policy for employer paid vacation and holidays. For vacation, please explain how you track the vacation hours for each employee. Additionally, please submit copies of monthly reports or statements from the bank/fund depository showing that the plan and vacation amounts are available for the workers.

**HEALTH AND WELFARE DOCUMENTATION:** For your Health & Welfare Plan, please submit copies of the plan documentation indicating monthly or quarterly billings for the covered benefits (and delineating all benefits per worker), as well as statements and copies of checks transmitted by your company to the trust fund or plan for these benefits.

**PENSION PLAN DOCUMENTATION:** Please submit copies of the plan documentation from the Plan Administrator including the plan summary, account balances, monthly or quarterly transmittals into the account and copies of checks transmitted by your company as payments into the accounts.

**APPRENTICE/TRAINING DOCUMENTATION:** Please submit copies of the Apprentice/Training Certification Letter from your Federally Registered Program Sponsors. The apprenticeship program must be registered with the Department of Labor (DOL), Office of Apprenticeship. Include level, step or period of the apprentice; apprentice's wage scale and ratio information. A training or apprentice wage can be paid only if the trainee is registered in a DOL approved apprenticeship or training program or with a State Apprenticeship Agency recognized by DOL. Otherwise, the individual is to be paid the Davis-Bacon and Related Acts (DBRA) prevailing wage rate for the classification of work that they are performing regardless of their skill level. (Federal regulations DO NOT REQUIRE the employment of apprentices on federally funded projects)

**OTHER DOCUMENTATION:** Please submit copies of explanation, monthly reports or statements and plan documentation from the Plan Administrator for all "OTHER" company paid plan(s). The implementing agency will verify plan(s) for employer to receive credit.

**FRINGES PAID IN CASH:** Indicate if some or all fringes will be added to the employee's basic hourly rate.

If your company does not operate under a collective bargaining agreement or contribute based on an hourly amount; you may use the following formulas to compute hourly benefits. Please be advised that examples are provided only to demonstrate how the formulas are used.

**Annual Calculation:** The annual calculation is based on 2080 hours per year (40hrs x 52 weeks per year)

**Formula:** Employee's Basic Hourly Rate x Number of Benefit Hours (8 Hrs a Day x Number of Days) divided by 2080

**Annual Hours.**

**Example:** At \$20/Hr, with 80 vacation hours a year, the hourly rate would calculate as follows:

$\$20 \times 80 \text{ Hrs} = \$1,600$  divided by 2,080 hours per year = \$.77

Fringe Benefit Hourly Amount: \$.77

**Monthly Calculation:** The monthly calculation factor 173.33 is based on 2080 hours per year divided by 12 months.

**Formula:** Monthly Benefit Plan Contribution divided by 173.33

**Example:** If employer pays \$200/month for a medical benefit, the monthly hourly rate calculates as follows:

A monthly plan contribution of \$200 divided by 173.33 = \$1.15

Fringe Benefit hourly amount: \$1.15



COUNTY OF  
**SAN BERNARDINO**  
ECONOMIC DEVELOPMENT AGENCY

**AUTHORIZATION FOR PAYROLL DEDUCTION(S)**

| PRIME CONTRACTOR           | SUBCONTRACTOR |
|----------------------------|---------------|
| PROJECT NAME:              | PROJECT CODE: |
| COMPANY – CONTRACTOR NAME: |               |
| EMPLOYEE NAME:             | EMPLOYEE #:   |

**MUST be completed and signed by the employee who has "OTHER/GARNISH" deduction(s) subtracted from his/her payroll. Deduction types include: Alimony, Child Support, other Court-Ordered Deductions or Garnishments, Uniforms, 401K, Loans, Advance Paybacks, or Insurance, etc. This form is to be submitted before the first Certified Payroll reflecting the deduction(s). ALL "Other/Garnish" deductions must be accompanied by supporting documentation.**

| DEDUCTION TYPE: | EXPLANATION FOR DEDUCTION(S): | WEEKLY AMOUNT: |
|-----------------|-------------------------------|----------------|
|                 |                               |                |
|                 |                               |                |
|                 |                               |                |
|                 |                               |                |
|                 |                               |                |

I, \_\_\_\_\_, HEREBY AUTHORIZE

(PRINT EMPLOYEE NAME)

(COMPANY - CONTRACTOR NAME)

**TO MAKE THE ABOVE LISTED DEDUCTION(S) FROM MY PAYROLL CHECK. IT IS UNDERSTOOD THAT THESE DEDUCTIONS ARE IN THE INTEREST OF THE EMPLOYEE AND NOT A CONDITION OF EMPLOYMENT, OR A DIRECT OR INDIRECT FINANCIAL BENEFIT ACCRUING TO THE EMPLOYER, AND NOT OTHERWISE FORBIDDEN BY LAW.**

\_\_\_\_\_  
EMPLOYEE SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
CONTRACTOR SIGNATURE

\_\_\_\_\_  
DATE