

APPENDIX A

FEDERAL REQUIREMENTS AND RESTRICTIONS

CONSULTANT shall comply with all applicable state and local codes, ordinances and other applicable laws, all applicable CITY CDBG program requirements and any amendments hereafter to CITY CDBG program guidelines and requirements. CONSULTANT agrees to comply with all applicable federal laws and regulations and to any amendments hereafter including, but not limited to, the following:

- A. **COMMUNITY DEVELOPMENT BLOCK GRANT REGULATIONS.** The CDBG Regulations, 24 CFR Part 570, and any amendments hereafter thereto; and
- B. **NONDISCRIMINATION.** No person or entity shall discriminate in the employment of persons in the performance of this Agreement by CONSULTANT or under any subcontract executed by CONSULTANT in the furtherance of CONSULTANT's performance under this Agreement because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sexual preference, or gender of such persons, except as provided in Section 12940 of the Government Code. This Agreement is also subject to state contract nondiscrimination and compliance requirements pursuant to Government Code, Section 12990. CONSULTANT and any subcontractor of CONSULTANT who violates the provisions of Section 1735 of the Labor Code shall be subject to all the penalties imposed for a violation of Chapter 1, Part 7, Division 2 of the Labor Code; and
- C. **NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS.** Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), and implementing regulations in 24 CFR part 1, prohibiting discrimination upon the basis of race, color, religion, ancestry, sex, marital status, mental or physical disability, age, familial status, sexual orientation, or national origin; and
- D. **HOUSING AND COMMUNITY DEVELOPMENT ACT.** Section 109 of the Housing and Community Development Act requiring that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act; and
- E. **REHABILITATION ACT OF 1973.** Section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, and with all applicable implementing regulations. Any contract in excess of \$10,000 entered into by any Federal department or agency for the procurement of personal property and non-

personal services (including construction) for the United States shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified individuals with disabilities. No otherwise qualified individual with handicaps in the United States shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance.

- F. **AGE DISCRIMINATION ACT OF 1975.** The Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR, Part 146, which prohibit discrimination because of age in programs and activities receiving Federal financial assistance; and
- G. **EQUAL EMPLOYMENT AND CONTRACTING OPPORTUNITY** - Equal Employment Opportunity, as amended, and regulations of Executive Order 11246, amended by Executive orders 11375, 11478, 12086, and 12107 (3 CFR 1964-1965 Comp. p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264).

CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, marital status, mental or physical disability, age, familial status, sexual orientation, gender identity or national origin. CONSULTANT will take affirmative action to insure that applicants are employed, without regard to race, color, religion, ancestry, sex, marital status, mental or physical disability, age, familial status, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the municipality setting forth the provisions of this nondiscrimination clause.

CONSULTANT will cause the foregoing provisions to be inserted in all subcontracts for work covered by this Agreement so that such provision will be binding upon each subcontractor, provided that the foregoing provision shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, ancestry, sex, marital status, mental or physical disability, age, familial status, sexual orientation, gender identity, or national origin.

CONSULTANT will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. CONSULTANT will assist and cooperate actively with the CITY and the Secretary of Labor in obtaining the compliance of CONSULTANT 's and subcontractors with the equal opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor, that it will furnish the Secretary of Labor such information as they may require for the supervision of such compliance and that it will otherwise assist the Secretary in the discharge of the Secretary's primary responsibility for securing compliance.

CONSULTANT will refrain from entering into any contract or contract modification subject to Executive Order 11246, as amended, with a CONSULTANT debarred from, or who has not demonstrated eligibility for government contracts and federally assisted construction contracts pursuant to said 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 Secretary of Housing and Urban Development or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order; and

- H. **DEBARRED, SUSPENDED OR INELIGIBLE CONTRACTORS OR SUBRECIPIENTS.** The requirements set forth in 24 CFR part 5 and Executive Orders 12549 and 12689, prohibiting the use of debarred, suspended or ineligible contractors or subcontractors; and
- I. **"SECTION 3 REQUIREMENTS"** - HOUSING AND URBAN DEVELOPMENT ACT OF 1968 (12 U.S.C. 1701U). 24 CFR, Part 75, also known as Section 3, which provides employment opportunities for businesses and lower income persons in connection with federally assisted projects. CONSULTANT will also ensure that provisions of 24 CFR, Part 75, are included in all subcontracts.

The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance of HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low- income persons, particularly persons who are recipients of HUD assistance for housing. The parties to this Agreement agree to comply with HUD's regulations in 24 CFR Part 75, which implements Section 3. As evidenced by their execution of this Contract, the parties to this Agreement certify that they are under no contractual obligation or other impediment that would prevent them from complying with Part 75 of the regulations.

CONSULTANT agrees to send each labor organization or representative of workers with which CONSULTANT has a collective bargaining Contract or other understanding, if any, a notice advising the labor organization or

workers' representative of CONSULTANT 's commitments under Section 3 and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3, shall set forth the minimum number and job titles subject to hire, and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

CONSULTANT agrees to include this Section 3 contract language in every subcontractor subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 contract language, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The CONSULTANT will not subcontract with any subcontractor where the CONSULTANT has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.

- J. **MINORITY AND WOMEN-OWNED BUSINESSES (W/MBE).** Executive Orders 11625, 12432, and 12138, which state that recipients of federal assistance shall take affirmative action to encourage participation by minority and women-owned business enterprises. In accordance with 2 CFR § 200.321 all non-federal entities must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. As used in this Contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women; and
- K. **LABOR STANDARDS.** CONSULTANT and all subcontractors, engaged in contracts in excess of \$2,000 for the construction, completion, rehabilitation, or repair of any building or work financed in whole or in part with assistance provided under this Agreement are subject to the federal labor standards provisions, Davis Bacon and Related Acts as amended (40 USC 3141-5144 and 3146-3148), which govern the payment of wages and the ratio of apprentices and trainees to journey-workers. Under the terms of the Davis-Bacon Act, as supplemented by 29 CFR Part 5, amended, the contractor and subcontractors are required to pay all laborers and mechanics employed on construction work wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor, and shall pay overtime compensation in accordance with and subject to the provision

of the Contract Work Hours and Safety Standards Act (40 USC 3701-3708), and the CITY shall comply with all regulations issued pursuant to these Acts and with other applicable Federal laws and regulations pertaining to labor standards, including the Copeland "Anti-Kickback" Act (40 USC 3145). Provided, that if wage rates higher than those required under the regulations are imposed by State or local laws, nothing hereunder is intended to relieve the CITY of its obligation, if any, to require payment of the higher rates. In the event of any conflict or inconsistency between the provisions of Federal statutes and regulations under this paragraph and the provision of any other applicable State or local prevailing wage requirements described elsewhere in this Agreement, the provisions affording broader protections or higher wage requirements shall govern and control but only to the extent of the conflict or inconsistency and no further; and

- L. **VOLUNTEERS.** The regulations of 24 CFR part 70 shall apply to the use of volunteers; and
- M. **ENVIRONMENTAL REVIEW STANDARDS.** The Agreement is subject to the regulations of 24 CFR part 58, which specify the provisions of law which further the purposes of the National Environmental Policy Act of 1969; and
- N. **FLOOD DISASTER PROTECTION ACT 1973.** The requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128 and the National Flood Insurance Program in accordance with section 202(a) of the Flood Disaster Protection Act and the regulations in 44 CFR parts 59 through 79); and the Coastal Barrier Resources Act (16 U.S.C. 3601); and
- O. **EXECUTIVE ORDER 13279 (EQUAL PROTECTION OF THE LAWS FOR FAITH-BASED AND COMMUNITY ORGANIZATIONS).** The regulations of Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60. As applicable, the requirements of the CDBG Program Regulations for religious or faith-based organizations under 24 CFR 570.200(j); and
- P. **LEAD-BASED PAINT.** The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this part; and
- Q. **DRUG-FREE WORKPLACE ACT.** The Drug-Free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR, Part 24, Subpart F, requiring provision of drug-free workplace; and

- R. **CONFLICT OF INTEREST.** The conflict of interest provisions, as applicable, in accordance with 2 CFR Part 200.112, 24 CFR Part 92.356, and 24 CFR Part 570.611; and
- S. **ARCHITECTURAL BARRIERS ACT AND THE AMERICANS WITH DISABILITIES ACT.** The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157), the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings), and Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA).
- T. **VIETNAM ERA VETERANS' READJUSTMENT ASSISTANCE ACT OF 1974.** The Vietnam Era Veterans' readjustment Assistance Act of 1974, as amended. Covered contracts entered into by any department or agency for the procurement of personal property and non- personal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. The provisions of this section shall apply to any subcontract entered into by a prime contractor in carrying out any contract for the procurement of personal property and non-personal services (including construction) for the United States.
- U. **PURCHASE OF U.S. MADE GOODS, PRODUCTS AND MATERIALS.** As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- V. **LOBBYING REGULATION.** Neither CONSULTANT nor any subcontractor may use Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. CONSULTANT and subcontractors must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.
- W. **COMPLIANCE WITH FEDERAL AIR AND WATER STATUTES.** During the performance of this contract, the CONSULTANT and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857

et seq., the Federal. Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

- X. **MAINTENANCE OF RECORDS.** In compliance with the regulations and authorities under 2 CFR 200 the CONSULTANT and applicable subcontractors shall maintain adequate invoices, receipts, job records and disbursement journals and such other records for the Project for a period of three years.