

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213A (Rev 06/03)

CHECK HERE IF ADDITIONAL PAGES ARE ATTACH 18 PAGES

AGREEMENT NUMBER AMENDMENT NUMBER

16-NDR-11694	2
REGISTRATION NUMBER	

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
 CONTRACTOR'S NAME
United States Forest Service, and Sierra Nevada Conservancy

2. The term of this Agreement is: 09/26/2017 through 09/30/2022

3. The maximum amount of this Agreement after this amendment is: \$26,231,666.00 (Amendment #2 increases the contract amount by \$0.00)

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

Attachments A and B, are hereby added and attached hereto, amending the three party Cooperative Endeavor Agreement (CEA) that is required to: 1) include documentation of authority of each party to enter into the CEA; 2) include new language allowing the USFS to use Federal Acquisition Standards for procurement (their normal business practice); 3) Include new language to allow use of service contracts and service labor rate compliance; and 4) include required NDR contract language that USFS must provide in all bid/contract documents for service and construction procurements.

Note: In order to bring all contracts into uniformity, the following change has been made. Exhibit C, State of California General Terms and Conditions (GTC 610) has been changed. The new State of California General Terms and Conditions (GTC 04/2017) are hereby incorporated by reference. The GTC 04/2017 documents can be viewed at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>.

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Service Use Only
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) See Attached		
BY (Authorized Signature) See Attached	DATE SIGNED (Do not type) See Attached	
PRINTED NAME AND TITLE OF PERSON SIGNING See Attached		
ADDRESS See Attached		
STATE OF CALIFORNIA		
AGENCY NAME Department of Housing and Community Development		
BY (Authorized Signature) <i>Synthia Rhinehart</i>	DATE SIGNED (Do not type) <i>3/20/19</i>	<input checked="" type="checkbox"/> SCM 4.04.A.3 (DGS Exempt per: Memo dated 6/12/81)
PRINTED NAME AND TITLE OF PERSON SIGNING Synthia Rhinehart, Contracts Manager, Business & Contract Services Branch		
ADDRESS 2020 W. El Camino Ave., Suite 130, Sacramento, CA 95833		

CONTRACTOR

United States Forest Service

By: Jason Kuiken

Date: 3/14/19

Jason Kuiken
Forest Supervisor, USDA Forest Service, Stanislaus

National Forest

Address:

19777 Greenley Road
Sonora, CA 95370

Sierra Nevada Conservancy
a California State Agency

By: _____

Date: _____

Angela Avery
Executive Officer, Sierra Nevada Conservancy

Address:

11521 Blocker Drive, Suite 205
Auburn, CA 95603

CONTRACTOR

United States Forest Service

By: _____ Date: _____

Jason Kuiken
Forest Supervisor, USDA Forest Service, Stanislaus

National Forest

Address:

19777 Greenley Road
Sonora, CA 95370

Sierra Nevada Conservancy
a California State Agency

By:  _____ Date: 3.14.19

Angela Avery
Executive Officer, Sierra Nevada Conservancy

Address:

11521 Blocker Drive, Suite 205
Auburn, CA 95603

ATTACHMENT A
Amendment No. 2 to
Cooperative Endeavor Agreement
Updated: November 26, 2018

This Amendment No. 2 to Cooperative Endeavor Agreement ("Amendment No. 2") is executed as of the date set forth in the Form 213A to which this is attached and is entered into by and between the DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, a political subdivision of the State of California ("HCD" or "Department"), the UNITED STATES FOREST SERVICE, a federal agency of the United States of America ("USFS"), and the SIERRA NEVADA CONSERVANCY, a political subdivision of the State of California ("SNC") with respect to the following facts:

RECITALS

A. On or about September 26, 2017, the Department, USFS, and SNC entered into that certain Standard Agreement No. 16-NDR-11694, also known as the Cooperative Endeavor Agreement ("CEA").

B. Pursuant to the terms of the CEA, USFS is providing certain forest restoration, rangeland improvements and fuel break expansion work in connection with the Forest and Watershed Health Project ("FWHP"), which is one of three major project activities being overseen by the Department under the Community and Watershed Resilience Program pursuant to that certain \$70,359,459 grant agreement issued to the Department on January 17, 2017 by the U.S. Department of Housing and Urban Development ("HUD") under the Community Development Block Grant ("CDBG") National Disaster Resilience Competition ("NDRC").

C. Under the CEA, and pursuant to that certain separate agreement between the Department and SNC under agreement number 16-NDR-11311, as the day-to-day project manager/coordinator, SNC works directly with USFS to implement the FWHP, as specified in 16-NDR-11311, Exhibit A Scope of Work and Contract Amount.

D. The parties now wish to amend and supplement certain provisions of the CEA as specifically set forth below, as authorized in CEA, Exhibit A, Paragraph 11 General Conditions, Subparagraph C. Amendments (page 14 of 19).

NOW, THEREFORE, the parties hereby agree as follows:

1. **Recitals**. The foregoing recitals are true and correct and are hereby incorporated into the main body of this Amendment No. 1 by this reference.
2. **Defined Terms**. Unless expressly defined herein, all initially capitalized terms contained herein shall have the meanings set forth in the CEA.

3. **Authority to Enter Agreement.** At the request of HUD, all parties to the CEA are now being required to provide written evidence of their legal authority to enter into the CEA, as may be amended from time to time, and to perform their respective activities and obligations thereunder. Accordingly, Attachment A contains copies of each agency's written evidence of authority submitted to the Department by USFS, SNC, and the Department's own evidence of authority. In accordance with the statements of authority contained in the attached exhibits, each party hereby respectively confirms their authority to enter into the CEA, as amended hereby, and hereby ratifies all actions taken and decisions made taken by such party pursuant thereto.

4. **Procurement Standard.** Under the existing terms of the CEA, USFS is obligated to conduct all procurement activities pursuant to the requirements set forth in 2 CFR Part 200 ("CFR"). Subsequent to the execution of the CEA, the parties learned that USFS may use an alternate procurement standard, the Federal Acquisition Regulation and the regulations promulgated thereunder ("FAR"), to conduct procurement activities for the FWHP. USFS currently uses FAR as its procurement standard instead of the CFR. HCD has received prior approval of HUD to allow USFS to use FAR, so the parties hereby agree that USFS shall use FAR for all FWHP procurement activities instead of the CFR as currently provided in the CEA. Accordingly, with the exceptions referenced in the immediately following sentence, all existing provisions in the CEA relating to the procurement standard to be used by USFS are hereby modified so as to require the USFS to utilize the FAR procurement process in lieu of the CFR process. Notwithstanding the foregoing, USFS and its contractors and subcontractors shall use and comply with the CFR procurement provisions set forth in the Required Subcontract Terms referenced in Section 7 below.

5. **Applicability of Section 3 Compliance.** The parties acknowledge and agree that all work to be performed under the CEA, as amended hereby, and under all contracts and subcontracts for construction work and/or service work at or above \$100,000 are subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. §170u) ("Section 3"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. USFS has submitted an executed Section 3 plan which has been approved by the Department. USFS shall comply with all Section 3 requirements for both construction and service contracts funded by NDRC. USFS shall ensure that all contracts and subcontracts subject to Section 3 requirements contain language requiring the contracting party(ies) to comply with HUD regulations in 24 CFR Part 135, which implement Section 3.

6. **Applicability of Prevailing Wage Compliance.** HUD has provided HCD verbal and written guidance, including HUD's letter to HCD dated July 16, 2018, regarding the applicability of Davis-Bacon and related Acts prevailing wage requirements to service

contracts for work being performed under the NDRC award. HUD concurred with HCD's determination that service contracts should be used for FWHP activities, other than rangeland construction activities. HUD also agreed that service contracts do not trigger Davis-Bacon compliance, but do require prevailing wage compliance under the Service Contract Act. This Amendment authorizes USFS to use service contracts for all FWHP activities, except rangeland construction projects. The Department and USFS mutually agree that USFS shall make a determination as to the applicability or non-applicability of California state prevailing wages for work performed under service contracts.

7. Required CDBG-NDR Terms for Service and Construction Contracts. Pursuant to the terms of the CDBG NDR program and funding requirements thereunder, USFS must ensure that all subcontractors with whom USFS is contracting for the procurement of construction and services meet certain compliance standards. Accordingly, USFS shall include in all FWHP construction and service contracts the terms and provisions set forth in the Department approved NDR construction contract addendum or NDR service contract addendum. The addendum document is required to be included in each corresponding construction or service bid package and executed contract. The provisions of the addendums are hereby approved by USFS and SNC and are incorporated into this Amendment. Accordingly, Attachment B contains copies of the final service and construction contract addendum documents approved by all parties to the CEA..

8. Required CDBG-NDR Reporting/Close Out Documents. The USFS shall not have to submit weekly or quarterly reports as referenced in Exhibit D and Exhibit B of the original Agreement. The USFS shall instead submit monthly reports.

9. False Claims. The parties acknowledge the provisions of Title 19, section 1001, of the United States Code which states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department or agency of the United States. Furthermore, making false statements also constitutes a felony under California Penal Code sections 115, 118, 487, and 532.

10. Supremacy. In the event of any conflict between the terms of this Amendment No. 1 and the CEA, the terms of this Amendment No. 1 shall control.

11. No Other Amendments. Except as expressly amended herein, there are no other amendments to the CEA, and all of the terms and conditions of the CEA as amended hereby are ratified, confirmed and reaffirmed in all respects and shall continue in full force and effect. After the date hereof, all references to the CEA shall mean the CEA as amended by this Amendment No. 1.

12. Interpretation. Each party represents that it has had the opportunity to consult its own independent counsel in the negotiation, preparation and explanation of this Amendment No. 1 and that such party has read and understands all of its terms and their legal effect. Any rule of construction to the effect that ambiguities are to be

resolved against the drafting party, including without limitation California Civil Code Section 1654, are hereby fully and expressly waived by the parties and shall not apply in interpreting or enforcing this Amendment No. 1.

13. Counterparts. The parties hereto may execute this Amendment No. 1 in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

14. Governing Law and Severability. This Amendment shall be governed by and construed in accordance with the laws of the State of California. If a court or other tribunal of competent jurisdiction holds any provision of this Amendment to be invalid or unenforceable, the remaining provisions of this Amendment shall remain in full force and effect to the fullest extent permitted by law.

15. Entire Agreement. This Amendment No. 1 constitutes the entire agreement between the parties with respect to the matters contained herein.

16. Exhibits. All exhibits attached hereto are hereby incorporated herein by this reference.

END OF AMENDMENT

[Signatures are set forth on page 1 of the Form STD 213 to which this is attached.]

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE****Community Development Block Grant (CDBG) Program**

2020 West El Camino Avenue, Suite 500 (95833)

P. O. Box 952054

Sacramento, CA 94252-2054

www.hcd.ca.gov

United States Forest Service
Sierra Nevada Conservancy
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May 11, 2018

TO: National Disaster Resilience, "NDR" CEA.File

FROM: John De Rosa, Legal Staff

SUBJECT: **HCD Authority and Requirements for Cooperative Endeavor Agreement "CEA"****Background:**

The Department was awarded NDR funding from the Department of Housing and Urban Development, "HUD" to pay for forest restoration work in Tuolumne County and more specifically the Stanislaus National Forest, "Forest". The United States Forest Service, "USFS" was a Partner in the Department's application to HUD. USFS had to be a Partner because they are the federal entity that has authority to do reforestation work in the Forest. In the application for NDR funding, HCD and USFS entered into a Partnership Agreement that would be binding if HUD funds were received.

HCD Authority to Enter into CEA:

After the HUD award was made, HCD and the USFS entered into a CEA agreement, which included the Partnership Agreement. HCD has Authority to enter into the CEA, based on California State Contracting Manual, Chapter 3, Section 3.06 Contracts with Other Governmental Entities and Public Universities. The CEA meets the criteria for agreements under Section 3.06 of the manual, therefore HCD has the Authority to enter into the CEA with the USFS.

HCD Requirements under Use of Authority:

HCD must ensure that all HUD requirements are incorporated into the CEA so that NDR funding compliance will be documented. The CEA was developed to also ensure compliance with California state requirements when they are triggered. Below are specific determinations of compliance requirements HCD has placed in the CEA.

USFS Compliance with 2 CFR 200:

HCD is required by HUD to have all NDR subrecipients comply with Federal Office of Business Administration ("OMB") federal regulations on procurement and administration under 2 CFR 200. The USFS, as a federal agency, is not considered a subrecipient. Therefore, HCD has the ability to allow the USFS to use their Federal Acquisition Regulations ("FAR") in lieu of 2 CFR 200. HCD did a comparison of FAR requirements and 2 CFR 200, as well as other NCR compliance and found that the two standards were comparable. Therefore, HCD, under its Authority, is allowing USFS to use the FAR for implementing activities. HCD has developed a NDR Contract Addendum that the USFS must use with all their bids and contracts, both construction and service. The Addendum

requires compliance with certain parts of 2 CFR 200 when those standards are higher than FAR. In addition, the required Addendum also dictates compliance with California state prevailing wage laws and regulations and Section 3. See attached USFS NDR Addendum.

USFS Compliance with Davis Bacon Federal Prevailing Wage:

HCD is required by HUD to have all recipients of NDR funding comply with federal prevailing wage regulations for construction contracts that trigger compliance. USFS is using service contracts to conduct much of the NDR work under the CEA. Service contracts do not require payment of federal prevailing wage per Department of Labor ("DOL") regulations: Title 48 Chapter 1 Part 22 Subpart 22.10.

Because of this DOL regulation, HCD has the authority to not require Davis Bacon compliance under the CEA for activities that are implemented using service contracts. However, Service Contracts do require USFS to request service wage determinations from DOL. These wage determinations shall be compared to CA prevailing wage rates and the higher of the two shall be incorporated into the Service Contract.

USFS Compliance with State Prevailing Wage:

HCD is required by state Labor Code to have all recipients of NDR funding comply with state prevailing wage regulations for contracts that trigger compliance. USFS is using both service and construction contracts to conduct NDR work under the CEA. Based on a review of state Labor Code, both service and construction contracts require payment of state prevailing wage per Department of Industrial Relations ("DIR") regulations, Labor Code Division 2, Part 7, Chapter 1, Article 2. Wages (1770-1784).

Because DIR regulations require prevailing wage compliance on construction and service contracts, USFS will be required to pay the higher of the two wage determinations for comparable wage categories.

USFS Compliance with Section 3:

HCD is required by HUD to document Section 3 compliance from all NDR grantee who receive over \$200,000 in HUD funding and when public construction contract amounts exceed \$100,000. Based on the amounts of NDR funding provided to the USFS under the CEA, Section 3 compliance will apply. The Forest and Watershed Health Project (FWHP) is categorized as a public improvement and thus public construction, per HUD guidance, <https://www.hud.gov/sites/documents/11SECFAQS.PDF>

Based on the HCD determination that all USFS NDR activities fall under public improvement/public work definition, Section 3 compliance will be included in all service and construction bidding and contracts. USFS has signed a Section 3 plan and certified that they will follow Section 3 compliance standards under the plan for all NDR contracts.



United States
Department of
Agriculture

Forest
Service

Pacific Southwest Region
Stanislaus National Forest

19777 Greenley Road
Sonora, CA 95370
209-532-3671
TDD: 209-533-0765
Fax: 209-533-1890

United States Forest Service
Sierra Nevada Conservancy
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File Code: 1580
Date: May 17, 2018

Patrick Talbott
Grants Management
National Disaster Resiliency Competition (NDRC) Representative
Housing & Community Development
2020 W. El Camino Avenue, Suite 400 | Sacramento, CA 95833

Dear Mr. Talbott:

This letter identifies the authorities the US Forest Service has to enter into a Cooperative Endeavor Agreement (CEA) with the State of California.

The Cooperative Funds Act of June 30, 1914, (16 U.S.C. 498 as amended by Pub. L. 104-127) authorizes the United States Forest Service (USFS) to accept money received as contributions toward cooperative work in forest investigations or protection, management and improvement of the National Forest System (pursuant to Forest Service Handbook 1509.11, sec. 40.1). Section 41.12 of the Forest Service Manual provides examples of permissible work under the Cooperative Funds Act:

1. The construction and maintenance of National Forest improvements, such as roads, fences, range improvements, and recreation areas.
2. The protection of the National Forests from fire, insects, and diseases.
3. Forest investigations, such as timber surveys or water monitoring on National Forest lands.
4. Contributions from the State for wildlife habitat improvement work on National Forest lands.

The scope of work included in Section 5, Exhibit A of the CEA executed by the United States Forest Service and The California Department of Housing and Community Development (HCD) on September 26, 2017, is consistent with the examples above and is therefore permissible under the Cooperative Funds Act.

A Collection Agreement is the instrument used for the acceptance of money by the Forest Service from a non-Federal party to carry out a purpose authorized by law. The CEA includes an executed Collection Agreement (Exhibit F) and thus meets the criteria for grants and other agreements as authorized by The Cooperative Funds Act and the Forest Service Handbook (1509.11). Therefore, USFS has the authority to enter into the CEA with HCD.



Patrick Talbott

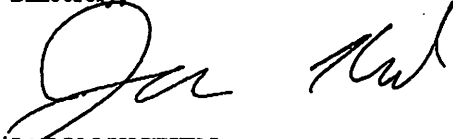
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USFS Requirements

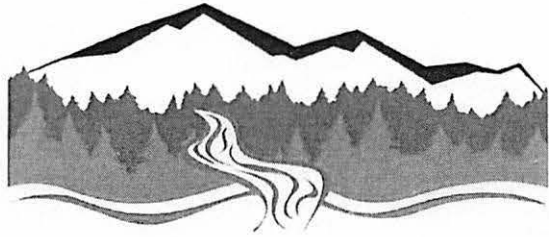
USFS must ensure that all USFS procedures as stated in, among others, the Forest Service Handbook, Forest Service Manual, Agriculture Acquisition Regulations (AGAR), and Federal Acquisition Regulation (FAR) are followed in implementing the scope of work included in Section 5, Exhibit A of the CEA.

Please contact Maria Benech, Rim Fire Restoration Coordinator, if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jason Kuiken', written in a cursive style.

JASON KUIKEN
Forest Supervisor



SIERRA NEVADA CONSERVANCY

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2018 OCT -8 PM 12:07

AUBURN OFFICE
11521 Blocker Drive, Ste. 205
Auburn, CA 95603
p (530)823-4670 f (877)257-1212

October 2, 2018

To: National Disaster Resilience (NDR) Cooperative Endeavor Agreement (CEA) File

From: Amy Lussier, SNC Administrative Services Chief

Background:

The Department of Housing and Community Development (HCD) was awarded NDR funding from the Department of Housing and Urban Development (HUD) to pay for forest restoration work in Tuolumne County and more specifically the Stanislaus National Forest. The Sierra Nevada Conservancy (SNC) and the United States Forest Service (USFS) were partners in the Department's application to HUD. SNC agreed to administer and coordinate the Forest and Watershed Health Program (FWHP) under the NDR grant by signing a Partnership Agreement with HCD. USFS is the implementing partner for the NDR FWHP.

SNC Authority to Enter into CEA:

After the HUD award was made, HCD, USFS, and SNC entered into a Cooperative Endeavor Agreement (CEA), which included the Partnership Agreement. SNC has authority to enter into the CEA based on California Public Resources Code sections 33346.5, 33320, and 33341, as well as California State Contracting Manual, Chapter 3, Section 3.06 Contracts with Other Governmental Entities and Public Universities. The CEA is consistent with SNC's mission and statutory authority and meets the criteria for agreements under Section 3.06 of the manual, therefore SNC has the authority to enter into the CEA with the USFS and HCD.

SNC Authority to Comply with HUD Provisions

SNC has authority to take on compliance with 2 CFR 200, as stated in the CEA. SNC also complies with the State Administrative Manual (SAM) and State Contracting Manual (SCM). In cases where state requirements differ from 2 CFR 200, SNC will follow the more restrictive of the two.

Amy Lussier
SNC Administrative Services Chief



ATTACHMENT B

State of California Department of Housing and Community Development
Required Bid and Contract Language for Funding Provided under Agreement 16-NDR-11694
(For Construction Contracts Only)
Updated: June 28, 2018

The following provisions are hereby incorporated into every bid document, contract, subcontract, or agreement, regardless of how titled, between the United States Forest Service ("USFS") and any contractor or subcontractor in connection with the provision of services or the performance of construction work for the Forest and Watershed Health Program ("FWHP") described in that certain Cooperative Endeavor Agreement ("CEA"), 16-NDR-11694, dated September 26, 2017 between the California Department of Housing and Community Development ("HCD") and the USFS. The CEA governs the use of funding provided to HCD by the Department of Housing and Urban Development ("HUD") under their Community Development Block Grant ("CDBG") National Disaster Resilience ("NDR") funding award to HCD.

1. Compliance with Laws and Regulations

Contractors who contract with the United States Forest Service ("USFS") shall comply with all policies, guidelines, processes, procedures, rules, and requirements of the Federal Acquisition Regulation, 48 CFR Chapter 1, et seq. ("FAR"), as the same may be amended from time to time, as well as all federal, state, and local laws, rules, regulations, ordinances, and guidelines that govern or are otherwise applicable to the FWHP activities described in the CEA.

2. State Labor Standards

A. Where CDBG-NDR funds are being provided through a USFS construction contract and are used for construction work, or in support of construction work, USFS' contractors and subcontractors shall comply with the requirements of all applicable state or federal prevailing wage laws to which the contracted work is subject. In that regard, USFS shall determine, and its contractors and subcontractors shall pay as directed by USFS, the higher of either (i) the California state prevailing wages set forth in Section 1720, et seq. of the California Labor Code ("LC"), or (ii) the federal prevailing wages set forth in Davis-Bacon and Related Acts (*see, e.g.*, 40 U.S.C. 3141, et seq.).

B. For the purposes of this requirement, the term "construction work" includes, but is not limited to, rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, through this contract. All construction work shall be done through the use of a written contract with a duly licensed contractor incorporating these requirements (the "construction contract"). Where the construction contract will be between USFS and a licensed contractor, USFS shall serve as the "awarding body" as that term is defined in the LC. When CDBG-NDR funds are provided to a third party that enters into the construction contract, the third party shall serve as the "awarding body." Prior to any disbursement of funds, including but not limited to the release of any final retention payment, USFS will require a written certification (or other appropriate documentation) from the awarding body confirming that the

higher of state prevailing wages or federal Davis-Bacon and Related Acts prevailing wages, as determined by USFS, have been paid in compliance with the terms hereof and applicable law.

3. Anti-Lobbying Certification

All contractors and subcontractors are required to make an anti-lobbying certification and to disclose their lobbying efforts. Accordingly, by executing this agreement, the undersigned hereby certifies, to the best of his or her knowledge and belief, that:

A. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents of all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

4. Contractors and Subcontractors

A. Contractors or subcontractors shall at all times during the term hereof:

- 1) Possess and maintain all necessary licenses, permits, and authorizations required for the work or service being performed hereunder, and provide satisfactory proof of the same to USFS prior to commencement of any work;
- 2) Maintain at least the minimum State-required Workers' Compensation Insurance covering all employees performing FWHP activities hereunder, and provide satisfactory proof of the same to USFS prior to the commencement of any work; and

- 3) Perform all FWHP activities in accordance with all applicable federal, state, and local laws, regulations, ordinances, and building codes, as the same may be amended from time to time.

5. Access to Records

Contractors and subcontractors shall, at all times during the term of this agreement, provide to HCD, HUD, the State, the Comptroller General of the United States, the California State Auditor, and/or any of their duly authorized representatives, access to any books, documents, papers, and records for the purpose of making audits, examinations, excerpts, and transcriptions pursuant to 2 CFR Part 200.336.

Contractor acknowledges that the USFS will be retaining all financial records, supporting documents, statistical records, and all other records pertinent to FWHP activity implementation and NDR compliance under this agreement for a period of five (5) years after HCD closeout of the CEA.

6. Energy Policy and Conservation Act

This agreement is subject to mandatory standards and policies relating to energy efficiency, which are contained in the State Energy Conservation Plan, issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94 163, 89 Stat. 871).

7. Procurement of Recovered Materials

Contractors and subcontractors must comply with section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.), as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.) by procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

8. Debarment

HUD funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor or subcontractor during any period of debarment, suspension or placement of ineligibility status. Prior to entering into any contract, all contractors, subcontractors, and lower tier contractors will be verified against the Federal publication that lists debarred, suspended, and ineligible contractors.

Executive Order 12549, "Debarment and Suspension," (2 CFR Part 180) provides that awards cannot be made to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs.

9. Section 3 Requirements: Procurement for Contracts and Subcontracts at or above \$100,000

A. The work to be performed under this procurement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C 1701u ("Section 3"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall be, to the greatest extent feasible, directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. Parties receiving CDBG-NDR funds shall be required as part of their contract with the USFS to comply with HUD's regulations in 24 CFR Part 135 ("Part 135"), which implement Section 3. By signing this agreement, contractor or subcontractor certifies that they are under no contractual or other impediment that would prevent them from complying with Part 135.

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

D. Contractors shall include this Section 3 provision in every subcontract to ensure compliance with Part 135, and agree to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 provision, upon a finding that the subcontractor is in violation of the Part 135 regulations. Contractor shall not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the Part 135 regulations.

E. Contractor shall certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the Part 135 regulations require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under Part 135.

F. Noncompliance with Part 135 regulations may result in sanctions, termination of any contractual agreements for default, and debarment or suspension from future HUD-assisted contracts.

G. Contractor is responsible for completing all reporting regarding Section 3 new hires and Section 3 Businesses. A sample Section 3 new hire chart and eligibility form is provided. Documentation of Section 3 outreach efforts shall also be required if new hires are required. New hire eligibility forms must be collected as hiring takes place.

H. Section 3 Businesses must complete the Section 3 Business Eligibility Form, if applicable. A "Section 3 Business" is defined as:

- A business which is 51% owned by Section 3 residents; or
- A business in which 30% of its permanent employees are or were Section 3 residents; or

- A business which makes a commitment to subcontract in excess of 25% of the dollar award to a Section 3 business.

Section 3 Numerical Goals/Targets:

- A. The target for New Hires & Training Opportunities is 30% of the aggregate number of new hires.
- B. The target for construction contracts with Section 3 Business Concerns is 10% of the total dollar amount. The goal is 3% of the total dollar amount of all other Section 3 covered contracts.

State of California Department of Housing and Community Development
Required Bid and Contract Language for Funding Provided under Agreement
16-NDR-11694
(For Service Contracts Only)
Updated: October 8, 2018

The following provisions are hereby incorporated into every bid document, contract, subcontract, or agreement, regardless of how titled, between the United States Forest Service ("USFS") and any contractor or subcontractor in connection with the provision of services for the Forest and Watershed Health Program ("FWHP") described in that certain Cooperative Endeavor Agreement ("CEA"), 16-NDR-11694, dated September 26, 2017 between the California Department of Housing and Community Development ("HCD") and the USFS. The CEA governs the use of funding provided to HCD by the Department of Housing and Urban Development ("HUD") under their Community Development Block Grant ("CDBG") National Disaster Resilience ("NDR") funding award to HCD.

1. Compliance with Laws and Regulations

Contractors who contract with the USFS shall comply with all policies, guidelines, processes, procedures, rules, and requirements of the Federal Acquisition Regulation, 48 CFR Chapter 1, et seq. ("FAR"), as the same may be amended from time to time, as well as all federal, state, and local laws, rules, regulations, ordinances, and guidelines that govern or are otherwise applicable to the FWHP activities described in the CEA.

2. Anti-Lobbying Certification

All contractors and subcontractors are required to make an anti-lobbying certification and to disclose their lobbying efforts. Accordingly, by executing this agreement, the undersigned hereby certifies, to the best of his or her knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned shall require that the language of this certification be included in the award documents of all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. Contractors and Subcontractors

A. Contractors or subcontractors shall at all times during the term hereof:

- 1) Possess and maintain, at its own expense, during the term of this Agreement, all necessary licenses, permits, and authorizations required for the work or service being performed hereunder, and provide satisfactory proof of the same to USFS prior to the commencement of any work;
- 2) Maintain, during the term of this Agreement, at least the minimum State-required Workers' Compensation Insurance covering all employees performing FWHP activities hereunder, and provide satisfactory proof of the same to USFS prior to the commencement of any work; and
- 3) Perform all FWHP activities in accordance with all applicable federal, state, and local laws, rules, regulations, ordinances, guidelines and building codes, as the same may be amended from time to time.

4. Access to Records

Contractors and subcontractors shall, at all times during the term of this agreement, provide to HCD, HUD, the State, the Comptroller General of the United States, the California State Auditor, and/or any of their duly authorized representatives, access to any books, documents, papers, and records for the purpose of making audits, examinations, excerpts, and transcriptions pursuant to 2 CFR Part 200.336 or other applicable law.

Contractor acknowledges that the USFS will be retaining all financial records, supporting documents, statistical records, and all other records pertinent to FWHP activity implementation and NDR compliance under this agreement for a period of five (5) years after HCD closeout of the CEA.

5. Energy Policy and Conservation Act

This agreement is subject to mandatory standards and policies relating to energy efficiency, which are contained in the State Energy Conservation Plan, issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94 163, 89 Stat. 871).

6. Procurement of Recovered Materials

Contractors and subcontractors must comply with section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.), as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.) by procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

7. Debarment

HUD funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor or subcontractor during any period of debarment, suspension or placement of ineligibility status. Prior to entering into any contract, all contractors, subcontractors, and lower tier contractors will be verified against the Federal publication that lists debarred, suspended, and ineligible contractors.

Executive Order 12549, "Debarment and Suspension," (2 CFR Part 180) provides that awards cannot be made to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs.

8. Section 3 Requirements: Procurement for Contracts and Subcontracts at or above \$100,000

A. The service work to be performed under this procurement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C 1701u ("Section 3"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall be, to the greatest extent feasible, directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. Parties receiving CDBG-NDR funds shall be required as part of their contract with the USFS to comply with HUD's regulations in 24 CFR Part 135 ("Part 135"), which implement Section 3. By signing this agreement, contractor or subcontractor certifies that they are under no contractual or other impediment that would prevent them from complying with Part 135.

C. Contractors and subcontractors shall send to each labor organization or representative of workers with which the contractor or subcontractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the commitments under this Section 3 provision, and must post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice.

The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.

D. Contractors shall include this Section 3 provision in every subcontract to ensure compliance with Part 135, and agree to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 provision, upon a finding that the subcontractor is in violation of the Part 135 regulations. Contractor shall not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the Part 135 regulations.

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