

**STANDARD AGREEMENT-AMENDMENT**

STD 213A (Rev. 4/2020)

 CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED PAGES

AGREEMENT NUMBER

20-CDBGDR17-002

AMENDMENT NUMBER

1

Purchasing Authority Number

2240

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

CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTOR NAME

SLSCO, Ltd.

2. The term of this Agreement is:

START DATE

June 21, 2021

THROUGH END DATE

June 30, 2024

3. The maximum amount of this Agreement after this Amendment is:

\$210,027,500.00 (two hundred ten million twenty-seven thousand five hundred dollars and zero cents)

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:

The cost of this agreement is hereby changed from \$47,627,500.00 to \$210,027,500.00. This Amendment adds \$162,400,000.00 to the budget for Years 1-3 of this Agreement to cover Construction Hard Costs (materials and labor) as indicated in the revised Exhibit B included herewith. Additionally, amendment language is being revised to comply with Non-Competitively Bid (NCB) requirements as indicated in the revised Exhibits, A, B, and D included herewith. Finally, some minor changes *have* been made to the language in all Exhibits to bring them into closer alignment with actual work conditions.

Standard Agreement, STD. 213, Item 3 is being revised from \$47,627,500.00 to \$210,027,500.00 (two hundred ten million twenty-seven thousand five hundred dollars and zero cents) to add Construction Hard Costs (materials and labor) to the budget for Years 1-3 of this Agreement.

Exhibit A, Scope of Work, Pages 1-19 are hereby replaced in their entirety with the attached Exhibit A, Scope of Work, Amendment 1, Pages 1-19 in place thereof.

Exhibit B, Budget Detail and Payment Provisions, Pages 1-4 are hereby replaced in their entirety with the attached Exhibit B, Budget Detail and Payment Provisions, Amendment 1, Pages 1-4 in place thereof.

Exhibit D, HCD Additional Contract Terms, Pages 1-13 are hereby replaced in their entirety with the attached Exhibit D, HCD Additional Contract Terms, Amendment 1, Pages 1-13 in place thereof.

Exhibit E, CDBG-DR Terms and Conditions (Rev. 02/2021), Pages 1-5 are hereby replaced in their entirety with the attached Exhibit E, CDBG-DR Terms and Conditions (Rev. 02/2021), Amendment 1, Pages 1-5 in place thereof.

Additions are in bold and deletions are stricken through.

*All other terms and conditions shall remain the same.*

**IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.**

**CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

SLSCO, Ltd.

CONTRACTOR BUSINESS ADDRESS

6702 Broadway

CITY

Galveston

STATE

TX

ZIP

77554

PRINTED NAME OF PERSON SIGNING

Matt Tindall

ffile

Vice President - Housing

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

5-8-2022

**STANDARD AGREEMENT-AMENDMENT**

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CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED \_\_\_\_\_ PAGES

AGREEMENT NUMBER <b>20-(DBGDR 17-002</b>	AMENDMENT NUMBER <b>1</b>	Purchasing Authority Number <b>2240</b>
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**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS

2020 West El Camino Blvd., Suite 130

CITY

Sacramento

STATE

CA

ZIP

95833

PRINTED NAME OF PERSON SIGNING

Melissa Cisneros

mLE

Section Chief, Contract Services

CONTRACTING AGENCY AUTHORIZED SIGNATURE

*Melissa Cisneros*

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL



EXEMPTION (If Applicable)

**EXHIBIT A**

**SCOPE OF WORK**

1. SLSCO, Ltd., hereafter referred to as the (“Contractor”), agrees to provide to the Department of Housing and Community Development, hereafter referred to as (“HCD” or “Department”) with “Full-Service CDBG-DR Construction Management and Delivery Services” (“Work”) as described herein.
2. Work shall be provided throughout California during the hours of 8:00 am to 5:00 pm, Monday through Friday, excluding State observed holidays, as applicable.
3. The Representatives during the term of this Agreement will be:

Department of Housing and Community Development	SLSCO, Ltd.
Section/Unit: Division of Financial Assistance (DFA) Disaster Recovery Section (DRS)	Project Manager: <b>Matt Tindall</b>
Contract Manager: Susan Naramore	Title: Vice President - Housing
Address: 2020 West El Camino Avenue, Suite 200 Sacramento, CA 95833	Address: 6702 Broadway Galveston, TX 77554
Phone No.: (916) 263-0371	Phone No.: (713) 880-8411
Email: <a href="mailto:susan.naramore@hcd.ca.gov">susan.naramore@hcd.ca.gov</a>	Email: <a href="mailto:mtindall@slsco.com">mtindall@slsco.com</a>

4. Specifications and Detailed Description of Work

Overview

Contractor shall provide management and support of construction activities including possible rehabilitation, design-build reconstruction, and MHU replacement services for the Owner-Occupied Rehabilitation (OOR) Program. These services could potentially expand to accommodate other future and similar housing recovery programs yet to be defined. This includes programs resulting from existing and future disasters and/or future programs through federal or state funding, or other special grants which would require the same scope of work. The Contractor shall be paid the unit cost rate as set forth in Exhibit B for all programs served.

The Contractor will be responsible for successfully managing and delivering the construction activities necessary for all projects, including entering into appropriate contracts and agreements with subcontractors and third-party vendors, disbursing funds to construction contractors, monitoring compliance, and completing all other activities

## EXHIBIT A

required to close out the program. The Contractor shall coordinate with local governments, other OOR Program consultants, and HCD Division staff, including but not limited to Disaster Recovery Section (DRS), DFA, and Codes and Standards.

The Contractor will also be responsible for working with the Homeowner Assistance Program Management Services (HAPM) contractor, which was awarded in a separate RFP (posted on January 9, 2020 and closed on January 31, 2020, contract #19-CDBGDR17-001-A). The Contractor will be responsible for implementing and integrating the Construction Management (CM) processes within the most recently available version of the OOR Program policies and procedures developed by the HAPM contractor and HCD-DRS staff.

If the other contractors or consultants are non-responsive, HCD expects to be notified within 24 hours, but no longer than 72 hours.

- A. The Contractor's responsibilities will include, but not be limited to, the following:
- 1) Maintaining a complete understanding of all applicable program policies, requirements, and protocols.
  - 2) Understanding and compliance with California Codes of Regulations, specifically Title 24 – California Building Standards Code and Title 25 – Housing and Community Development.
  - 3) Conducting the initial inspection of an applicant's damaged dwelling where a damage assessment and/or Construction SOW will be completed using the Contractor-provided industry standard residential construction cost estimating software **which is inclusive of overhead and profit**. HCD will not provide, own, or operate the construction cost estimating software, nor will it be housed on the HCD servers. The inspection will address all environmental on-site requirements necessary to complete the final clearance and allowance for notice to proceed.
  - 4) The Construction SOW assessment and environmental review report and clearance must be uploaded in eGrants for task delivery to be considered complete and prior to construction commencing. **HCD will review and approve these documents inclusive of grant award amount. HCD approval must be received prior to applicant construction contract signing and commencement of construction work.**
  - 5) Additionally, subsequent inspections focused on payment requests for completed work for applicants participating in Solution 2, the Homeowner Managed Solution (see description below), are required. The Construction Scope of Work assessment and environmental review report and clearance must be uploaded in eGrants for task delivery to be considered complete.
  - 6) Prepare plans and design documents for the rehabilitation or reconstruction of damaged dwellings based on the Construction Scope of

## EXHIBIT A

Work for the Solution 1, Turnkey (see description below). ~~Approved~~  
**Design plans to ensure compliance with all program, federal state and local building standards for Solution 2 projects.**

- 7) FEDERAL ENVIRONMENTAL REVIEW RECORD (ERR) - TIER II SITE SPECIFIC STATE ENVIRONMENTAL REVIEWS PER CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) The Contractor shall provide the appropriate level of review per state and federal environmental requirements. The Contractor shall ensure that all CEQA reviews are completed within the same timeframes as the HUD mandated environmental reviews. **The Contractor will ensure that no construction will commence prior to associated approvals on all required environmental reports.**
  - 8) LEAD-BASED PAINT – The Contractor shall be responsible for ensuring lead-based paint has been tested, properly disposed, abated, and/or cleared prior to construction starting on all projects. All lead-based paint work must comply with Federal and state regulations. See 24 CFR Part 35 Subparts B-R for further details.
  - 9) ASBESTOS-CONTAINING MATERIALS – The Contractor shall be responsible for the initial screening and inspection of the property prior to work being done to look at the potential for asbestos-containing materials. A higher-level of screening may be needed to determine extent and type of asbestos present. If any kind of renovation is being considered, structures must be inspected and standardized practices that comply with the California Division of Occupational Safety and Health (also known as Cal/OSHA) regulations must be employed if asbestos is found and will be disposed of properly.
- B.** Tasks to be accomplished under this Agreement will be addressed with associated deliverables, outlined in this Exhibit A (see Section 8. Tasks and Services), performance measures, milestones, and timelines. The Contractor will be directly responsible for ensuring the accuracy, timeliness, and completion of all tasks outlined in the CM RFP Scope of Work and assigned under this Agreement. The CM Scope of Work presented here is based upon known circumstances existing currently. **No amendment for time, money, and/or scope shall be authorized without an approved NCB Justification by the Department of General Services, Procurement Division (DGS-PD), Dispute Resolution Unit (DRU).**
- C.** In addition to HCD-DRS and the HAPM contractor, the CM Contractor will maintain close coordination and cooperation with HCD-DRS's Prime Grant Management Contractor (PGMC) responsible for assisting HCD-DRS with overall grant management technical assistance with the State's CDBG-DR allocations. Communication is anticipated and expected between all parties on a daily basis. The PGMC has been procured via a separate RFP posted on August 13, 2019 and titled "CDBG-DR Prime Grant Management Services," for the purposes of grant administration, technical assistance, developing policies and procedures,

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monitoring and compliance and performance and process management. The resulting contract is 19-CDBGDR-13032 A1.

### 5. OOR Program Solutions

The OOR Program will provide eligible homeowners the choice of two (2) Solutions:

- A. SOLUTION 1. Turnkey (Full Service) solution whereby the Contractor evaluates each eligible, damaged dwelling and creates the Construction Scope of Work, then performs or contracts for all needed services-environmental reviews, lead-based paint and asbestos testing, construction, etc. to restore the dwelling to minimum OOR program standards as required by state and federal regulations and set forth in the most recent version of Program Policies and Procedures Manual. This solution may include a full reconstruction of the dwelling or rehabilitation depending on the state of the home. This solution will also replace damaged MHUs, oversee demolition and/or haul away services (if necessary), site clearing, site preparation, and installation of new MHU.
- B. SOLUTION 2. Homeowner Managed Construction where the owner has already engaged a construction contractor or chooses to engage in a construction contract independently for the rehabilitation or reconstruction of their damaged dwelling. The Contractor will review applicant-provided plans and contractor bids to approve and ensure cost reasonableness, ~~complete construction monitoring and oversight~~, complete milestone inspections, and provide environmental services for the construction of the home.

### 6. OOR Reconstruction and Rehabilitation Scopes of Work

#### A. RECONSTRUCTION SCOPE OF WORK

The Contractor will be responsible for a complete reconstruction of the home, either substantially within the same footprint as the prior home or, where permitted, on a different footprint on the same property. The Scope of Work for each reconstructed structure will vary but may include, although not be limited to, the following:

- 1) Coordination with the property owner and his/her family from issuance of a work order to obtaining a certificate of occupancy for closing;
- 2) Utility disconnection and deactivation/reconnection and reactivation;
- 3) Demolition of existing structure;
- 4) Debris removal in accordance with all federal, state and local requirements, including all abatement needs. This can include removal of burned trees;

## EXHIBIT A

- 5) Providing architectural and house plan renderings, as well as engineering and architectural services;
- 6) Site preparation including fencing removal and replacement;
- 7) Construction of new residential structures in accordance with all applicable local and state, federal, codes and standards;
- 8) Accessibility and design of projects to comply with the American with Disabilities Act of 1990 (if applicable) unless a HUD exception applies;
- 9) If necessary, a California Licensed construction General Contractor (GC) will be prepared to assess abatement needs and do any required abatement on existing structures on the project. GC will work with CM on any demolition abatement work to assess whether the full structure should be demolished pursuant to hazardous waste requirements or if only certain sections of the demolished structure should follow hazardous waste requirements. Survey certificate requirements when applicable; and
- 10) Lead, asbestos, radon, and other environmental services, where applicable.

### B. REHABILITATION SCOPE OF WORK

It is anticipated that structures eligible for rehabilitation will require an array of repairs ranging from minor to major. The scope of work for each repaired structure will vary, but may include, although not be limited to, the following:

- 1) Obtaining all necessary state and local permits and approvals prior to commencement of the work for each structure;
- 2) Tier 2 Environmental reviews;
- 3) Demolition of damaged interior and exterior materials;
- 4) Foundation leveling, repair, excavation;
- 5) Structural damage repair;
- 6) Building envelope repair, including:
  - a) Roof repair or replacement and addressing any attendant damage, including to shingles, gutters, and shutters
  - b) Door and window replacement/repair, or removal
  - c) Siding/veneer repair or replacement, or removal
  - d) Mechanical (HVAC), replacement of electrical (including panels) and plumbing systems repair, reconfigure, and replacement of drywall repair or replacement;
  - e) Rough and trim carpentry;
- 7) Surface preparation and painting;
- 8) Flooring repair, replacement/removal;

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- 9) Cabinet and appliance repair or replacement;
- 10) Lead-based paint, asbestos and other environmental abatement;
- 11) Specialty construction elements associated with historic properties,
- 12) Wind mitigation and retrofitting measures;
- 13) Specialty construction elements associated with Green Building Construction techniques (as required by HUD);
- 14) Accessibility and design of projects to comply with the American with Disabilities Act of 1990 (if applicable)
- 15) Conducting close-outs for each project, which includes obtaining certificate(s) of occupancy from applicable state and local authorities; and
- 16) Survey certificate requirements when applicable.

### C. MHU Acquisition, Delivery and Installation Services

- 1) Based on a scope that meets homeowner needs, provide OOR Program applicants options, **as determined by HCD and communicated to Contractor**, for two (2), three (3), and four (4)-bedroom MHUs, to be used under Solution 1, the Turnkey Solution. MHU options must have alternatives to ensure ADA compliance and meet the California Building Standards Code. Plans must also have Chapter 7A alternatives to meet Wildland-Urban Interface (WUI) building codes for ignition resistant construction in California's Fire Hazard Severity Zones.
- 2) Provide labor to carry out acquisition, delivery, and install services for replacement MHUs from the manufacturer or staging area to the site of installation. This includes ensuring all required Department of Transportation hauling permits are obtained by the hauler.
- 3) Provide the capacity and resources to ensure compliance with the Americans with Disabilities Act (ADA), meeting California Building Standards Code, Chapter 7A for Wildland-Urban Interface (WUI) for ignition resistant construction; and local building and zoning codes.
- 4) Manage and monitor all tiers of subcontractors.

Ensure all staff and subcontractors know and enforce all applicable California Building Standards Code requirements and program policies required by HCD, local jurisdictions, and/or HUD.

### 7. Contractor's General Requirements for All Solutions

- A. The Contractor will work with the HAPM contractor's case managers to explain homeowner's options regarding the two or three available solutions, so that the homeowner may make an informed decision as to which solution to pursue. The



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- solutions outlined above will be detailed in the OOR policies and procedures, (to be provided by HCD-DRS) and HCD-DRS will oversee the decision process.
- B. The Contractor must ensure all staff and subcontractors know and enforce housing policies required by HCD-DRS's OOR Program and HUD (including, but not limited to, those addressing MHUs, minimum standards, mold remediation, lead-based paint, asbestos, Wildland Urban-Interface (WUI) code requirements of the California Building Code - Title 24, Chapter 7A, floodplain requirements, etc.). The CM Contractor must also both ensure and document compliance with these requirements.
  - C. The Contractor shall conduct criminal background checks for all personnel to be utilized for the program and ensure that only those who can successfully pass said checks are engaged on the project.
  - D. The Contractor shall provide all staff **who interface directly with homeowners** and subcontractors working outside of established program offices with identification, including a standard color collared shirt and photo identification provided by HCD. The words: 'ReCoverCA Program' and 'Contractor' are required to be clearly visible on both the shirt and photo identification badges, which shall be designed to discourage and reduce chances of counterfeiting.
  - E. All Contractor staff and subcontractors meeting with homeowners must possess and present at all times approved work orders showing authorization to survey and conduct work on their homes. Work orders must clearly identify the Construction Scope of Work and anticipated timelines for work completion as the CM Contractor must also provide documentation to the homeowner explaining the rights of the homeowner throughout the construction process.
  - F. The Contractor will follow the HAPM's escalation and resolution protocol for any homeowner issue resulting from contract operations and engagement and shall keep HCD informed as to the progress of all complaints.
  - G. The Contractor will report to the HCD Contract Manager and HCD DRS Section Chief any evidence of fraud or potential criminal activity by the homeowner as soon as possible but no later than two (2) workdays from discovery.
  - H. HCD expects the Contractor to provide competent and qualified staff to work on the scope of services under this Agreement. HCD reserves the right to prohibit unqualified or incompetent staff of the Contractor from assisting with the implementation and administration of the program(s). No key personnel may be assigned to this Agreement without HCD's written consent. The Contractor will be paid at the unit rate listed in Exhibit B for all milestones completed. The Contractor will be required to coordinate with HCD on staffing during recognized State and Contractor holidays.

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- I. All members of the CM Contractor's team performing construction work and/or running construction crews must be licensed as either Class "B" or Class "C", as appropriate for the work being performed, by the California Contractors State License Board (CSLB).

### 8. Tasks and Services

This section provides a detailed list of tasks and services the Contractor will be responsible for providing under this Agreement. The Contractor will be responsible for entering information and uploading documents related to these tasks in the applicable State-approved system of record, eGrants, on a daily basis. At the direction of the State Program Manager (SPM) or designee, the Contractor will be responsible for performing the tasks identified below which may include, but are not limited to, the following:

- A. Task 1 – Administrative Requirements
  - B. Task 2 – Operational Requirements
    - 2.1. Design Review and Approval
    - 2.2. MHU Repairs, Site Preparation, and MHU Installation
    - 2.3. Inspections and Construction Scope of Work
    - 2.4. Environmental Review Requirements
    - 2.5. Inspectors and Estimators
  - C. Task 3 – Close-Out
    - 3.1. Final File Disposition/Inspections of Construction Complete
    - 3.2. Record Keeping
  - D. Task 4 – Reporting
    - 4.1. Progress Reporting – Weekly and Monthly
    - 4.2. Deliverables
- A. Task 1: Administrative Requirements
- 1) Complete the hiring of at least 40% of the personnel (including personnel of subcontractors) within thirty (30) days of the Effective Date required to operate the programs. All contractors are required to comply with all state and federal labor wage requirements.
  - 2) Enter into contracts with all subcontractors required to operate the program within thirty (30) business days of the Effective Date of this Agreement. All contracts must adhere to federal procurement standards.
  - 3) Prepare all electronic documents with necessary privacy protections that are AB 434 (Assembly Bill No. 434 (2017-2018 Reg. Sess.) §1) (State Web Accessibility) and Section 508 (of the Rehabilitation Act) compliant.
  - 4) Within the full program policies and procedures manual (to be provided by HCD-DRS), provide guidance and direction to be included in the policies and procedures for:

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- a) Determining Construction Scope of Work required for construction completion (in coordination with the HAPM contractor),
  - b) Approval of plans to ensure reconstructions meet all program design standards (Homeowner-Managed Construction Solution 2),
  - c) Procedure for construction inspections management and oversight,
  - d) State the industry standard residential construction cost estimating software being utilized, to ensure standard grade costs are being used, for the Construction Scope of Work, and
  - e) Procedures for construction closeout.
- 5) At the request of HCD/HCD-DRS, make senior managers of the Contractor and subcontractor firms available for media interviews, meetings with federal officials, and other necessary external meetings, each instance of which must be requested by and/or approved by a designated representative of HCD.
  - 6) Any other unforeseen tasks deemed mission-critical by HCD.
  - 7) Contractor must use eGrants to implement and operate the Construction, Design-Build, Management Services for the program. Use of the system will include but is not limited to data entry, uploading documents, and tracking project progress using eGrants.
  - 8) Contractor must set up a profile in and use Grants Network (Grant Management System) to manage this Agreement and submit invoices for payment. HCD will provide training to Contractor on this system.

### B. Task 2: Operational Requirements

#### 2.1. Design Review and Approval

- 1) Approval of design plans for rehabilitation and reconstruction to ensure compliance with all Program, federal, state, and local building standards and requirements.
- 2) Provide design plans for two, three, and four-bedroom homes to be used under Solution 1. Plans must have alternatives to ensure ADA compliance and meet the California Building Standards Code. Plans must also have California Building Standards Code, Title 24, Chapter 7A listed building alternatives to meet Wildland-Urban Interface (WUI) building codes requirements for ignition resistant construction.

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- 3) Provide a team of licensed, bonded, and insured contractors to provide construction services for those applicants who choose Solution 1 or 2.
- 4) Provide the industry standard residential construction cost estimating software.
- 5) Subcontract with entities that have experience and expertise working with MHUs. This experience should include, but not be limited to site preparation, installation of new, compliant MHUs, and all site work and compliance with local codes and permitting requirements.
- 6) Oversee program operations and administration related to the construction management services to meet the performance measures, and timelines prescribed for all program solutions.
- 7) Provide status reports to HCD that reflect the major activities for the reporting period as specified by HCD-DRS for internal reporting related to project milestones and HUD-related reporting (e.g. monthly, quarterly).
- 8) Communicate proposed quality assurance/quality control procedures and potential program risks, issues, statuses, recommendations, and resolutions to HCD.
- 9) ~~Track and complete inventory of all items purchased with program funds or provided by HCD.~~
- 10) Scale staff to efficiently run the Program.
- 11) Coordinate with HCD-DRS and other external entities, to conduct research and provide information related to the program.

### 2.2. MHU Repairs, Site Preparation, and MHU Installation

- 1) Obtain all permits for demolition, if applicable, and setting of the new MHU unit (including any separately filed permits for applicable site work) and supply copies of progress reports and issuance of certificate of occupancy to the HAPM contractor.
- 2) Provide rehabilitation services for MHUs that qualify under the Program.
- 3) Prepare the site to allow for the installation of the new unit. Site work will include the removal of any obstructive landscaping, leveling of site, fill, or drainage modifications (including the installation of a driveway culvert, drainpipe and/or apron if required for the permit).
- 4) Perform installation and immobilization services for the MHU following delivery including, but not limited, to repairing or replacing footings,

## EXHIBIT A

perimeter supports, piers, anchoring and skirting, completing stairs and landings (or handicap accessible ramps as required), handrails, guardrails, and connection to all utilities. All installation and immobilization services must be in accordance with HUD MHU Home Installation Standards as required by 24 CFR Part 3285 and follow any more restrictive requirements that may be detailed by state or local building codes or specific park locations.

5) Install air conditioning systems (type of air conditioning system is to be determined).

6) Include re-grading of driveway and installation of new gravel as needed from apron to unit, and

7) MHU Specifications:

The selected Contractor shall provide single-wide, double-wide, and triple-wide MHUs with the following specifications:

a) General

- Compliance with Title 24, Code of Federal Regulations, Part 3280 – Manufactured Home Construction and Safety Standards. All MHUs shall also be in compliance with any state or local building codes that exceed Federal requirements for MHU unit construction, including Wildland-Urban Interface codes in the California Code of Regulations, Title 25m Article 2.3. (<https://www.hcd.ca.gov/building-standards/state-housing-law/wildland-urban-interface.shtml>)
- Provide single-wide, double-wide and triple-wide units
- Option for units compliant with American Disabilities Act may be required including, but not limited to, (wheelchair accessible doorways, kitchen and bathroom(s)).

b) Floor

- Living room/bedrooms: Carpet
- Kitchen/bathrooms: Vinyl

c) Exterior

- Siding material: Wildland-Urban Interface (WUI)-compliant material
- Sheathing: Standard Grade but must meet WUI standards if different than standard grade.
- Color: Factory Select or per site specifications as required.
- Shutters: None

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- d) Windows and Doors
  - Windows: Windows and storm windows that meet HUD's Thermal Zone 2 requirements
  - Front Door: Doors that meet HUD's Thermal Zone 2 requirements w/ storm
  - Rear Door: Out swing door that meets HUD's Thermal Zone 2 requirements
  
- e) Roof/Ceiling
  - Roof material: Minimum 20-year shingles
  - Insulation: Blown cellulose or fiberglass batting
  - Ceiling slope: Flat
  
- f) Plumbing
  - Kitchen sink: Drop-in stainless-steel double bowl
  - Bathroom sinks: Standard Grade
  - Faucets: Standard Grade
  - Water heater: Electric
  
- g) HVAC
  - Heat: Electric with a gas option
  - Air Conditioning (AC): Provide option for external electrical circuit for condensing unit (if being provided by the Program, installation of the AC system will be provided by the CM Contractor).
  
- h) Electrical
  - Load Center: 200-amp service, but 100 amp will be allowed when gas option ordered – gas range and gas furnace.
  - Interior Receptacles and Switches: White/factory select
  - Phone Jack: None
  - AC: Conduit
  
- i) Interior Features/Appliances
  - Cabinets: Medium-Density Fiberboard
  - Countertops: Formica
  - Backsplash: None
  - Refrigerator: 20 cu. ft. minimum
  - Range: Electric (Gas Optional)
  - Range hood: 30"-wide hood
  
- j) Thermal
  - Doors, windows, and insulation that meets the Thermal Zone II requirements.

## EXHIBIT A

- k) Fire Safety
- An interior Fire Sprinkler System that meets the California Code of Regulations, Title 25, § 4302 (1).
  - Meet Wildland-Urban Interface (WUI) standards for ignition resistant construction in California's Fire Hazard Severity Zones

### 2.3. Inspections and Construction Scope of Work

HCD anticipates the following inspections will be required, at a minimum:

- 1) Initial damage inspection: Involves the initial inspection of an applicant's damaged dwelling where a damage assessment and/or complete Construction Scope of Work will be completed using web-based, industry standard residential construction cost estimating software. The inspection should also address all environmental on-site requirements necessary to complete the final clearance and allowance for notice to proceed. The Construction Scope of Work and environmental review report and clearance must be uploaded in eGrants for task delivery to be considered complete. The CM Contractor shall complete the first initial damage inspection within sixty (60) calendar days of the start date of this Agreement. All subsequent initial damage inspections shall be completed within thirty (30) calendar days of the order date.
- 2) Plan/Design Review: Review and approval of the plans/design documents for the reconstruction or rehabilitation under Solutions 1 and 2. The CM Contractor shall complete and receive approval of the plans/design documents for reconstruction or rehabilitation within **sixty (60)** calendar days of completion of the initial damage inspection.
- 3) Construction Inspections: Subsequent inspections focused on the contractual draw requests for applicants participating in Solution 1 or 2 are required. The inspection schedule is based on the solution and construction schedules. **All inspections will be paid out at the unit rate identified in Exhibit B.**
- 4) Final Inspections: Final inspections for all Solution 1 and 2 rehabilitation and reconstruction projects when construction has been completed. Schedule post-installation final inspections for MHUs with HCD-DRS.

### 2.4. Construction Warranty

In accordance with California Civil Code 900, a builder shall provide a homebuyer with a minimum one-year express written limited warranty covering the fit and finish of the following building components:

- Cabinets
- Mirrors

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- Flooring
- Interior and Exterior Walls
- Countertops
- Paint Finishes
- Trim

Building contractors for both Solution 1 and Solution 2 projects must provide all express warranties prior to the inspector signing a final inspection form. Photographs of the construction work must be taken for documentation purposes. Homeowners must be provided with a warranty information binder detailing building warranties. Homeowners must also be provided instruction booklets and information for warranted items, such as appliances, that are not the Contractor's responsibility. The homeowner will be asked to sign an acknowledgement form indicating that they have reviewed warranties with their building contractor.

### 2.5 Environmental Review Requirements

- 1) Complete HUD mandated Environmental Reviews per 24 CFR Part 58, for the OOR Program.
- 2) The CM Contractor will provide Tier II reviews as appropriate. (A Tier II Site Specific Review for Properties is also referred to in this document as a Tier II review). The CM Contractor shall ensure that all Tier II reviews are completed within forty-five (45) calendar days or less from the time the Tier II review is ordered unless agreed to by HCD and the CM Contractor. HCD has begun the Tier I process for the OOR Program and anticipates the NEPA Tier 1 environmental reviews will be complete when the CM Contractor is brought on board.
- 3) Complete State-mandated Environmental Reviews per California Environmental Quality Act (CEQA), for the ReCoverCA OOR Program (unless projects are determined to be exempt by HCD-DRS). The CM Contractor will provide the appropriate level of review as needed for the program. The CM Contractor shall, if applicable, ensure that all CEQA reviews are completed within the same timeframes as the HUD mandated environmental review. The expectation is that both reviews will be competed concurrently. For more information see: <http://opr.ca.gov/clearinghouse/ceqa/> Assist in the Coordination with oversight/regulatory agencies etc. for permits and/or compliance resolution. The Contractor shall consult with all required reviewers and agencies regarding the receipt of all necessary documents and permits for compliance. This shall include liaison to resolve HUD Section 106 review and requirements between the homeowner, the State Historic Preservation Office (SHPO) and the California Native American Commission (NAHC) as needed. <https://www.ca.gov/agency/?item=Native-American-Heritage-Commission>



## EXHIBIT A

- 4) Perform lead-based paint inspections and risk assessment when required.
- 5) Complete initial screening and inspection of the property prior to work being done to look at the potential for asbestos containing materials. A higher-level of screening may be needed to determine extent and type of asbestos present. If any kind of renovation is being considered, structures must be inspected and standardized practices that comply with the Cal/OSHA regulations must be employed if asbestos is found that may be disbursed into the air. Make certain that contract specifications and documents address these practices and include inspection, testing, removal and final clearance procedures that meet or exceed applicable health codes. The regulatory requirements apply to worker exposure to asbestos, procedures for abating asbestos when a building undergoes rehabilitation and disposal of asbestos containing materials.
- 6) The Contractor shall coordinate and consult with, follow all guidance provided by, and report regularly to, HCD-DRS and HUD environmental officials. Reporting requirements shall be completed on a monthly basis by the Contractor. This monthly report shall detail the status of each work order, showing the percent complete and any outstanding items.
- 7) Liaise with agencies as necessary to facilitate environmental reviews.
- 8) Any other job duty that relates to 24 CFR Part 58 HUD Environmental or CEQA requirements.

### 2.6. Inspectors and Estimators

- 1) Inspectors and/or estimators will develop, using both the web-based construction job analysis and cost estimator software and the OOR Program policies and procedures, the repair and reconstruction scope of work and cost estimate for each damaged dwelling. The CM Contractor will provide a web-based construction job analysis and industry-standard cost estimation software, and the CM Contractor, HAPM contractor, and HCD-DRS will mutually agree to all optional and site-specific factors. The Contractor, HAPM contractor, and HCD-DRS will also mutually agree on reasonable timelines for initiating and completing work within OOR Program requirements.
- 2) Coordination with the HAPM contractor, and specifically case managers, to explain to the homeowner what damages are eligible for the Program. The CM Contractor shall coordinate with the case managers to obtain all necessary documentation which may include pre-construction pictures demonstrating the 2017, ~~or~~ 2018, **or additional years as HCD defines for** disaster related damages and the pre-construction condition of elements identified for inclusion in the proposed Construction Scope of Work.

## EXHIBIT A

- 3) The CM Contractor shall coordinate with the homeowner and case manager to conduct a pre-award site inspection of each damaged dwelling for purposes of completing a damage assessment. This assessment will determine the cost to rebuild (square footage assessment) or to repair the damaged dwelling for use in the Construction Scope of Work to restore the home to the HCD-DRS approved standards. Estimates shall be developed using the web-based construction job analysis and cost estimating software, which will provide the maximum Construction Scope of Work calculation. The CM Contractor will then monitor construction efforts and certify that work that was done was within the approved parameters of the Construction Scope of Work.
  - 4) Track and record GPS coordinates for all inspections.
  - 5) Complete turnkey construction services for Solution 1 including construction contractor selection, construction inspections, and contractor oversight throughout the construction process.
  - 6) Provide construction advisory services to homeowners (Solution 2) including but not limited to: Pre-bid meeting; construction contractor solution; review and approval of bids; provide template contracts; draw inspections and sign-off of completed work.
- C. Task 3 – Close Out
- 3.1. Final File Disposition/Inspections of Completed Construction
- Completion of the following for all Solution 1 and 2 projects:
- 1) Certificate of occupancy;
    - a. **Solution 1: CM Contractor completes the project to certificate of occupancy, including all construction management and general contractor activities necessary to complete the project for household occupancy.**
    - b. **Solution 2: CM Contractor confirms, in the role of construction manager, that the general contractor hired by the homeowner, or the homeowner acting as an owner-builder as defined by the California State License Board has completed the project to certificate of occupancy.**
  - 2) Final NEPA Environment Review Record, the written environmental review record or file, clearance and CEQA clearance as outlined in section 2.4 (if required);
  - 3) **Verify** passing of state and local permit inspections;

## EXHIBIT A

- 4) Homeowner repair/reconstruction warranty execution; and
- 5) Homeowner **and/or HCD Section Chief or above** certification that work is complete per applicant construction contract.

The CM Contractor may bill for this unit along with the agreed fee based on the Construction Scope of Work once all of the following is completed: the completion of the construction work, homeowner approval of all work, the Certificate of Occupancy has been received and filed with the Program, and the national objective has been met.

### 3.2. Record Keeping

During all phases of the project, the CM Contractor shall maintain copies of all documents and construction reviews. The project files must be well organized and indexed for easy access. These documents consist of:

- 1) Studies
- 2) Formal design submissions
- 3) Corresponding design review reports
- 4) Minutes from formal design meetings
- 5) Final cost estimate
- 6) Modifications to the Construction Scope of Work
- 7) Documentation of clarifications and decisions
- 8) General Correspondence
- 9) Other records and documents as required by HUD for CDBG-DR funded projects, and other records in a format and storage location acceptable to HCD for a duration of time that is compliant with CDBG requirements.

## D. Task 4 – Reporting

### 4.1. Progress Reporting- Weekly and Monthly

An executive summary prepared by the CM Contractor, consisting of a one-page overview of the week's progress.

- 1) Create reports to track performance, inventory, staffing levels and status of homeowners throughout the construction process.
- 2) Create charts and maps of designated areas as requested by HCD-DRS.
- 3) Summary of the week's major milestones (planned and actual).
- 4) A cost summary, covering base contracts, contract modifications, claims, and other cost issues.

## EXHIBIT A

- 5) Critical issues or synopsis of important problems and issues HCD-DRS should be made aware of.
- 6) Minutes of meetings held during the week.

Monthly progress reports shall describe and summarize the activities and progress of the month, highlighting areas of concern, and making recommendations for corrective action. These reports must include:

- 1) Master project schedule, with updates and revisions.
- 2) Key milestones, including a discussion of issues affecting the schedule.
- 3) Work-in-place, or percentage of construction planned and actual.
- 4) Monthly cost status, including contract modification and claims summaries.
- 5) Inspection report, including deficiencies identified and status of corrective actions.
- 6) Significant issues, problems and questions resolved and pending, including recommendations for resolution.
- 7) Monthly progress photos.
- 8) A look ahead to next month's activities.
- 9) Other related information as requested or required by HUD or HCD.

### 4.2. Deliverables

- 1) The CM Contractor shall work with HCD-DRS management and HCD's PGMC consultant to determine which metrics shall be measured and monitored for adequate Agreement performance. The Contractor should also develop processes and systems for routinely measuring and reporting deliverables and evaluation results. These processes should also include goal setting and process improvement to foster a continuous evaluation and improvement of environment.
- 2) FEDERAL ENVIRONMENTAL REVIEW RECORD (ERR) - Tier II Site-Specific environmental review, completion of the Tier II report includes all travel costs, travel time and other expenses. See 24 CFR Part 58, Subparts D and E for further details.
- 3) STATE ENVIRONMENTAL REVIEWS PER CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) - The Contractor will provide the appropriate level of review as needed (unless determined exempt by HCD-DRS). The Contractor shall ensure that all CEQA reviews are completed within the same timeframes as the HUD mandated environmental reviews. The expectation is that both reviews will be

## EXHIBIT A

completed concurrently. For more information see:  
<http://opr.ca.gov/clearinghouse/ceqa/>

- 4) LEAD-BASED PAINT - The CM Contractor will be responsible for ensuring lead-based paint has been tested, properly disposed, abated, and/or cleared prior to construction starting on all projects. See 24 CFR Part 35 Subparts B-R for further details.
- 5) ASBESTOS-CONTAINING MATERIALS - The CM Contractor will be responsible for the initial screening and inspection of the property prior to work being done to look at the potential for asbestos-containing materials. A higher-level of screening may be needed to determine extent and type of asbestos present. If any kind of renovation is being considered, structures must be inspected and standardized practices that comply with Cal/OSHA regulations must be employed if asbestos is found and is to be disposed of properly.

### 9. Effective Date and Term

This Agreement is effective upon the Department of General Services (DGS) approval ("Effective Date") and will last three (3) years from such Effective Date, with six (6) optional one (1) year extensions, not to exceed a total of nine (9) years. ~~The Contract Manager, with the approval of the State Program Manager, can exercise the optional years in varying increments and at the same rates as submitted in response to the RFP.~~ **Upon approved NCB Justification by DGS-PD, DRU and the approval of the State Program Manager, the Contract Manager may exercise the optional years in varying increments at the same rates as submitted in response to the RFP, with the final contract amendment approval by DGS.** So, for example, the Contract Manager may choose to extend the term of this Agreement by two or four years, etc. No services shall be provided before approval by HCD, or after the termination date.

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Agreement Amount

The total amount of this Agreement shall not exceed ~~\$47,627,500.00~~ **\$210,027,500.00**

2. Budget Detail

COST YEARS 1-3

Per Grant Award (Unit) Cost - Quantities and contract values will vary depending on program conditions and available funds. Assume 1500 Units to be Rehabilitated, Reconstructed, or Replaced at an average Grant Award of \$140,000. Of the 1500 units, assume 375 will be MHU replacements. Assume 200 units will require lead based paint and asbestos testing and inspection.			
	Quantity	Unit Rate	Total Cost
Initial Home Inspection and Estimate	1,500	\$1,500.00	\$2,250,000.00
Labor costs for: Conventional Construction Design-Build, Acquisition Services for Replacement MHU's including Site preparation, Installation, and Construction Management (includes Installation Management)	1,500	\$28,000.00	\$42,000,000.00
Construction Hard Costs (materials and labor)**	1	\$162,400,000.00	\$162,400,000.00
Interim and Final Inspections	1,500	\$485.00	\$727,500.00
Tier 2 Environmental Review	1,500	\$1,500.00	\$2,250,000.00
Lead-Based Paint Test and Inspection	200	\$1,000.00	\$200,000.00
Asbestos Test and Inspection	200	\$1,000.00	\$200,000.00
<b>YEARS 1-3 TOTAL COST*</b>		<b>\$162,433,485.00</b>	<b>\$210,027,500.00</b>

\*This is an all-inclusive contract. HCD will not reimburse for any travel or other direct costs.

\*\*Administrative costs will not be billed against this line item.

EXHIBIT B

No amendment for time, money, and/or scope shall be authorized without an approved NCB Justification by Department of General Services Procurement Division (DGS-PD), Dispute Resolution Unit (DRU).

**UPON APPROVED NCB AMENDMENT, YEARS 4-6 SHALL BE AT THE RATES OUTLINED BELOW, NOT EXCEED \$50,010,000.00**

Per Grant Award (Unit) Cost - Quantities and contract values will vary depending on program conditions and available funds. Assume 1500 Units to be Rehabilitated, Reconstructed, or Replaced at an average Grant Award of \$140,000. Of the 1500 units, assume 375 will be MHU replacements. Assume 200 units will require lead based paint and asbestos testing and inspection.			
	Quantity	Unit Rate	Total Cost
Initial Home Inspection and Estimate	1,500	\$1,575.00	\$2,362,500.00
Labor costs for: Conventional Construction Design-Build, Acquisition Services for Replacement MHU's including Site preparation, Installation, and Construction Management (includes Installation Management)	1,500	\$29,400.00	\$44,100,000.00
Interim and Final Inspections	1,500	\$510.00	\$765,000.00
Tier 2 Environmental Review	1,500	\$1,575.00	\$2,362,500.00
Lead-Based Paint Test and Inspection	200	\$1,050.00	\$210,000.00
Asbestos Test and Inspection	200	\$1,050.00	\$210,000.00
<b>YEARS 4-6 TOTAL COST*</b>		<b>\$35,160.00</b>	<b>\$50,010,000.00</b>

\*This is an all-inclusive contract. HCD will not reimburse for any travel or other direct costs.

**UPON APPROVED NCB AMENDMENT, YEARS 7-9 SHALL BE AT THE RATES OUTLINED BELOW, NOT TO EXCEED \$52,550,000.00**

Per Grant Award (Unit) Cost - Quantities and contract values will vary depending on program conditions and available funds. Assume 1500 Units to be Rehabilitated, Reconstructed, or Replaced at an average Grant Award of \$140,000. Of the 1500 units, assume 375 will be MHU replacements. Assume 200 units will require lead based paint and asbestos testing and inspection.			
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EXHIBIT B

	Quantity	Unit Rate	Total Cost
<b>Initial Home Inspection and Estimate</b>	<b>1,500</b>	\$1,650.00	<b>\$2,475,000.00</b>
<b>Labor costs for: Conventional Construction Design-Build, Acquisition Services for Replacement MHU's including Site preparation, Installation, and Construction Management (includes Installation Management)</b>	<b>1,500</b>	\$30,900.00	<b>\$46,350,000.00</b>
<b>Interim and Final Inspections</b>	<b>1,500</b>	\$540.00	<b>\$810,000.00</b>
<b>Tier 2 Environmental Review</b>	<b>1,500</b>	\$1,650.00	<b>\$2,475,000.00</b>
<b>Lead-Based Paint Test and Inspection</b>	<b>200</b>	\$1,100.00	<b>\$220,000.00</b>
<b>Asbestos Test and Inspection</b>	<b>200</b>	\$1,100.00	<b>\$220,000.00</b>
<b>YEARS 7-9 TOTAL COST*</b>		<b>\$36,940.00</b>	<b>\$52,550,000.00</b>

\*This is an all-inclusive contract. HCD will not reimburse for any travel or other direct costs.

3. Invoicing and Payment

- A. Contractor shall invoice on a unit basis, with the total of all invoices not to exceed the amounts shown above.
- B. Contractor shall submit invoices in arrears either on a **bi-weekly or** monthly or quarterly interval.
- C. For services satisfactorily rendered, and upon receipt and approval of the invoices, HCD agrees to compensate the Contractor the invoiced amount.
- D. Invoices must include this Agreement number and a Purchase Order number. The Purchase Order number will be provided at a later time by the Contract Manager. A handwritten Agreement number is not acceptable.
- E. Invoices Submission for Contracts Managed Through Grants Network:
  - 1) The Contractor must set up an account in the Grants Network system at [www.gn.ecivis.com](http://www.gn.ecivis.com). The program link will be provided after this Agreement is executed.
  - 2) Invoices shall be submitted through the Contractor's Grant Network account and will include all supporting documentation as an upload in the Financial Report (i.e. reimbursement request).
  - 3) Supporting documentation must include:



EXHIBIT B

- a) Invoice summary which includes:
  - Performance period,
  - Contract number,
  - Purchase Order number,
  - ~~Names of workers being included in the invoices and broken out by task line item. The total hours, by task, must be clear and,~~
  - The total amount being invoiced.
- b) ~~Official timesheets for every person (i.e. Contractor's and Subcontractor's staff) included on the invoice. The timesheet must clearly show the worker's name and hours worked for each day~~
- c) A clear crosswalk of deliverables/accomplishments for which **time work** is being billed, with a narrative explaining what work was done during the time being billed. Generally, this is shown as a grid with column headings such as: **Deliverable**, Date, Task, Employee, and Description of Services/**Deliverable**, and Hours as appropriate.
- d) ~~The timesheets and the crosswalk must match staff, tasks, hours, costs, and performance period being billed.~~

4. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the contract, this Agreement shall be of no further force and effect. In this event, HCD shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement. **Work assigned by HCD that is in-process and/or completed by the CM Contractor as of the effective date of any Budget Act amendment will be paid to contractor regardless of the Budget Act updates.**
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this contract, HCD shall have the option to either cancel this Agreement with no liability occurring to HCD other than as described herein, or offer an agreement amendment to Contractor to reflect the reduced amount. **Work assigned by HCD that is in-process and/or completed by the CM Contractor will be paid to contractor regardless of the Budget Act updates.**

5. Prompt Payment Clause

EXHIBIT B

Payment will be made in accordance with Chapter 4.5 (commencing with Section 927) of Part 3 of Division 3.6 of Title 1 of the Government Code.

**EXHIBIT D**

HCD ADDITIONAL CONTRACT TERMS

PERSONAL/CONSULTING SERVICES (Rev. 10/28/2020)

1. Interpretation

In the interpretation of this Agreement, any inconsistencies between the State of California General Terms and Conditions (GTC - 04/2017) and the terms of this Agreement and exhibits or attachments shall be resolved in favor of the GTC – 04/2017.

In the event of any conflict between the terms of this Agreement and any exhibits or attachments incorporated by reference into this Agreement including, but not limited to, Contractor's submittal dated October 30, 2020 in response to the RFP 20-CDBGDR17-002 Full-Service CDBG-DR Construction Management and Delivery Services ("RFP")(See Exhibit E), and that certain "Questions and Answers" document for the RFP dated October 9, 2020 (See Exhibit F), the terms of this Agreement shall control.

2. Publications and Reports

A. Unless otherwise provided for in this Agreement, Contractor shall:

- 1) Incorporate any comments or revisions required by HCD into any publication or report and shall not publish any material until it receives final written HCD approval from the Contract Manager.
- 2) Furnish one copy of each publication and report required plus one reproducible original. Any publication or report produced in PDF must be supplied to HCD in an unlocked, Word or Excel format.

B. Illustrations, maps and graphs in summaries and publications and reports shall be developed in a manner which allows the complete illustration to be contained on a single 8-1/2 by 11 page unless specific written approval is given to the contrary.

C. Graphs, illustrations and printed materials shall be printed in a single color throughout each publication unless prior written HCD approval is granted.

D. Contractor's name shall appear only on the cover and title page of publications and reports and summaries. Covers and title pages will read as follows:

DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT  
TITLE OF PUBLICATION  
BY (CONTRACTOR)

E. HCD retains ownership of and reserves the right to use and reproduce all publications and reports and data produced and delivered pursuant to this Agreement.

## EXHIBIT D

F. If the publication and/or report are prepared by nonemployees of HCD, it shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of the report in a separate section of the report (Government Code Section 7550).

### 3. Progress Reports

Except as otherwise specified, in writing, by HCD, Contractor shall provide a progress report in writing once a month. This progress report shall include, but not be limited to, a statement that the Contractor is or is not on schedule, any pertinent reports or interim findings, and an opportunity to discuss any difficulties or special problems so that remedies can be developed as soon as possible.

### 4. Presentation

Upon HCD's request, Contractor shall meet with HCD to present any findings, conclusions and recommendations required per this Agreement.

### 5. Report Delivery

All reports, or other communications except invoices, are to be delivered to the Contract Manager, as outlined in Exhibit A.3.

### 6. HCD Staff

HCD staff shall be permitted to work side by side with Contractor's staff to the extent and under conditions that may be directed by the Contract Manager. In this regard, HCD staff will be given access to all data, working papers, etc., which Contractor may seek to utilize.

### 7. Confidentiality of Data and Documents

- A. Contractor will not disclose data or documents or disseminate the contents of the final or any preliminary report without the express prior written permission of the Contract Manager.
- B. Permission to disclose information or documents on one occasion, or public hearings held by HCD relating to the same, shall not authorize Contractor to further disclose such information or documents on any other occasion.
- C. Contractor will not comment publicly to the press or any other media regarding its data or documents, or HCD's actions on the same, except to HCD staff, Contractor's own personnel involved in the performance of this Agreement, or at a public hearing, or in response to questions from a legislative committee.
- D. If requested by HCD, the Contractor shall require each of its employees or officers, who will be involved in the performance of this Agreement, to agree, in

## EXHIBIT D

- writing, to the above terms in an HCD approved form. Contractor shall supply HCD with evidence of the employee or officer's signature on the HCD form.
- E. To the extent that HCD has approved the use of subcontractors in this Agreement, Contractor shall include in its agreements with each approved subcontractor the foregoing provisions related to the confidentiality of data and the non-disclosure of the same.
  - F. Contractor may, at its own expense, and upon written approval by the HCD Contract Manager, publish or utilize, 90 days after any data or document submittal to HCD per this Agreement has become a part of the public record and shall include the following legend:

### Legal Notice

This report was prepared as an account of work sponsored by HCD but does not necessarily represent the views of HCD or any of its employees except to the extent, if any, that it has formally been approved by HCD. For information regarding any such action, communicate directly with HCD at P.O. Box 952050, Sacramento, California, 94252-2050. Neither HCD nor the State of California, nor any officer or employee thereof, or any of its contractors or subcontractors makes any warranty, express or implied, or assumes any legal liability whatsoever for the contents of this document, nor does any party represent that use of the data contained herein would not infringe upon privately owned rights.

## 8. Provisions Relating to Data

- A. "Data" as used in this Agreement means recorded information, regardless of form or characteristics, of a scientific or technical nature. It may be, for example, document research, experimental, developmental or engineering work; or be used to define a design or process; or support a premise or conclusion asserted in any deliverable document called for by this Agreement. The data may be graphic or pictorial delineations in media, such as drawings or photographs, charts, tables, mathematical modes, collections, extrapolations of data or information, etc. It may be in machine form, punched cards, magnetic tape, computer printouts, or retained in computer memory.
- B. "Proprietary data" is such data as the Contractor has identified in a satisfactory manner as being under Contractor's control prior to commencement of performance of this Agreement and which has been reasonably demonstrated as being of a proprietary force and effect at the time this Agreement is commenced.
- C. "Generated data" is that data which the Contractor has collected, collated, recorded, deduced, read out or postulated for utilization in the performance of this Agreement. Any electronic data processing program, model or software system developed or substantially modified by the Contractor in the performance

## EXHIBIT D

of this Agreement at HCD's expense, together with complete documentation thereof, shall be treated in the same manner as generated data.

- D. "Deliverable data" is that data which under terms of this Agreement is required to be delivered to HCD, in accordance with the terms of this Agreement. Such data shall be the property of HCD.
- E. "Generated data" shall be the property of HCD unless and only to the extent that it is specifically provided otherwise herein.
- F. As to generated data which is reserved to the Contractor by express terms and as to any preexisting or proprietary data which has been utilized to support any premise, postulate or conclusion referred to or expressed in any deliverable hereunder, Contractor shall preserve the same in a form which may be introduced in evidence in a court of competent jurisdiction at Contractor's own expense for a period of not less than three years after acknowledged receipt by HCD of the final report or termination of this Agreement and any and all amendments hereto, or for three years after the conclusion or resolution of any and all audits or litigation relevant to this Agreement, whichever is later.
- G. Prior to the expiration of such time and before changing the form of or destroying any such data, Contractor shall notify HCD, in writing, of any such contemplated action. HCD may within 30 days after said notification determine whether it desires said data to be further preserved and, if HCD elects, the expense of further preserving said data shall be paid for by HCD. Contractor agrees HCD shall have unrestricted reasonable access to the same during said three-year period and throughout the time during which said data is preserved in accordance with this Agreement, and Contractor agrees to use best efforts to furnish competent witnesses or identify such competent witnesses to testify in any court of law regarding said data.

### 9. Amendments

Amendments to this Agreement are allowed and shall follow the rules and guidelines outlined in the current State Contracting Manual (SCM) Vol 1, including but not limited to the following:

- A. The time for performance of the tasks and items within the budget may be changed with prior written approval of the Contract Manager. However, the term of this Agreement or contract amount may only be changed by formal amendment mutually agreed by the Parties.
- B. HCD reserves the right to amend this Agreement at any time during this Agreement term, should it become necessary to complete the agreed upon Work outlined in the Original Agreement and upon approval by HCD/DGS. Any such

## EXHIBIT D

amendment shall be mutually agreed by the Parties and must be submitted and approved to DGS as an NCB per Section D below.

- C. Dollar amount and timeframe shall be determined based on the procurement method used, as agreed by the Parties. Contractor acknowledges that HCD's ability to negotiate these specific terms may be limited or proscribed as a result of statutes, regulations, or by other restrictions imposed by HCD's governing or control agencies.
- D. **No amendment for time, money, and/or scope shall be authorized without an approved NCB Justification by the Department of General Services, Procurement Division (DGS-PD), Dispute Resolution Unit (DRU). Any negotiations of rates, etc. should be at or below the rates already bid.**

### 10. Approval of Product

Each product to be approved under this Agreement shall be approved by the Contract Manager. HCD's determination as to satisfactory work shall be final absent fraud, mistake or arbitrariness.

### 11. Substitutions

Contractor's key personnel as indicated in its proposal may not be substituted without the Contract Manager's prior written approval. Notice to either party may be given by email as provided in Exhibit A.3. Such notice shall be effective when received as indicated on email. Alternatively, notice may be given by personal delivery by any means whatsoever to the party and such notice shall be deemed effective when delivered.

### 12. Waiver

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative; that is, in addition to every other remedy provided therein or by law. Failure of HCD to enforce at any time the provisions of this Agreement, or require at any time performance by Contractor of any provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of HCD to enforce said provisions.

### 13. Agreement is Complete

Other than as specified herein, no document or communication passing between the parties hereto shall be deemed a part of this Agreement.

### 14. Captions

## EXHIBIT D

The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to and shall not be deemed to define, limit or extend the scope or intent of the clauses to which they pertain.

15. Public Hearings

If public hearings on the subject matter dealt with in this Agreement are held within one year from this Agreement's expiration date, the Contractor shall make available to testify the personnel assigned to this Agreement at the hourly rates specified in the Contractor's proposed budget. HCD will reimburse Contractor for travel of said personnel at the contract rates for such testimony, as may be requested by HCD.

16. Force Majeure

"Force Majeure" is an unforeseeable event outside of a party's reasonable control which prevents or delays performance of that party's obligations under this Agreement. Such event does not include the normal risks a party assumes when it enters a contract. A Force Majeure event is a natural disaster such as an earthquake, flood, hurricane, pandemic, an Act of God, act of war, act of public enemies of this state or of the United States, or other similar event.

Force Majeure also includes actions or measures taken by any governmental authority, including executive orders, public health orders, other governmental orders, laws, regulations, or other government actions taken in response to a "Force Majeure" event, such as a quarantine or other restriction which prevents or delays the performance of a party's obligations under this Agreement.

The party asserting "Force Majeure" must give notice to the other party to this Agreement within ten (10) days of the occurrence of the Force Majeure event, notice to be given in accordance with the notice provisions of this Agreement. Such notice must include a description of the Force Majeure event, how said event has prevented or delayed the party's ability to perform its obligations under this Agreement, a description of reasonable measures the asserting party proposes to take to resume performance of its obligations under this Agreement, and a date by which the party anticipates it will resume performance of its obligations.

17. Permits and Licenses

Contractor shall procure and keep in full force and effect during the term of this Agreement all permits, registrations and licenses necessary to accomplish the work specified in this Agreement and give all notices necessary and incident to the lawful prosecution of the work. Contractor shall keep informed of, observe, comply with, and cause all of its agents and employees to observe and comply with all prevailing Federal, State, and local laws, and rules and regulations made pursuant to said Federal, State, and local laws, which in any way affect the conduct of the work of this Agreement. If any conflict arises between provisions of the plans and specifications and any such law above referred to, then the Contractor shall immediately notify HCD in writing.



**EXHIBIT D**

18. Litigation

HCD, promptly after receiving notice thereof, shall notify the Contractor in writing of the commencement of any claim, suit, or action against HCD or its officers or employees for which the Contractor must provide indemnification (refer to GTC-04/2017) under this Agreement. To the extent permitted by law, HCD shall authorize the Contractor or its insurer to defend such claims, suits, or actions and shall provide it or its insurer, at the Contractor's expense, information and assistance both necessary and available for such defense. The failure of HCD to give such notice, information, authorization or assistance, shall not relieve the Contractor of its indemnification obligations.

The Contractor shall immediately notify HCD of any claim or action against it, which affects or may affect this Agreement, the terms and conditions hereunder, or HCD, and shall take such action with respect to said claim or action which is consistent with the terms of this Agreement and the interest of HCD.

19. Insurance Requirements

A. The Contractor shall not commence performance, on-site at any HCD property, under this Agreement until the Contractor has provided HCD with a certificate of insurance stating that there is liability insurance presently in effect for the Contractor with a Combined Single Limit (CSL) of not less than \$1M per occurrence and the following:

- 1) Commercial General Liability: \$1M per occurrence bodily injury, property damage and products and completed operations, \$2M general aggregate.

The certificate holder should be:

California Department of Housing and Community Development  
2020 West El Camino Avenue  
Sacramento, CA 95833

- 2) Description of Operations should read:

The certificate of insurance must include the following provision: *The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for HCD under this contract.*

- 3) The Contractor shall provide written notice to HCD within two (2) business days of any cancellation, non-renewal, or material change that affects required insurance coverage.

**EXHIBIT D**

- 4) Contractor must maintain Worker's Compensation insurance for all employees that are participating in the work contemplated by this Agreement.

20. Severability

If any provision of this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision of this Agreement and remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are and shall be deemed to be severable.

21. Disputes

- A. Except as otherwise provided in this Agreement, any dispute arising under or relating to the performance of this Agreement, which is not disposed of by mutual agreement of all parties shall be decided via a two-tier resolution process. First, the parties with a dispute will present their dispute documentation to the Contract Manager for review and resolution. If the dispute cannot be resolved by the Contract Manager, then it will be presented to HCD's Deputy Director or designated Executive staff. The decision of the Deputy Director/Executive staff shall be final, conclusive and binding on both parties.
- B. Contractor shall continue to perform its obligations under this Agreement during any dispute, unless HCD directs otherwise.
- C. In the event of any litigation, proceeding or dispute arising out of this Agreement or the need to interpret any language or provision of this Agreement, California law will apply and California courts will decide all such matters as the exclusive forum for such matters.

22. Suspension or Termination

- A. Suspension of Work:

The Director or Acting Director of HCD, or his/her designee, by written order may suspend the work of the Contractor, or any portion thereof, for any period up to ninety (90) days, as the Director or his/his designee may deem necessary and for any reason. Any equitable adjustment shall be made in the delivery schedule or contract price, or both, and this Agreement shall be modified in writing accordingly if the stop work order results in an increase in the time required for, or in the Contractor's cost properly allowable to, the performance of any part of this Agreement. In any event, the final total of additional payments shall not exceed the sum provided for in this Agreement unless this Agreement is amended in writing in advance.

- B. Termination at Option of State:

## EXHIBIT D

This Agreement may be terminated at any time, in whole or in part, upon ten (10) calendar day's written notice by HCD, for any reason. Upon receipt of a termination notice, Contractor shall promptly discontinue all services affected unless the notice specifies otherwise.

In the event HCD terminates all or a portion of this Agreement for any reason, it is understood that HCD will provide payment to Contractor for satisfactory services rendered and reasonable expenses incurred prior to the termination of this Agreement, and for reasonable expenses incurred by the Contractor prior to said termination, which are not included in charges for services rendered prior to termination, and which could not by reasonable efforts of Contractor have been avoided, but not in excess of the maximum contract amount.

### C. Termination for Default:

Notwithstanding anything to the contrary in this Agreement, In the event of a breach or default in the performance of Contractor hereunder, HCD shall provide Contractor with written notice detailing such alleged breach or default. Contractor shall be afforded a thirty day cure period within which to remedy any alleged deficiencies or defaults in performance. In the event that Contractor fails to cure such breach or default within the thirty day cure period, HCD shall be permitted to terminate this Agreement in whole or in part by written notice to Contractor, and HCD will provide payment to Contractor according to the Budget Detail and Payment Provisions contained in Exhibit B for satisfactory services rendered and reasonable expenses incurred prior to the termination of this Agreement, and for reasonable expenses incurred by the Contractor prior to said termination, which are not included in charges for services rendered prior to termination, and which could not by reasonable efforts of Contractor have been avoided, but not in excess of the maximum contract amount. Upon receipt of any notice terminating this Agreement in whole or in part, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise); and (2) deliver to HCD's Contract Manager all data, reports, summaries, and such other information and materials as may have been accumulated or generated by the Contractor in performing under this Agreement, whether completed or in progress.

### D. Termination Due to Bankruptcy:

In the event proceedings in bankruptcy are commenced by or against the Contractor, or the Contractor is adjudged bankrupt or a receiver is appointed, the Contractor shall notify HCD immediately in writing and HCD may terminate this Agreement and all further rights and obligations by giving three (3) days' notice in writing in the manner specified herein.

### E. Convenience:

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If HCD determines that Contractor fails to cure an alleged breach after receipt of a notice of alleged breach per Section 22.C., and after HCD submits a notice of termination for failure to fulfill contract obligations, it is later determined that the Contractor had not so failed or breached its obligations, the termination shall be deemed to have been made for the convenience of HCD.

F. Cumulative Remedies:

The rights and remedies of HCD provided in this Agreement are in addition to any other rights and remedies provided by law.

G. Threats to HCD employee(s):

Contractor agrees to be fully responsible to HCD for the acts and omissions of Contractor's subcontractors and any other persons directly or indirectly employed by Contractor or any of its subcontractors. Note: The word 'acts' in the preceding sentence includes any threat, whether real, implied, apparent or perceived, made to an employee of the State of California. Any such threat will be grounds, in HCD's discretion, to terminate this contract."

23. Public Contract Code

The Contractor is advised that provisions of Public Contract Code Sections 10335 through 10381 pertaining to the duties, obligations and rights of a consultant service contractor are applicable to this Agreement.

24. Evaluation of Contractor's Performance (STD 4 - Contract/Contractor Evaluation)

The Contractor's performance under this Agreement will be evaluated by HCD upon completion of this Agreement. A copy of the written evaluation will be maintained in this Agreement's contract file and may be submitted to the Department of General Services, Office of Legal Services.

25. Priority Hiring Considerations for Contracts Exceeding \$200,000.00

If this Agreement includes services in excess of \$200,000.00, the Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code Section 11200, in accordance with Public Contract Code §10353.

26. Potential Subcontractors

A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between HCD and any subcontractors, and no subcontract shall relieve the Contractor of its responsibilities and obligations hereunder. Contractor

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agrees to be fully responsible to HCD for the acts and omissions of its subcontractors and persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor.

- B. No work shall be subcontracted without the prior written approval of HCD. Upon the termination of any subcontract, HCD shall be notified immediately. Any subcontract shall include all the relevant terms and conditions of this Agreement and its attachments in addition to any other relevant terms and conditions.
- C. Contractor's obligation to pay its subcontractors is an independent obligation from HCD's obligation to make payments to the Contractor. As a result, HCD shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor. Contractor represents that it has or shall secure at its own expense, all staff required to perform the services described in this Agreement. Such personnel shall not be employees of or have any contractual relationship with any governmental entity.
- D. When subcontractors are used, HCD will pay the Contractor who, in turn, will be responsible for paying the subcontractor directly. Subcontractor fees and costs are included in the "total" price of this Agreement.
- E. If subcontractor(s) fails to execute a portion of the work in a satisfactory manner, the Contractor shall immediately remove the subcontractor upon written request from the Contract Manager, but only if such breach of subcontractor has not been cured within a period of ten (10) days after receipt of a formal notice of alleged breach. Said subcontractor may not be employed for another portion of this Agreement without prior notification and written approval from the Contract Manager. The Contract Manager will not entertain requests to arbitrate disputes between the Contractor and subcontractor concerning performance of their contract duties.
- F. Contractor shall not substitute a subcontractor in place of another without prior notification and written approval from the Contract Manager. All requests to substitute a subcontractor must be submitted in writing to the Contract Manager, along with documentation to support the substitution.

27. Disabled Veteran Business Enterprises (DVBE)

If required in the Bid package and subsequent agreement, Contractor shall comply with the DVBE participation goal, in accordance with the provisions of Public Contract Code §10115 et seq.

28. Conflict of Interest Clause

A. Purpose

## EXHIBIT D

The purpose of this clause is to ensure that the Contractor (1) is not biased, or in any way appear to be biased, in the performance of its duties under this Agreement due to any financial, contractual, organizational, or other interests or relationships relating to the nature of the work it is performing under this Agreement, (2) does not receive any improper gain or financial or other benefits as a result of performing the work required by this Agreement, and (3) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this Agreement.

### B. Conflicts of Interest

Contractor represents, warrants, and covenants to HCD as follows:

- 1) No Current or Prior Conflicts of Interest. Contractor has no business, professional, personal, or other interests or relationships, including but not limited to, the representation of current or prior clients that would conflict in any manner or degree with the performance of Contractor's obligations under this Agreement.
- 2) Prohibition on Conflicts. Neither the Contractor, nor its staff or agents, will engage in conduct that would constitute a conflict of interest, whether actual, potential, or perceived, during the term of this Agreement.
- 3) Notice of Conflict. If any actual or potential conflict of interest arises under this Agreement, Contractor shall immediately inform HCD in writing of such conflict and HCD shall be entitled to exercise its rights and remedies under subsection (4) below.
- 4) Termination for Material Conflict. If in the sole and absolute discretion of HCD a material conflict of interest exists that in HCD's opinion would negatively impact or call into question the performance of Contractor's duties under this Agreement, or that would give rise to the appearance of a material conflict of interest on the part of Contractor, HCD may elect to terminate this Agreement upon written notice to Contractor. Such termination shall be effective upon the receipt of such notice by Contractor.

### 29. State Contract Manual Requirements (Section 3.11, Federally Funded Contracts (Rev. 3/03)):

- A. All contracts, except for State construction projects that are funded in whole or in part by the Federal government, must contain a thirty (30)-day cancellation clause and the following provisions:
  - 1) It is mutually understood between the parties that this contract may have been written for the mutual benefit of both parties before ascertaining the

**EXHIBIT D**

availability of congressional appropriation of funds to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.

- 2) This contract is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the purpose of this Program. In addition, this contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this contract in any manner.
  - 3) The parties mutually agree that if the Congress does not appropriate sufficient funds for the program, this contract shall be amended to reflect any reduction in funds.
  - 4) The Department has the option to invalidate the contract under the thirty (30)-day cancellation clause or to amend the contract to reflect any reduction in funds.
- B. Exemptions from provisions A.1 through A.4 above may be granted by the Department of Finance provided that the director of the State agency can certify in writing that Federal funds are available for the term of the contract.
- C. Gov. Code § 8546.4(e) provides that State agencies receiving Federal funds shall be primarily responsible for arranging for Federally required financial and compliance audits, and shall immediately notify the Director of Finance, the State Auditor, and the State Controller when they are required to obtain Federally required financial and compliance audits.

## EXHIBIT E

### CDBG-DR TERMS AND CONDITIONS (Rev. 02/2021)

#### 1. Required Insurance Certificates

- A. Prior to executing this Agreement, the Contractor shall provide the Department with current insurance coverage certificates evidencing the following types of insurance as required by Federal and California regulations and as outlined in Exhibit D:
- Worker's Compensation insurance
  - Commercial General Liability
- B. Insurance shall be in force during the entire term of this Agreement, payment for such insurance shall be the Contractor's sole responsibility and shall be in such amounts as the Department deems necessary.

#### 2. Required Dun and Bradstreet DUNS Number

Prior to executing the Agreement, Contractor shall provide Contract Manager with the Contractor's current DUNS number and current DUNS numbers for any subcontractors. HUD requires all grantees, state recipients, subrecipients and contractors to provide DUNS numbers.

#### 3. Debarment and Suspension

Per Executive Orders 12549 and 12689 and 2 CFR 180.220, a contract award must not be made to parties listed on the government wide exclusion System for Award Management (SAM). Prior to award of any contracts or subcontracts under this Agreement, contractors and subcontractors will have their debarred status checked on the government wide exclusions in the SAM.

#### 4. Required Federal Language from 2 CFR Part 200 Appendix II

The Department is required to have this language in all CDBG-DR agreements. The Department is also requiring all other state agencies, state recipients and subrecipients who are using CDBG-DR funding to have this language in their agreements.

##### A. Remedies:

Contracts for more than the simplified acquisition threshold (currently \$150,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanction and penalties as appropriate.



## EXHIBIT E

B. Termination for Cause and Convenience:

All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

C. Non-Discrimination Language from 41 CFR Part 60-1.4(b):

Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60).

D. Clean Air Act and the Federal Water Pollution Control Act:

This Agreement is subject to the requirements of the Clean Air Act (42 USC7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Any contracts or subgrants made under this Agreement, in excess of \$150,000 must contain this provision. Contractor agrees to comply with all applicable standards, orders or regulations issues pursuant to the Clean Air Act and the Federal Water Pollution Control Act. Any violations of these Acts will be reported to the Department of Housing and Urban Development and the Regional Office of the Environmental Protection Agency (EPA).

E. Byrd Anti-Lobbying Amendment:

Per the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352), all contractors that apply or bid for an award exceeding \$100,000 must file the required certification. The Contractor must certify that it will not and has not used 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 contract award covered by the above referenced Amendment. The Contractor must also disclose any lobbying with non-Federal funds that take place in connection with obtaining any Federal award.

F. Procurement of Recovered Materials:

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247

## EXHIBIT E

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.

### G. Rights to Inventions Made Under a Contract or Agreement:

If a Federal award meets the definition of “funding agreement” under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of recipient or subrecipient must comply with requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

### 5. Conflict of Interest of Members, Officers, or Employees of Contractors, Members of Local Governing Body, or Other Public Officials

Pursuant to 24 CFR 570.489(g) and (h), 2 CFR Part 570, and 24 CFR 85.36(b)(3), no member, officer, or employee of a Jurisdiction, or its designees or agents, no member of the Governing Body of the locality in which the program is situated, and no other public official of such locality or localities who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract or agreement with respect to a CDBG-assisted activity or its proceeds, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one (1) year thereafter. The Jurisdiction shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section. It is further required that this stipulation be included in all subcontracts to this Agreement.

### 6. Conflict of Interest of Certain Federal Officials

No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same. The Jurisdiction shall report all perceived or actual conflicts of interest cases to HCD for review before financial benefits are given.

### 7. Compliance with State and Federal Laws and Regulations

## EXHIBIT E

The Contractor is responsible for compliance with all applicable Federal or State laws, Executive Orders, and regulations of the CDBG-DR program.

- A. The Contractor agrees to comply with all State laws and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Contractor, its subcontractors, and any other State provisions as set forth in this Agreement.
- B. The Contractor agrees to comply with all federal laws and regulations applicable to the CDBG-DR appropriation and to the activity(ies), and with any other federal provisions as set forth in this Agreement.

### 8. Access to Records and Record Retention

The Contractor must provide access by HCD or other state agency or sub-grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

All records relating to this Agreement must be retained by the Contractor for no less than three years after receiving final payment from HCD and all other pending matters are closed.

### 9. 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).

### 10. Administrative and National Policy Requirements

Certain Administrative and National Policy Requirements apply to all HUD programs, see the CDBG-DR related Federal Register Notices on HUD's website. Any party involved in the CDBG-DR grant work whether directly or indirectly, must agree to provide any information HCD requires in order to meet the aforementioned administrative and national policy requirements.

### 11. Use of Funds

The Appropriations Act made funds available for necessary expenses related to disaster relief and long-term recovery, recovery of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 et seq.) (Stafford Act), due to

## EXHIBIT E

eligible events in calendar years 2017 and 2018. The Appropriations Act requires funds to be used only for specific disaster-related activities and administration of those activities.

### 12. Applicable Statutory and Regulatory Requirements

- A. All recipients of CDBG-DR grants are subject to: (1) the requirements of the applicable Appropriations Act; and (2) applicable regulations governing the CDBG program at 24 CFR part 570, unless modified by waivers and alternative requirements published by HUD in this NOFA or other applicable Federal Register Notices.
- B. Note that the Office of Management and Budget (OMB) published Guidance for Uniform Administrative Requirements 2 CFR Part 200. These Cost Principles and Audit Requirements for Federal Awards will update 24 CFR parts 84 and 85 and supersede the Circulars listed in the Technical Correction to the FY 2014 General Section. HUD has published conforming changes to its CDBG program regulations on December 7, 2015 (80 FR 75931), that updated CDBG program regulations to reflect references to appropriate sections of 2 CFR part 200. The effective date of HUD's conforming rule is January 6, 2016 and this Agreement is subject to all these updated publications and rules.

13. **In relation to any approval from HCD or the Contract Manager required by Section 26, paragraphs B and F, such approval will be deemed given by HCD or the Contract Manager, as appropriate, if HCD or the Contract Manager does not respond within ten (10) calendar days of the request**