

Attachment A



Rural Community Assistance Corporation Task Order Form

Task Order: Biomass Utilization Fund (BUF), No. 1	Performance Period: June 1, 2020 through May 30, 2022
Issued to: National Council for Community Development, Inc One Battery Park Plaza, 24 Whitehall Street, Suite 710, New York, NY 10004	Contact/Telephone no.: Daniel Marsh III, President and CEO 212/682-1106 DMarsh@ndconline.org
Issued by: Rural Community Assistance Corporation 3120 Freeboard Drive, Suite 201 West Sacramento, CA 95691	Contact/telephone no.: Stan Keasling, Project Manager 916/447-9832 x 1002 SKeasling@rcac.org
Scope of Work: <p>Assist or perform, on behalf of lenders, a business and financial review, which includes but is not limited to: the evaluation of loan applicants, applicants' business performance, credit worthiness, the risk involved, and the security required such that any loan to be made to the applicant is equivalent to the standards of the Loan Program, and in accordance with CDBG underwriting standards.</p> <p>I. The business and financial review will include the collection, review and analysis of, at a minimum, the following: (It is assumed that much of this information will be included in the application, but that some additional information will also be needed from the applicant or that questions will arise regarding the information provided in the application. NDC and the RCAC loan officer will coordinate in the collection of additional information.)</p> <ul style="list-style-type: none"> • Loan application, including the project proposal • Credit report, including credit score, of the individual and/or business entity owner(s) of the subject property as appropriate • Business plan and revenue projections • Title Report for real property involved and Uniform Commercial Code filing status for other security interests as appropriate • Loan applicant's business balance sheet and income statements and/or tax returns for the previous three fiscal years • Current tax assessments or appraisals of the subject property (if applicable) 	

- If the applicant is proposing to acquire an existing business provide an opinion on the value of that business
- Personal financial statements on business principal(s) if necessitated by reasons of the business structure involved
- Basic current and historical business statistics information
- Interim financial statements, current within 6 months of loan application

2. Among other factors, the business and financial review will be used to determine the following:

- Viability of business plan
- Loan to value and debt coverage ratios
- Private to public funding ratio
- Financial well-being of the applicant business and principal owners
- Collateral available to secure a loan through the program
- Strengths and weaknesses of the applicant business and principal owner(s)
- Applicant's credit history

3. Written and oral communications with RCAC staff regarding the business and financial review and the potential risks involved in underwriting the loan, including a loan report as referenced in NDC's original proposal.

- Recommendations on distribution of financing between conventional and CDBG-NDR funds and reasonableness of the funds required to create each job
- Recommendations on the eligible uses of CDBG-NDR funds and compliance with Six CDBG Underwriting Criteria, including analysis of any potential duplication of benefits.
- Recommendation on initial terms for CDBG-NDR funds and assurances on protecting against undue enrichment

LOAN APPROVAL/DENIAL

Upon completion of the business and financial review NDC shall, upon request, make an initial written recommendation to staff for loan approval or denial, including the specific recommendations identified above.

NDC shall also provide copies of applicant files to RCAC at the conclusion review and recommendation. The applicant files shall include any new documents collect from the applicant, documents solicited or collected during the course of performing this scope of work, and the written loan recommendation.

Milestones/Deliverables/Reporting:

Performance Measures:

NDC will conduct an initial file review meeting with RCAC and the applicant within 10 days of receiving the loan documents, to discuss any supplemental information needed to complete its underwriting. NDC will complete financial reviews within 25 business days of assignment of files, assuming that applicant provides requested information in a timely manner. An applicant who fails to respond to a request for additional information within two business days of each request is not responding in a timely manner, and NDC should notify RCAC of the issues. RCAC will work with NDC to secure needed information and as necessary extend

the timeline for completing reviews. Failure to meet the 25-business day timeline will be a violation of the contract and subject to penalties. NDC will have 10 business days to cure any violation. Failure to remedy the violation or repeated violations may cause RCAC to terminate this agreement.

Submit written monthly progress reports on the status of each review, and a final report summarizing all work under this sub-recipient agreement by 5/30/2022.

Submit reimbursement requests at the completion of each loan review, but not more frequently than monthly.

Penalties:

NDC will not be reimbursed for any work while there is an unresolved violation. If NDC fails to complete a review in 15 days without requesting additional time to work on the file, RCAC will withhold payments until the file is completed and an explanation of why the work took extra time is provided.

Compensation:

- NDC will be paid \$4,000 for each loan application reviewed. RCAC will reimburse NDC a maximum of \$24,000 under this task order. It is assumed that there will be no travel or incidental charges associated with this contract.
- Invoicing will be submitted to RCAC as each task is completed and RCAC will reimburse within 30 days of invoice submittal.
- All requests for payments must reference Subcontract No. Biomass Utilization Fund (BUF), Task Order No. 1. Mail payment requests to RCAC, Attn: Environmental Grants and Contracts Administration, 3120 Freeboard Drive, Suite 201, West Sacramento, CA 95691.
- *All performance measures as described in scope of work must be met in order to receive payment as agreed. If it is deemed the performance has not met standard described, payments will be withheld until performance is cured.*

All terms and conditions included in Subcontract Biomass Utilization Fund (BUF) are applicable to this Task Order.

Signature for RCAC:



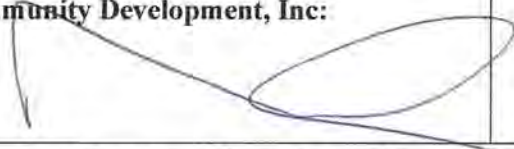
Type name and title:

David Ebenezer
Chief Financial Officer

Date:

June 24, 2020

**Signature for National Council for
Community Development, Inc:**



Type name and title:

Daniel Marsh III,
President, NDC

Date:

June 26, 2020

Attachment B
Prime Contract



Attachment C

Rural Community Assistance Corporation Request for Payment

National Development

6/26/2020

Agency Name

Date Prepared:

1 Battery Park Plaza, Suite 710

Agreement
number:

Address

New York, NY 10004

Task order
number:

City, State, Zip

Reporting period:

(212) 682 1106

Telephone Number

Beginning agreement amount	Prior total amount requested	Current amount requested	Total amount requested to date	Remaining balance
			\$ -	\$ -

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

6-26-2020

Signature:

Date:

For RCAC use only - Do not write below this line

I have verified the information provided herein is accurate and the work being invoiced has been done.

Approved
by:

Date:

Contract Lead or Manager
Signature

Approved
by:

Date:

Approver Signature

Unanet

Acct #/Description

Organization

Project

Tasks

Amount

For Accounts Payable use only

Voucher #

Document
#

Vendor #:

W9 Form Here

Attachment D



Rural Community Assistance Corporation Representation and Certifications Form

Fillable form instructions: Click into each gray box that says "Click here to enter text." Click each box to insert a check mark for the most applicable of the multiple choice answers.

1. **Company Name** Click here to enter text. National Development Council

2. **Type of Organization (check one box below)**

Consultant represents and certifies that it operates as:

☐ an individual; ☒ a nonprofit organization; ☐ a partnership; ☐ a joint venture; or

☐ a corporation incorporated under the laws of the state of: Click here to enter text.

3. **Taxpayer Identification**

In order to comply with reporting requirements of 26 USC 6041, 6041A and 6050M and implementing regulations issued by the Internal Revenue Service (IRS), the following information must be furnished:

Business Entities – Tax ID No.: Click here to enter text. 13-6532871

Consultant Identification Number (DUNS) No.: Click here to enter text. 073-273-294

* Individuals only – Social Security No.: Click here to enter text.

4. **Debarment and/or Suspension**

By checking these boxes, Consultant certifies that it and its principals:

- ☐ are ☒ are not presently debarred, suspended or proposed for debarment or declared ineligible for award of contracts by any Federal Agency,
- ☐ have ☒ have not, within the last three years, been convicted of fraud or a criminal offense in obtaining, attempting to obtain or performing a public contract or subcontract; violation of anti-trust statutes, embezzlement, theft, forgery, bribery, falsification or destruction of records, false statements, tax evasion or receiving stolen property;
- ☐ are ☒ are not presently indicted or charged with fraud or a criminal offense under a public contract; and
- ☐ have ☐ have not, within the past three years had one or more Federal contracts terminated for default.

5. **Drug Free Workplace**

- ☒ By checking this box, Consultant certifies it is a Drug Free Workplace as specified in the Drug Free Workplace Act.

6. Lobbying

- ☒ **By checking this box**, Consultant certifies it shall refrain from all lobbying activities if such activities involve the use of any funds that are subject to this contract or any other funds, programs, projects or activities that flow from this contract.

7. Procurement and Conflict of Interest (if applicable)

- ☒ **By checking this box** Consultant certifies that it has an active and enforced procurement and conflict of interest policy that is consistent with the provision 40 CFR 30.42 Codes of Conduct and 2 CFR 200.318(c)(1). Subrecipient also certifies that, to the best of Subrecipient's knowledge, (1) all financial disclosures will be made related to the activities that may be funded by or through a resulting agreement, and required by its conflict of interest policy, and (2) all identified conflicts of interest have or will have been satisfactorily managed, reduced or eliminated in accordance with Subrecipient's conflict of interest policy prior to the expenditures of any funds under any resultant agreement and within a timely manner sufficient to enable timely financial conflict of interest reporting.

8. Business Classification (if applicable)

- A. **Small Business (SB) Concern**: • ☐ is, ☒ is not, a SB concern. A SB concern is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts or other criteria, as prescribed by the Small Business Administration. (See Code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed industry definitions and related procedures.)

If Consultant is a SB concern and is not the manufacturer of the supplies offered, it also represents that all supplies to be furnished hereunder

- ☐ will, ☐ will not, be manufactured or produced by a SB concern in the U.S., its territories, its possessions or the Commonwealth of Puerto Rico.

- B. **Small Disadvantage Business (SDB) Concern**: • ☐ is, ☒ is not, a SDB concern. Small disadvantaged business concern, as used in this provision means a small business concern that: 1) is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or a publicly unconditionally owned business having at least 51 percent of its stock owned by one or more socially and economically disadvantaged individuals and 2) has its management and daily business controlled by one or more such individuals. "Joint ventures," ownership involvement in a joint venture by disadvantaged individuals must be at least 51 percent.

Registered as State Minority? Yes ☐ No ☒ If yes, what state? _____

What agency? _____

- C. **Women-owned Small Business (WOSB) Concern**: • ☐ is, ☒ is not, a WOSB concern. A WOSB concern, as used in this provision, means a SB that is at least 51

percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent is owned by one or more women and whose management and daily business operations are controlled by one or more women.

- D. **HUBZone**: • it ☐ is, ☒ is not, small business concern which operated in Historically Underutilized Business Zones. Through the HUBzone Empowerment Contracting program, federal contracting opportunities are provided for qualified small businesses located in distressed areas.
- E. **Veteran Owned Small Business (VOSB)**: • it ☐ is, ☒ is not a small business that (i) is at least 51% unconditionally owned by one or more veterans; or in the case of any publicly owned business, at least 51% of the stock of which is unconditionally owned by one or more veterans, and (ii) whose management and daily business operations are controlled by one or more veterans.
- F. **Service Disable Veteran Owned Small Business (SDVOSB)**: • it ☐ is, ☒ is not a small business that : (i) is at least 51% unconditionally owned by one or more service-disabled veterans with a disability that is service connected, or in the case of any publicly owned business, at least 51% of the stock of which is unconditionally owned by one or more service-disabled veterans; and (ii) whose management and daily business operations are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

I hereby certify that the above information is true and correct to the best of knowledge. I further certify that I am not related to (or am not an immediate family member by marriage) or employed, by RCAC, their employees, or the RCAC Board of Directors.

Signed: _____

Daniel Marsh III

Name: _____

President (print)

Title: _____

(212) 682 1106

Phone: _____

(212) 573 6118

Fax: _____

Company Name: National Development Council

Address: 1 Battery Park Plaza, Suite 710,

New York, NY 10004

Date: June 26, 2020

Attachment E

These terms and conditions are pulled from the prime contract with HCD and are flow down requirements as applicable to the Subrecipient.

HCD Exhibit D

Rural Community Assistance Corporation
Sierra Nevada Conservancy
16—NDR-12731
Page 1 of 26

CDBG-NDR TERMS AND CONDITIONS

1. **Effective Date and Commencement of Work**

This Agreement is effective upon approval by the Department.

- A. RCAC cannot incur any costs until the execution of this Agreement, unless prior written approval has been given by HCD.
- B. For certain project activities requiring environmental review and clearance, HCD must receive the Authority to Use Grant Funds from HUD prior to the commitment and/or commencement of project work.
- C. RCAC cannot be reimbursed for any project costs until the Department has issued written clearance of all general conditions and any special conditions required, per the General Conditions Checklist referenced throughout in this Agreement.

2. **Sufficiency of Funds**

- A. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays, which would occur if this Agreement were executed after the determination was made.
 - B. As noted in Section 38 below, this Agreement is valid and enforceable only if sufficient funds are available to the Department by the United States Government for the purposes of the CDBG-NDR Program. In the event there is a withdrawal of, or any limitation on, the Department's expenditure authority or any funding of the Program, the Department may elect to terminate this Agreement, in whole or in part, in its sole discretion and upon ten (10) days written notice to RCAC. In addition, this Agreement is subject to any additional restrictions, limitations, conditions or statute enacted by the Congress or State Legislature, promulgated in State or federal regulations or any State or federal statute, as now in effect
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and as may be amended from time to time which may affect the provisions, terms, or funding of this Agreement in any manner.

Litigation

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.
- B. RCAC shall notify the Department immediately of any claim or action undertaken by or against it, which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department. RCAC acknowledges and agrees that in the event a court of competent jurisdiction grants any kind of temporary or permanent injunctive relief as a form of Legal Action against RCAC, then RCAC must immediately comply with the terms of the court's order and provide the Department with any notices, demands, claims, or orders it receives regarding the subject matter of this Agreement immediately upon receipt. RCAC shall ensure that all agreements with BUF funding recipients, with RCAC contractors or subcontractors shall contain a termination and suspension provision similar to this section 3.C.
- C. In the event litigation or legal or administrative action or claim of any kind or nature ("Legal Action"), is threatened, asserted, or instituted against the NDRC project, the Department, HUD, any of the NDRC Partners, and/or any contractors or subcontractors thereof, then the Department, in addition to any other rights or remedies it may have hereunder, shall be entitled to take the following actions in its sole discretion and upon written notice to RCAC:
 - i) terminate this Agreement, in whole or in part, in which case RCAC shall promptly submit a Funds Request covering eligible costs of services and projects provided to the date of termination or partial termination to SNC for review and approval and payment by the Department in accordance with the terms hereof; and/or
 - ii) suspend performance under this Agreement, in whole or in part, for such time as the Department determines is required as a result of the existence of the Legal Action; and/or
 - iii) Continue performance under the Agreement while the parties thereto determine any necessary modifications to this Agreement as a result of the Legal Action.

The Department shall have a period of ninety (90) days from its receipt of notice of a Legal Action to notify RCAC in writing of its decision to either suspend or terminate. In the event of a termination of the Agreement in full, then upon payment to RCAC of its final Funds Request, the parties shall have no further rights or obligations under the Agreement except for those specifically stated as surviving termination of the Agreement. In the event of a partial termination or suspension of work, the parties shall in good faith negotiate, as applicable, any necessary revisions to the Scope of Work, milestones and deadlines, and an equitable adjustment to the Agreement amount reflecting the revisions to the WORK. Any agreed-upon revisions and adjustment shall be documented in an amendment to this Agreement to be signed by all parties.

Notwithstanding the foregoing, as SNC's obligations to the Department in regard to the subject matter of this Agreement are contained in a separate agreement with the Department, SNC shall continue to perform its obligations to the Department pursuant to the terms of such separate agreement.

RCAC acknowledges the existence of existing litigation filed against the NDR partners and the project in the matter of Earth Island Institute, et al., v. HUD, HCD, et al. case ("Earth Island"). The plaintiffs in Earth Island are challenging among other things, the validity of the HUD NDR award to the Department and various environmental studies and reports pursuant to which portions of the NDR work are being performed. RCAC acknowledges that this litigation could potentially affect the ongoing viability of the NDR work and the subject matter of this Agreement, and an adverse ruling potentially could result in the inability of RCAC to perform the WORK and achieve a required national objective. In the event RCAC is prevented from achieving a required National Objective as a direct result of the Earth Island litigation and as a result HUD requires repayment of NDR funds relating thereto, the Department shall be solely responsible for making such repayment.

3. National Objectives

All grant program activities performed under this Agreement must be CDBG-NDR eligible, have eligible costs and be documented as meeting one of the National Objectives of the HUD regulations as included in this Agreement. Program activities and related costs not documented as meeting a national objective, regardless of reason, shall not be eligible. National Objective standards are found under Title I of the Housing and Community Development Act of 1974, Section 104(b)(3), as amended and 24 CFR Part 570.483. Waivers of National Objective Standards are published over the course of the CDBG-NDR Program. For the purposes of the NDR grant, General Administration and Planning Activities are assumed to meet a CDBG National Objective. The three National Objectives are:

- A. Activity primarily benefits HUD defined low- or moderate-income ("LMI") person (family) or household. The term low- or moderate-income is defined as a family or household having an annual income of no more than 80% of the median area income on a county level, which is annually determined by HUD, per 24 CFR, Part 570.483(b); unless a formal waiver is provided in a CDBG-NDR federal register notice. All activities under this Agreement shall primarily meet this national objective unless HCD written approval allowing use of another national objective.
 - B. Activity eliminates conditions of Slum or Blight (on a spot or area basis) is an eligible CDBG National Objective. Slum and Blight's definition is found in 24 CFR, Part 570.483(c). The use of Slum or Blight is not eligible under this Agreement without prior Departmental written approval.
 - C. Meeting an Urgent Need is an eligible CDBG National Objective under 24 CFR, Part 570.483(d). This National Objective was provided a waiver under Federal Register Notice FR-5936-N-01, Section V. A. 1. d. for activities using Urgent Need. The use of Urgent Need is not eligible under this Agreement without prior Departmental written approval.
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4. **Public Benefit Standards for Special Economic Development (ED) Activities**

Pursuant to 24 CFR 570.482(f), (g) and 570.483(b)(4), RCAC is responsible for providing fulfillment of HUD required public benefit standards when activities under this Agreement qualify as special ED activities. The NDRC NOFA and Federal Register Notice FR-5936-N-01 waives the public benefit subsidy standards at 42 U.S.C. 5305(e)(3), 24 CFR 570.482(f)(1), (2), (3), (4)(i), (5), and (6), and 570.209(b)(1), (2), (3)(i), (4), for economic development activities designed to create or retain jobs when assisting for profit businesses (including, but not limited to, long-term loans, short-term loans, and grants). However, recipients of CDBG-NDR funding shall report and maintain documentation on the creation and retention of total jobs; the number of jobs within certain salary ranges; the average amount of assistance provided per job, by activity or program; the North American Industry Classification System (NAICS) code for each business assisted; and the types of jobs. HUD is also waiving 570.482(g) and 570.209(c) and (d) to the extent these provisions are related to public benefit. Special ED activities must also comply with CDBG's six (6) underwriting standards, per 24 CFR Part 570.482(e).

5. **Waivers**

No waiver or any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement or to require at any time performance by RCAC of these 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 the Department to enforce these provisions.

6. **Uniform Administrative Requirements**

RCAC and all other recipients of grant funds shall comply with the policies, guidelines and requirements of OMB Uniform guidance at 2 CFR 200 the Uniform Administrative Requirements, effective July 1, 2015.

7. **Non-Performance**

In the event that the National Objective requirements are not met due to any action or inaction of RCAC, HUD will require reimbursement of part or all project funding. As such, the Department may, in its sole discretion, require reimbursement of part or all project funding disbursed to RCAC under this Agreement, whether before or after the date of non-compliance.

Prior to closing out this Agreement, the Department will review the actual National Objective and/or Public Benefit achievements of each project activities with RCAC.

8. **Affirmatively Furthering Fair Housing**

Per Federal Register Notice FR-5936-N-01, Section 3: V.C.1.b., all activities under this Agreement and under any and all associated agreements, shall be carried out in a manner that affirmatively furthers fair housing, as required by section 808 (e) (5) of the Fair Housing Act, as amended (42 U.S.C. 3608 (e) (5)).

9. **Equal Opportunity Requirements and Responsibilities**

RCAC and its contractors and subrecipients shall comply with all of the following:

- A. Title VI of the Civil Rights Act of 1964: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving federal financial assistance.
 - B. Title VII of the Civil Rights Act of 1968 (The Fair Housing Act): This act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing. RCAC will meet all civil rights related requirements pursuant to 24 CFR 570.503(b)(5).
 - C. Restoration Act of 1987: This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability or age in a program or activity which does not directly benefit from such assistance.
 - D. Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309]: This section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.
 - E. The Fair Housing Amendment Act of 1988: This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.
 - F. The Housing for Older Persons Act of 1995 (HOPA): Retained the requirement that the housing facilities must have one person who is 55 years of age or older living in at least 80% of its occupied units. The act also retained the requirement that housing facilities publish and follow policies and procedures that demonstrate intent to be housing for persons 55 or older.
 - G. The Age Discrimination Act of 1975: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic including: KRS 18A.140; KRS 344.040; 101 KAR 1:350 Paragraph 11; 101 KAR 1:375 Paragraph 2(3); 101 KAR 2:095 Paragraphs 6 and 7.
 - H. Section 504 of the Rehabilitation Act of 1973: It is unlawful to discriminate based on disability in federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance. Section 504 also contains
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design and construction accessibility provisions for multi-family dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991.

- I. Americans with Disabilities Act of 1990 (ADA): This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.
 - J. Executive Order 11063: This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government.
 - K. Executive Order 11259: This executive order provides that the administration of all federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.
 - L. Equal Employment Opportunity Act: This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings federal, state, and local governments under the Civil Rights Act of 1964.
 - M. Immigration Reform and Control Act (IRCA) of 1986: Under IRCA, employers may hire only persons who may legally work in the U.S., i.e., citizens and nationals of the U.S. and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9).
 - N. Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978: This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of federal laws prohibiting discriminatory employment.
 - O. Vietnam Era Veterans Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002): This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.
 - P. Executive Order 11246: This executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race.
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10. Training, Employment, and Contracting Opportunities for Business and Lower-Income Persons Assurance of Compliance (“Section 3”):

RCAC will comply with Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 1701u), and implementing 24 CFR, Part 135. The responsibilities of RCAC are outlined in 24 CFR Part 135.32 as follows:

- A. Implementing procedures designed to notify Section 3 residents about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.
- B. Notifying potential contractors for Section 3 covered projects of the requirements of this Part, and incorporating the Section 3 clause set forth in Section 135.38 in all solicitations and contracts.
- C. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns by undertaking activities such as described in the appendix to this part, as appropriate, to reach the goals set forth in Section 135.30. Recipients, at their own discretion, may establish reasonable numerical goals for the training and employment of Section 3 residents and contract award to Section 3 business concerns that exceed those specified in Section 135.30.
- D. Assisting and actively cooperating with HUD/HCD in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR Part 135.
- E. Documenting actions taken to comply with the requirements of this part, the results of those actions taken and impediments, if any.
- F. If RCAC distributes funds for Section 3 covered assistance to units of local governments, to the greatest extent feasible, must attempt to reach the numerical goals set forth in Section 135.30 regardless of the number of local governments receiving funds from the Section 3 covered assistance which meet the thresholds for applicability set forth at Section 135.30. The State must inform units of local government to whom funds are distributed of the requirements of this part; assist local governments and their contractors in meeting the requirements and objectives of this part; and monitor the performance of local governments with respect to the objectives and requirements of this part.

11. Environmental Compliance

RCAC shall assist HCD, HCD’s technical assistance consultant, and any environmental compliance consultant/engineer, should one be procured, so that all National Environmental Policy Act (NEPA) requirements and California Environmental Quality Act (CEQA) requirements are met. Under federal regulations, RCAC cannot act as lead agency for NEPA, as the Department is required to be lead agency for the CDBG-NDR funds. RCAC shall not assume the role of lead agency for any CEQA review process. The Department or one of its designees shall assume the

lead agency role for CEQA. RCAC will assist the Department in the CEQA/NEPA processes as needed and obtaining Authority to Use Grant funds from HUD staff prior to incurring any project implementation costs.

12. Clean Air and Water Acts

This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR, Part 15, as amended from time to time.

13. Relocation, Displacement, and Acquisition

The provisions of the Uniform Relocation Act, as amended, 49 CFR, Part 24, and Section 104(d) of the Housing and Community Development Act of 1974 shall be followed where any assistance is carried out by RCAC and assisted in whole or in part by funds allocated by CDBG. For projects where there will be temporary or permanent displacement, RCAC must submit signed General Information Notices from each tenant who was residing in the project at the time of Application submittal.

14. Compliance with State and Federal Laws and Regulations

- A. RCAC, its contractors and subrecipients shall comply with the policies, guidelines and requirements of OMB Uniform guidance at 2 CFR 200 the Uniform Administrative Requirements, effective July 1, 2015, as well as all state laws, regulations and Department guidelines applicable to the activities set forth in this Agreement.
- B. RCAC agrees to comply with all state/federal laws and regulations applicable to the CDBG-NDR Program and to the grant activities, and with any other federal provisions as set forth in the Department's grant agreement with HUD.

15. Federal Labor Standards Provisions

RCAC and its contractors and subrecipients shall comply with all of the following:

- A. Davis-Bacon Act (40 U.S.C. 3141-3148) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Federal Department of Labor and are issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration or repair contracts over \$2,000.
 - B. "Anti-Kickback Act of 1986" (41 U.S.C. 51-58) The act prohibits attempted as well as completed "kickbacks," which include any money, fees, commission, credit, gift, gratuity, thing of value, or compensation of any kind. The act also provides that the inclusion of kickback amounts in contract prices is prohibited conduct in itself. This act requires that the purpose of the kickback was for improperly obtaining or rewarding favorable treatment. It is intended to embrace the full range of government contracting.
 - C. Contract Work Hours and Safety Standards Act - CWHSSA (40 U.S.C. 3702) requires that workers receive "overtime" compensation at a rate of one and one-half (1-1/2) times their
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regular hourly wage after they have worked forty (40) hours in one week.

- D. Title 29, Code of Federal Regulations CFR, Subtitle A, Parts 1, 3 and 5) are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

16. State Labor Standards Provisions

- A. Where funds provided through this Agreement are used for construction work, or in support of construction work, RCAC shall ensure that the requirements of Section 1720-1743 of the California Labor Code ("LC"), pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations are met.
- B. For the purposes of this requirement "construction work" includes, but is not limited to rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, through this Agreement. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract"). Where the construction contract will be between RCAC and a licensed building contractor, RCAC shall serve as the "awarding body" as that term is defined in the LC. Where RCAC will provide funds to a third party that will enter into the construction contract with a licensed building contractor, the third party shall serve as the "awarding body." Prior to any disbursement of funds, including but not limited to release of any final retention payment, the Department may require a certification from the awarding body that prevailing wages have been or will be paid.

17. Lead Based Paint Hazards

Activity(ies) performed with assistance provided under this Agreement are subject to lead-based paint hazard regulations contained in Title 8 (Industrial Relations) and Title 17 (Public Health) of the CCR and 24 CFR, Part 35 (Lead Disclosure). Any grants or loans made by RCAC with assistance provided under this Agreement shall be made subject to the provisions for the elimination or mitigation of lead-based paint hazards under these regulations. RCAC shall be responsible for the notifications, inspections, and clearance certifications required under these regulations.

18. 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(h), no member, officer, or employee of RCAC, or its designees or agents and if applicable, 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-NDR 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-NDR-assisted activity, or have a financial interest in any contract, subcontract or agreement with respect to a CDBG-NDR-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 RCAC 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.

19. 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. RCAC shall report all perceived, potential or actual conflicts of interest to HCD for review before entering into any agreements or providing financial assistance.

20. Anti-Job Pirating Certification

Pursuant to 24 CFR 570.482(h) CDBG-NDR funds may not be used to directly assist a business, including a business expansion, in the relocation of a plant, facility, or operation from one labor market area to another labor market area if the relocation is likely to result in a significant loss of jobs in the labor market area from which the relocation occurs. Job loss of more than 500 employees is always considered significant. Job loss of 25 or fewer positions is never considered significant. A waiver has been granted by HUD for this regulation in the Federal Register Notice FR-5936-N-01, but RCAC must receive Department written permission to use.

21. Anti-Lobbying Certification

RCAC shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with this grant activity(ies) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and no more than \$100,000 for such failure.

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, RCAC shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

22. Bonus or Commission, Prohibition Against Payments of

The assistance provided under this Agreement shall not be used in the payment of any bonus or commissions for the purpose of:

- A. Obtaining the Department's approval of the Application for such assistance; or,
- B. The Department's approval of the Applications for additional assistance; or,
- C. Any other approval or concurrence of the Department required under this Agreement, Title I of the Housing and Community Development Act of 1974, or the State regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

23. Contractors and Subrecipients

- A. HCD is requiring RCAC to follow procurement standards under 2 CFR 200.318-326. RCAC shall follow these standards. HCD is also requiring RCAC to include performance measure and penalties, similar to those in this Agreement, Exhibit B, Section 8, in all contractor and subrecipient agreements which they are a party to. In addition, RCAC shall not enter into any agreement, written or oral, with any contractor or subrecipient without the prior determination that the contractor or subrecipient is eligible to receive CDBG-NDR funds and is not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors.
 - 1) Contractors are defined as consultants (for-profit or non-profit) or construction contractors who are procured competitively.
 - 2) Subrecipients are defined as public agencies or public/private non-profit agencies or organizations and certain (limited) private for-profit entities who receive CDBG-NDR funds from an awarded jurisdiction to undertake eligible activities.
- B. An agreement between RCAC and any contractor or subrecipient shall require:
 - 1) Compliance with the applicable State and federal requirements described in this Agreement, which pertain to, among other things, procurement, non-discrimination, Americans with Disabilities Act, Equal Employment Opportunity and Drug-Free Workplace; and, compliance with the applicable provisions relating to labor standards and Section 3 as described in Sections 11 and 16 of this Exhibit. Appendix II of 2 CFR Part 200 sets forth mandatory provisions for incorporation into non-Federal entity contracts involving federal funds awards. In addition to these requirements, all contractors and subcontractors shall comply with the applicable provisions of the California Labor Code.
 - 2) Maintenance of at least the minimum State-required Workers' Compensation Insurance for those employees who will perform the grant activities or any part of it.
 - 3) Maintenance, if so required by law, unemployment insurance, disability insurance and liability insurance, which is reasonable to compensate any person, firm, or corporation, who may be injured or damaged by the contractor, or any subcontractor in performing the grant activity(ies) or any part of it.
 - 4) Compliance with the applicable Equal Opportunity Requirements described in

Exhibit D, Section 10 of this Agreement.

- 5) Compliance with the policies, guidelines and requirements of OMB Uniform guidance at 2 CFR 200 the Uniform Administrative Requirements, as well as all state/federal laws, regulations and Department guidelines applicable to the activities set forth in this Agreement.

C. Contractors shall:

- 1) Perform the grant activities in accordance with federal, State and local housing and building codes, as are applicable.
- 2) Provide security to assure completion of the project by furnishing the borrower and construction lenders with Performance and Payment Bonds, or other security approved in advance in writing by the Department.

D. Subrecipients shall:

- 1) Retain all books, records, accounts, documentation, and all other materials relevant to this Agreement for a minimum period of five (5) years after the Department notifies RCAC that the HUD/HCD CDBG-NDR grant contract is closed.
- 2) Permit the State, federal government, the Bureau of State Audits, the Department and/or their representatives, upon reasonable notice, unrestricted access to any or all books, records, accounts, documentation, and all other materials relevant to this Agreement for the purpose of monitoring, auditing, or otherwise examining said materials.

E. Contractors and Subrecipients: Drug-Free Workplace Act of 1988

Contractors and subrecipients shall comply with all of the following:

- 1) Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.
 - 2) Establish a drug-free awareness program to make employees aware of a) the dangers of drug abuse in the workplace; b) the policy of maintaining a drug-free workplace; c) any available drug counseling, rehabilitation, and employee assistance programs; and d) the penalties that may be imposed upon employees for drug abuse violations.
 - 3) Notify employees that as a condition of employment on a federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the
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employer, within (5) five calendar days, if he or she is convicted of a criminal drug violation in the workplace.

- 4) Notify the contracting or granting agency within 10 (ten) days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.
- 5) Impose a penalty on or require satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a reportable workplace drug conviction.
- 6) Make an ongoing, good faith effort to maintain a drug-free workplace by meeting the requirements of the act.

24. **Insurance**

RCAC shall have and maintain in full force and effect during the term of this Agreement such forms of insurance, at such levels as may be determined by RCAC and the Department to be necessary for specific components of the grant activity(ies) described in Exhibit A. The foregoing insurance requirement shall not apply to any California State entity that is self-insured.

25. **Reporting Requirements**

During the term of this Agreement, RCAC must work with HCD, HCD's technical assistance consultants and other partners in submitting the following reports by the dates identified, respectively, or as otherwise required at the discretion of the Department. Report forms are provided in the most current CDBG-NDR GMM Appendixes. Grant closeout reports are listed in Exhibit B, Section 6. The RCAC's performance under this Agreement will be based in part on whether it has submitted reports on a timely basis. RCAC and partners must use HCD technical assistance consultant web based grant management software to track grant outcomes, performance and beneficiaries.

- A. Project Set-Up / Completion Report: Submit Set-up report for review and approval by Department prior to incurring project costs. Submit amended reports as needed.
 - B. Monthly Project Update Report: RCAC and other partners associated with CDBG-NDR project activity implementation must participate regular meetings and provide status updates on each activity. RCAC shall provide written reports on the Monthly Project Update Report form which is reviewed by SNC first before being provided to HCD. Report information is used to update BUF project status in DRGR reporting system.
 - C. Annual Performance Report (APR): Submit APR by July 31, starting from the contract effective date to subsequent June 30.
 - D. Annual Single Audit Report: Submit Annual Audit within six (6) months of end of fiscal year end.
 - E. Labor Standards Wage Compliance Report: Submit Semi-annual Wage Compliance Reports by October 7 and April 7 during the entire project construction period. Submit final Wage Compliance Report thirty (30) days after construction is completed.
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The Department reserves the right to request any other periodic reports or documents that may be necessary or desirable, in the opinion of the Department, for the implementation of this Agreement.

26. Monitoring Requirements

The Department shall perform a monitoring of project activities and/or fiscal monitoring of the grant in accordance with requirements of 42 U.S.C. 5304(e)(2), as amended and as modified by Federal Register Notice FR-5936-N-01. RCAC shall be required to resolve any monitoring findings to the Department's satisfaction by the deadlines set by the Department. RCAC will work with HCD technical assistance consultant to conduct ongoing monitoring compliance of contractors and subrecipients funded under this Agreement. RCAC shall assist HCD and HCD technical assistance consultant in complying and maintaining recordkeeping files to facilitate HUD audit reviews under 24 CFR 570.493 for all activities under this Agreement.

In determining appropriate monitoring for each grant activity, the Department shall consider prior grant administration, audit findings, as well as factors such as complexity of the project and the amount of funding. The Department shall determine the areas of monitoring, the number of monitoring visits, and their frequency. Monitoring shall address program compliance with contract provisions, including to but not limited to eligible activity, eligible costs, meeting a National Objective. In addition, monitoring reviews of financial management and requirements of Disaster Relief Appropriations Act, 2013 (Public Law 113-2), Title I of Housing Community Development Act (HCDA) of 1974 (42 U.S. C. 5302 *et seq.*), HCDA regulations 24 CFR, Part 85, 24 CFR 570 Part I, all applicable federal overlay requirements and all CDBG-NDR published Federal Register Notices shall be conducted.

27. Inspections of Grant Activity

The Department and/or HUD reserves the right to inspect any grant activity(ies) performed hereunder to verify that the grant activity(ies) is being and/or has been performed in accordance with the applicable federal, state and/or local requirements and this Agreement.

- A. RCAC shall inspect any grant activity performed by contractors and subrecipients hereunder to ensure past and current grant activities meet the applicable federal, state and/or local requirements per this Agreement.
- B. RCAC agrees to require that all grant activities found by such inspections not to conform to the applicable requirements be corrected, and to withhold payment to its contractor or subcontractor and subrecipients, respectively, until it is so corrected.

28. Access to Records

RCAC and its contractors and subrecipients shall at all times during the term hereof provide to the Department, HUD, the State, the Comptroller General of the United States, the California State Auditor, or any of their duly authorized representatives, access to any books, documents, papers, and records for the purpose of making audit, examination, excerpts, and transcriptions

pursuant to 24 CFR 85.36(i)(10).

29. Audit/Retention and Inspection of Records

- A. RCAC must have intact, auditable fiscal and program records at all times. If the RCAC is found to have missing audit reports from the California State Controller's Office ("SCO") during the term of this Agreement, RCAC will be required to submit a plan to the Department with task deadlines, for submitting the audit to the SCO. If the deadlines are not met, RCAC will be subject to termination of this Agreement and disencumbrance of the funds awarded. RCAC's audit completion plan is subject to prior review and approval by the Department.
 - B. RCAC agrees that the Department or its designee will have the right to review, obtain, and copy all records pertaining to performance of this Agreement. RCAC agrees to provide the Department or its designee with any relevant information requested. RCAC shall permit the Department or its designee access to its premises, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with California Public Contract Code (PCC) Section 10115 et seq., Government Code (GC) Section 8546.7 and 2 CCR 1896.60 et seq. RCAC further agrees to maintain such records for a minimum period of five (5) years after the Department notifies RCAC that the HUD HCD CDBG-NDR grant contract has been closed. RCAC shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in PCC 10115.10.
 - C. An expenditure that is not authorized under this Agreement or that cannot be adequately documented shall be disallowed. If this determination is made after reimbursement was made to RCAC, then expenditure must be reimbursed to the Department or its designee by RCAC, within 30 days of demand by the Department. Expenditures for grant activity(ies) not described in Exhibit A shall be deemed authorized if the performance of such grant activity(ies) is approved in writing by the Department prior to the commencement of such grant activity(ies).
 - D. Absent fraud or mistake on the part of the Department, the determination by the Department of the allowability of any expenditure shall be final.
 - E. For the purposes of annual audits under OMB Uniform Guidance, RCAC shall use the Federal Catalog number 14.272 for the CDBG-NDR Program.
 - F. Pursuant to OMB Uniform Guidance 2 CFR 200, RCAC shall perform an annual audit at the close of each fiscal year in which this Agreement is in effect. Audit costs for this Agreement are a general administration expense and are subject to the general administration expenditure limits associated with this Agreement. The costs of the CDBG-NDR-related portion of the audit may be charged to the program in accordance with Public Law 98-502, Uniform Guidance, and Section 7122 of Title 25 CCR.
 - G. Notwithstanding the requirement of A-F above, the foregoing, the Department will not reimburse RCAC for any audit cost incurred after the expenditure deadline of this
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Agreement.

- 1) The audit shall be performed by a qualified State, department, local or independent auditor. The agreement/contract for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
- 2) If there are audit findings, RCAC must submit a detailed response to the Department for each audit finding. The Department will review the response and, if it agrees with the response, the audit process ends and the Department will notify RCAC in writing. If the Department is not in agreement, RCAC will be contacted in writing and informed what corrective actions must be taken. This action may include the repayment of disallowed costs or other remediation.
- 3) The Department shall not approve reimbursement for any expenditures for the audit, prior to receiving an acceptable audit report.
- 4) If so directed by the Department upon termination of this Agreement, RCAC shall cause all records, accounts, documentation and all other materials relevant to the grant activities to be delivered to the Department as depository.

30. **Signs**

If RCAC places signs stating that the activity is funded with private or public dollars and the Department is also providing financing, it shall indicate in a typeface and size commensurate with the Department's funding portion of the project that the Department is a source of financing through the CDBG-NDR Program.

31. **Citizen Participation**

RCAC is subject to the requirements concerning citizen participation contained in Federal Regulations at 24 CFR, Part 570.486, Local Government Requirements, Part 91.105 and 91.115. RCAC must follow a detailed citizen participation plan that satisfies 24 CFR, Part 70.486.

32. **Flood Disaster Protection**

- A. This Agreement is subject to the requirements of the Flood Disaster Protection Act (FDPA) of 1973 (Public Law 93-234). No portion of the assistance provided under this Agreement is approved for acquisition or construction purposes as defined under FDPA, Section 3(a) of said act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to FDPA, Section 102(d) of said act.
 - B. The use of any assistance provided under this Agreement for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program shall be subject to the mandatory purchase of flood insurance requirements of FDPA, Section 102(a) of said act.
 - C. Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or
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improved with assistance provided under this Agreement shall contain certain provisions. These provisions will apply if such land is located in an area identified by the Secretary of HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq.

- D. These provisions shall obligate the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under FDPA, Section 102(s) of the Flood Disaster Protection Act of 1973. Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Agreement.

33. Procurement

RCAC shall comply with the procurement provisions, administrative requirements for grants and cooperative agreements to state, local and federally recognized Indian tribal governments and 2 CFR 200.318 through 200.326, per the Department's certification of these procurement standards.

In accordance with federal register notice FR-5936-N-01, a Data Universal Numbering System (DUNS) number must be collected and reported in the Disaster Recovery Grants Reporting (DRGR) system.

34. Program Income

The Parties acknowledge and agree that repayments from all NDR loans originated by RCAC shall lose their identity as federal CDBG funds, per the June 7, 2016 Federal Register Notice waiver Section V.17(2)(b)s. As such, repayments received will be used in accordance with Exhibit A, Section 3, Healthy California Forest Fund Program.

35. Obligations of RCAC with Respect to Certain Third Party Relationships

RCAC shall remain fully obligated under the provisions of this Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the Scope of Work with respect to which assistance is being provided under this Agreement to RCAC. The RCAC shall comply with all lawful requirements of the Department necessary to ensure that the Scope of Work, with respect to which assistance is being provided under this Agreement to the RCAC, is carried out in accordance with the Department's Assurance and Certifications, including those with respect to the assumption of environmental responsibilities of the Department under Section 104(g) of the Housing and Community Development Act of 1974 [42 U.S.C. 5304(g)] and Certifications in Exhibit F of this Agreement.

36. 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).

37. 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 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 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 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. Government Code ("GC") § Section 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.

38. Required Expenditure Dates

In accordance with P.L. 113-2, all CDBG-NDR funds must be expended within two years of the date HUD obligates funds to HCD (funds are obligated to a HCD upon HUD's signing of HCD's CDBG-NDR grant agreement), unless a waiver is requested and granted by HUD. For purposes of this Agreement, on July 18, 2016, HUD granted the Department a waiver of this requirement and establishing a new expenditure date of September 30, 2022. Any funds not expended by September 30, 2022 will be cancelled and recaptured by the Treasury, and thereafter will not be available for obligation or expenditure for any purpose. RCAC cannot request an extension of the federal expenditure date.

39. Grant Reduction

If, after HCD is awarded funds and enters into a grant agreement with HUD, HCD then or subsequently proposes to make a substantial amendment to any of the CDBG-NDR project activities, then HUD and HCD reserve the right to amend the award and change the budget amounts under this Agreement.

40. Withdrawal of Grant Amounts

If RCAC does not proceed within a reasonable timeframe, HUD and HCD reserve the right to withdraw any funds HCD has not obligated under the award. If funds are withdrawn prior to September 30, 2017, HUD shall redistribute any withdrawn amounts to one or more other jurisdictions eligible for CDBG-NDR funding.

41. Financial Controls

The NDRC NOFA requires that any party involved in the CDBG-NDR projects, whether directly or indirectly, must agree to provide any information HCD requires in order to maintain proficient financial controls; on a project costing over \$100 million, the magnitude of such controls will be wide and varying. HCD has developed a Grant Management Manual ("GMM") for CDBG-NDR funding and by executing this Agreement, RCAC commits to using the manual as guidance in completing fiscal reports and maintaining accounting records.

42. Administrative and National Policy Requirements

Certain Administrative and National Policy Requirements apply to all HUD funding, including CDBG-NDR funding. See NDRC NOFA, Exhibit E, for a list of these requirements. All recipients of this funding or any party involved in a CDBG-NDR project, whether directly or indirectly, must agree to provide any information HCD requires in order to meet the aforementioned administrative and national policy requirements.

43. Reporting

HUD requires RCACs under the NDRC NOFA to report the sources and uses of all amounts expended and other information for HUD's annual report to Congress or other purposes as determined by HUD. All recipients of CDBG-NDR funding for project implementation, whether directly or indirectly, shall report amounts shown in project sources and uses forms and all amounts expended on eligible activities under this Agreement. Parties shall provide information as requested by HCD for purposes of reporting to federal, state and local entities including but not limited to CDBG-NDR quarterly report to HUD, and HUD's annual report to Congress or other purposes as determined by HUD.

Appendix A of the NDRC NOFA contains the requirements applicable to Community Development Block Grant (CDBG) funds made available by the Disaster Relief Appropriations Act, 2013 (PL113-2, approved January 29, 2013) Appropriations Act and awarded under the National Disaster Resilience Competition as CDBG-NDR grants. Appendix A to the NDRC NOFA was subsequently incorporated into Federal Register Notice FR-5936-N-01.

44. Use of Funds

- A. The Appropriations Act made funds available for necessary expenses related to disaster relief, long-term recovery, restoration 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 Hurricane Sandy and other eligible

events in calendar years 2011, 2012, and 2013. The Appropriations Act requires funds to be used only for these specific disaster-related purposes.

- B. All recipients of CDBG-NDR grants are subject to: (1) the requirements of the Appropriations Act; (2) the Fiscal Year (FY) 2014 Notice of Funding Availability for National Disaster Resilience Competition (NDRC NOFA), including all appendices and incorporated portions of the FY 2014 General Section (as amended); and (3) 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 Notice.

45. Performance Measures and Related Remedies

Performance Measures and Penalties provisions are set forth in Exhibit B Section 8. In addition, RCAC shall incorporate sufficient Performance Measures and Penalties in all their contractor and subrecipient agreements to ensure compliance with this federal regulation.

46. Disputes

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 the parties shall be decided by a two-tier process. First, RCAC will present their dispute documentation to the CDBG-NDR Project Manager for review and resolution. If the dispute cannot be resolved by the Project Manager, then it will be presented to the Deputy Director of HCD's Housing Policy Division. The decision of the Deputy Director shall be final, conclusive and binding.

47. Award Date

Given the uniqueness of the NDRC competitive award, HCD is treating the HUD award date as the date of the award for Partners included in the application. Since RCAC was not in the original NDRC funding application, then this provision does not apply to RCAC, so the date of execution is the date of signing of this Agreement by all parties.

As noted in item 1 above, on July 18, 2016, HUD approved HCD's request to extend the expenditure deadline to September 30, 2022. It is important to note that only the remaining balance of the grant as of the end of the initial 24-month expenditure period will be extended.

48. Suspension or Termination

A. Suspension of Work

The Director of HCD, the Acting Director, or any designee of either, by written notice may suspend the work of RCAC, or any portion thereof, for any period up to ninety (90) days, as the Director, Acting Director, or their designee may deem necessary in their reasonable discretion.

B. Termination at Option of Department

The Director, Acting Director, or their designee may, in their sole and absolute discretion and upon ten (10) days' written notice to RCAC, terminate this Agreement in whole or in

part. Upon receipt of a termination notice, RCAC shall immediately discontinue all services affected unless the notice specifies otherwise.

C. Termination for Default

The Director, Acting Director, or their designee may, upon three (3) day written notice to RCAC, and without any prejudice to its other remedies, terminate this Agreement in whole or in part for cause. Cause shall consist of violations of any terms and/or special conditions of this Agreement and for the HUD agreement, upon the request of HUD, or the withdrawal of, or any limitation on the Department's expenditure authority. Upon receipt of any notice terminating this Agreement in whole or in part, RCAC shall (1) immediately discontinue all services affected (unless the notice directs otherwise); and (2) deliver to the Department's Contract Manager all data, reports, summaries, and such other information and materials as may have been accumulated by RCAC in performing under this Agreement, whether completed or in progress. At the sole discretion of the Department, the Department may offer RCAC an opportunity to cure any breach(es) prior to terminating for a breach. If after notice of termination for failure to fulfill contract obligations, it is determined that RCAC had not so failed, the termination shall be deemed to have been affected for the convenience of the Department.

D. Termination at Option Upon Bankruptcy of RCAC

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

E. Termination or Suspension in Cases of Litigation

The Department shall have the right to either termination of this Agreement or suspend performance hereunder pursuant to this Exhibit, Section 3 above.

F. Effects of Suspension and Termination

Costs incurred by or paid by RCAC relating to obligations incurred by RCAC during a suspension or after termination of an award are not allowable unless the Department expressly authorizes them in the notice of suspension or termination or subsequently. Other RCAC costs during suspension or after termination which are necessary and not reasonably avoidable are allowed if:

- 1) The costs resulting from obligations which were properly incurred by RCAC before the effective date of suspension or termination, are not in anticipation of suspension or termination; and, in the case of a termination, are non-cancellable; and,
- 2) The costs would be allowable if the award was not suspended or expired normally at the end of the funding period in which the termination takes place. Notwithstanding the previous sentence, any costs incurred after this contract is terminated are not reimbursable.

- 3) Relationship to Debarment and Suspension. The enforcement remedies identified in this Section, including suspension and termination, do not preclude a RCAC from being subject to 2 CFR Part 2424. CDBG funds may not be provided to excluded or disqualified persons, organizations, companies or entities per 24 CFR 570.489(i).

G. Non-Compliance

Enforcement for noncompliance may include, but is not limited to, the following remedies if RCAC materially fails to comply with any term of this Agreement, whether stated in a federal statute or regulation, an assurance in a State plan or application, a notice of award, or elsewhere:

- 1) Temporarily withhold cash payments pending correction of the deficiency by the RCAC.
- 2) Disallow (that is, deny use of funds for) all or part of the cost of the activity or action not in compliance.
- 3) Wholly or partly suspend or terminate the current award for RCAC's program.
- 4) Exercise any other remedies or any other rights that may be legally available to the Department, including termination of this Agreement.

H. Cumulative Remedies

The rights and remedies of the Department provided in this Agreement are cumulative and are in addition to any other rights and remedies provided by law, all of which are hereby reserved.

I. Completion

In the event of termination for default, the Department reserves the right to take over and complete the work by contract or other means; RCAC will fully cooperate with the Department and provide all information needed for a smooth transition. In such case, RCAC is liable to Department for any additional costs incurred by the Department to complete the work.

49. Federal Register Notice(s)

The parties agree that in addition to complying with all other terms and conditions set forth in this Agreement and the various exhibits hereto, to the extent additional requirements or conditions are imposed upon HCD by HUD in any Federal Register Notice ("FRN") relating to the NDRC project, the parties will be required to comply with such additional requirements or conditions, as will their respective recipients of CDBG NDR funding. In connection therewith, the parties acknowledge having reviewed the following three FRNs issued by HUD prior to the date hereof: (i) 81 FRN 109, page 36557 [Docket No. FR-5936-N-01] dated June 7, 2016; (ii) 80 FRN 21, page 5570 [Docket

No. FR-5831-N-03] dated February 2, 2015; and (iii) 79 FRN 202, page 62654 [Docket No. FR-5753-N-11] dated October 20, 2014. The parties further acknowledge that additional FRNs relative to the NDRC project will be issued by HUD in the future, and that each party must also comply with any requirements and conditions set forth in such subsequent FRNs.

50. HCD Disaster Recovery (DR) Grant Administration Manual (GAM)

RCAC will utilize the most current version of the CDBG-NDR Manual in implementing CDBG-NDR activities. RCAC will work with HCD technical assistance consultant consulting to ensure all activities are in compliance with CDBG and CDBG-NDR rules and regulations.

51. Duplication of Benefit

Duplication of benefits (DOB) requirements in section 312 of the Stafford Act and in the Appropriations Act applies to the use of CDBG-NDR funds. HCD has developed a process for documenting any DOB for project activities. This process is based on HUD Federal Register Notice 76 FR 71060 published on November 16, 2011 and other HUD published guidance. Prior to release of any project activity funding, RCAC must follow HCD process for documentation of DOB. The DOB calculations must be completed and approved in writing by HCD as part of clearing general conditions for each project activity under this Agreement upon clearance of general conditions, project funding will be released.

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

RCAC 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 chapters 60).

53. Policies on Excessive Use of Force

RCAC must have and follow these policies: 1) Prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstration; and, 2) Enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location that is the subject of such nonviolent civil rights demonstration within its jurisdiction.

54. Project Design/Feasibility

RCAC will demonstrate that the engineering design and financial feasibility for each project activity under this Agreement is feasible prior to obligation of funds for construction or project development. This demonstration is satisfied if a registered professional engineer (or other design professional) certifies that the design meets the appropriate code or industry design and construction standards and cost estimates document all financing is in place for project completion. RCAC will ensure project designs, to the greatest degree possible, use construction methods that are high quality, green construction, energy and water efficient, healthy indoor environments, resilient and mitigating the impact of future disasters.

55. Use of Web Based Grant Management Software

RCAC staff shall utilize the most current web based software that HCD provides for CDBG-NDR grant administration. The HCD technical assistance consultant shall develop such software and shall provide training and technical assistance to RCAC's staff on accessing and using the software. The software license from the consultant is extended to HCD's employees as **Authorized Users** and is extended to RCAC's staff as **Non-HCD Authorized Users**.

RCAC, as Non-HCD Authorized User, acknowledges that its and its employee use of the CDBG-NDR software created for this Agreement by the technical assistance consultant is expressly subject to the terms and conditions of the software license granted to HCD in Section 1 of Exhibit F to that certain agreement between HCD and the consultant (the "License"), which License RCAC has reviewed and agrees to be fully bound by. These indemnity, defense and hold harmless obligation of RCAC shall indefinitely survive the completion or earlier termination of this Agreement.

56. Required Federal Language from 2 CFR Part 200 Appendix II

Appendix II to CFR Part 200 sets forth mandatory provisions which must be incorporated into non-Federal entity contracts involving federal funds awards. This requirement applies to the subject matter of this Agreement. Accordingly, Appendix II to CFR Part 200 is hereby incorporated into and made part of this Agreement by reference. RCAC acknowledges having reviewed such provisions and agrees to the terms thereof. RCAC further acknowledges that HCD is requiring that all other applicable recipients of CDBG-NDR funding incorporate Appendix II to CFR Part 200 into their agreements.

57. 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 (42 USC 6901, et seq.), as amended by the Resource Conservation and Recovery Act (42 USC 6962, et seq.). The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

58. 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 regulation issued by the awarding agency.

59. Ethical Standards/Code of Conduct

RCAC must develop and maintain written standards of conduct as required by 2 CFR 200.318 and ensure all of its principals, employees and contractors/subrecipients conduct themselves in accordance herewith.

Attachment F
CDBG-NDR Compliance Provisions

1. EQUAL EMPLOYMENT OPPORTUNITY (Equal Opportunity Clause)
 2. CERTIFICATION OF NONSEGREGATED FACILITIES
 3. CIVIL RIGHTS
 4. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974
 5. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 - COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES
 6. SECTION 503 OF THE REHABILITATION ACT OF 1973 (29 USC 793)
 7. SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED
 8. AGE DISCRIMINATION ACT OF 1975
 9. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS
 10. FLOOD DISASTER PROTECTION
 11. ACCESS TO RECORDS - MAINTENANCE OF RECORDS
 12. INSPECTION
 13. REPORTING REQUIREMENTS
 14. CONFLICT OF INTEREST
 15. ACTIVITIES AND CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246, AS AMENDED
 16. PATENTS
 17. COPYRIGHT
 18. TERMINATION FOR CAUSE
 19. TERMINATION FOR CONVENIENCE
 20. ENERGY EFFICIENCY
 21. SUBCONTRACTS
 22. DEBARMENT, SUSPENSION, AND INELIGIBILITY
 23. BREACH OF CONTRACT TERMS
 24. PROVISIONS REQUIRED BY LAW DEEMED INSERTED
 25. CHANGES
 26. PERSONNEL
 27. ANTI-KICKBACK RULES
 28. ASSIGNABILITY
 29. INTEREST OF CONTRACTOR
 30. POLITICAL ACTIVITY
 31. COMPLIANCE WITH THE OFFICE OF MANAGEMENT AND BUDGET
 32. DISCRIMINATION DUE TO BELIEF
 33. CONFIDENTIAL FINDINGS
 34. LOBBYING
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1. EQUAL EMPLOYMENT OPPORTUNITY (Equal Opportunity Clause) (applicable to contracts and subcontracts above \$10,000)

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

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

C. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the Contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor.

E. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and others.

F. In the event of the Contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The Contractor will include the provisions of the sentence immediately preceding paragraph A and the provisions of paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each Contractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Contractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

2. CERTIFICATION OF NONSEGREGATED FACILITIES (applicable to contracts and subcontracts over \$10,000)

By the submission of this bid, the bidder, offeror, applicant or Contractor certifies that he/she does not maintain or provide for his/her establishments, and that he/she does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or Contractor agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

He/she further agrees that (except where he/she has obtained for specific time periods) he/she will obtain identical certification from proposed Contractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed Contractors (except where proposed Contractors have submitted identical certifications for specific time periods).

3. CIVIL RIGHTS

The Contractor shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

4. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

5. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 -COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES

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

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the

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

D. The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the Contractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any Contractor where the Contractor has notice or knowledge that the Contractor has been found in violation of the regulations in 24 CFR part 135.

E. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 135.

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

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

6. SECTION 503 OF THE REHABILITATION ACT OF 1973 (29 USC 793)

(applicable to contracts and subcontracts over \$10,000)

- A. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is otherwise qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
 - B. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
 - C. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
 - D. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting
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officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

- E. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- F. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each Contractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

7. SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, any program or activity that receives the benefits from the federal financial assistance.

8. AGE DISCRIMINATION ACT OF 1975

The Contractor shall comply with the provisions of the Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

9. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS

(applicable to contracts and subcontracts exceeding \$100,000)

The Contractor and all Contractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

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

- A. A stipulation by the Contractor or Contractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR Part 15, as amended.
 - B. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued there under.
 - C. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.
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D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

10. FLOOD DISASTER PROTECTION

This contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). Nothing included as a part of this contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this contract for such acquisition for construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements or Section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of Flood Disaster Protection Act of 1973.

11. ACCESS TO RECORDS - MAINTENANCE OF RECORDS

The State of California, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with this contract will be maintained in a central location by the unit of local government and will be maintained for a period of five (5) years from the official date of the State's final closeout of the grant.

12. INSPECTION

The authorized representative and agents of the State of California and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

13. REPORTING REQUIREMENTS

The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the Owner.

14. CONFLICT OF INTEREST

A. No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

- B. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

15. ACTIVITIES AND CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246, AS AMENDED

(applicable to contracts and subcontracts of \$10,000 and under)

During the performance of this contract, the Contractor agrees as follows:

- A. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- B. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. The Contractor shall incorporate foregoing requirements in all subcontracts.

16. PATENTS

- A. The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.
- B. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Contractor.
- C. If the Contractor uses any design device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the owner of such patented or copy-righted design device or material. It is mutually agreed and understood, that without exception the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copy-righted design, device or materials or any trademark or copy-right in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

17. COPYRIGHT

No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the Contractor for copyright purposes. Any such materials produced as a

result of this contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

18. TERMINATION FOR CAUSE

If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the Owner shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor under this contract shall, at the option of the Owner, become the Owner's property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the contract by the Contractor, and the Owner may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the Owner from the Contractor is determined.

19. TERMINATION FOR CONVENIENCE

The Owner may terminate this contract at any time by giving at least thirty (30) days notice in writing to the Contractor. If the contract is terminated by the Owner as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date.

20. ENERGY EFFICIENCY

The Contractor shall comply with 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 (Public Law 94-163).

21. SUBCONTRACTS

- A. The Contractor shall not enter into any subcontract with any Contractor who has been debarred, suspended, declared ineligible, or voluntarily excluded from participating in contracting programs by any agency of the United States Government or the State of California.
- B. The Contractor shall be as fully responsible to the Owner for the acts and omissions of the Contractor's Contractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by the Contractor.
- C. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractor to the Contractor by the terms of the contract documents insofar as applicable to the work of subcontractor and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the contract documents.
- D. Nothing contained in this contract shall create any contractual relation between any subcontractor and the Owner.

22. DEBARMENT, SUSPENSION, AND INELIGIBILITY

The Contractor represents and warrants that it and its Contractors are not debarred, suspended, or placed in ineligibility status under the provisions of 24 CFR 24 (government debarment and suspension regulations).

23. BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Contractor or the Contractor's subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this contract. The duties and obligations imposed by the contract documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

24. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

25. CHANGES

The Owner may, from time to time, request changes in the scope of the services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation which are mutually agreed upon by and between the Owner and the Contractor, shall be incorporated in written and executed amendments to this Contract.

26. PERSONNEL

The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Owner.

All the services required hereunder will be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

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

27. ANTI-KICKBACK RULES

Salaries of personnel performing work under this Contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. 874; and Title 40 U.S.C. 276c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to insure compliance by the subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors there under except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

28. ASSIGNABILITY

The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the Owner provided that claims for money due or to become due the Contractor from the Owner under this Contract may be assigned to a bank, trust company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Owner.

29. INTEREST OF CONTRACTOR

The Contractor covenants that it presently has no interest and shall not acquire any interest direct or indirect in the above described project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

30. POLITICAL ACTIVITY

The CONTRACTOR will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

31. COMPLIANCE WITH THE OFFICE OF MANAGEMENT AND BUDGET

The parties agree to comply with the regulations, policies, guidelines, and requirements of the Office of Management and Budget, Circulars A-95, A-102, A-133, and A-54, as they relate to the use of Federal funds under this contract.

32. DISCRIMINATION DUE TO BELIEFS

No person with responsibilities in operation of the project to which this grant relates will discriminate with respect to any program participant or any applicant for participation in such program because of political affiliation or beliefs.

33. CONFIDENTIAL FINDINGS

All of the reports, information, data, etc., prepared or assembled by the Contractor under this Contract are confidential, and the Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

34. LOBBYING

The Contractor certifies, to the best of his or her knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
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