

# Imperial County Workforce & Economic Development



## Request for Proposals for Labor Compliance Monitoring

Issued Tuesday, October 21, 2025

### **DUE DATE AND SUBMISSION REQUIREMENTS:**

**One (1) Original and Five (5) Copies of Proposals** must be received by **5:00 P.M.**  
Friday, November 14, 2025

### **Point of Contact:**

Jade Padilla  
Program Manager  
1250 Main Street  
El Centro, CA 92243  
(442) 265-7193

[jadepadilla@co.imperial.ca.us](mailto:jadepadilla@co.imperial.ca.us)

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## EXHIBIT 1

### **COUNTY OF IMPERIAL** **REQUEST FOR PROPOSALS** **FOR** **LABOR COMPLIANCE CONSULTING SERVICES**

NOTICE IS HEREBY GIVEN that the County of Imperial, acting by and through its Board of Supervisors, hereinafter referred to as the "COUNTY", will receive up to, but no later than **5:00 p.m. on November 14, 2025**, sealed PROPOSALS for negotiation and award of a contract concerning **Labor Compliance Monitoring Services**.

To be considered, one **original and five copies of PROPOSALS** must be received in the office of the **Imperial County Purchasing Department, 1125 Main Street, El Centro, California, 92243, and Attention: Priscilla Lopez, Director of Imperial County Workforce & Economic Development, RE: RFP for Labor Compliance Monitoring**, by the time specified above.

A selection committee shall evaluate proposals. It is the County's intention to select the Consultant whose proposal is deemed most advantageous to the County in accordance with the evaluation criteria set forth in this Request for Proposals. A Selection Committee appointed by the Workforce and Economic Development Director will review and score the proposals and recommend the most responsive and responsible firm to receive the contract award. The Selection Committee's recommendation will be forwarded to the Imperial County Board of Supervisors for final determination.

Each proposal must conform and be responsive to the Governing Agreement, a sample of which is attached as Exhibit 16. This Governing Agreement may also be obtained at the offices of the Workforce & Economic Department located at 1250 Main Street, El Centro, California, 92243.

The COUNTY reserves the right to reject any or all PROPOSALS, or to waive any irregularities or informalities in any qualifications or in the selection process.

Disadvantaged Business Enterprises (DBE), Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Owned Businesses (VOB) are encouraged to participate.

## EXHIBIT 2

### **INFORMATION FOR PROPOSERS**

#### **1.0 PURPOSE**

The COUNTY, through the Imperial County Workforce & Economic Development (ICWED) Department, is soliciting competitive proposals from qualified experienced individuals or firms to provide Labor Compliance Monitoring Services for projects funded by the California Department of Housing and Community Development (HCD) and Community Development Block Grant (CDBG) Program, US. Department of Commerce-Economic Development Administration (EDA), State Water Resources Control Board-Clean Water State Revolving Fund (CWSRF), and other grant funding agencies.

Final selection of individual or firm will be contingent upon approval from the funding agency, which are currently HCD, EDA, and CWSRF.

All communications relating to this RFP must be directed to the contact person named below and **only** through email or written correspondence. Any other forms of communications between a respondent and COUNTY's staff concerning this RFP are prohibited. In no instance is a respondent to discuss cost information, quality of responses, names of additional respondents, or any other information requested by or contained in a proposal with the point of contact or any other staff prior to proposal evaluation. Failure to comply with this section may result in COUNTY's disqualification of the proposal. The respondent is responsible for ensuring the response is received before the deadline. Copies or faxed responses will **not** be accepted. COUNTY assumes no responsibility for lost or misrouted mail.

The term of the Agreement for services will be for a period of up to three years from the date of the executed agreement. Work shall be completed on a Task Order basis as need for each project.

#### **2.0 PRE-PROPOSAL MEETING**

- 2.1** A pre-proposal meeting will be held on **November 05, 2025, at 3:00 P.M.**  
at:

Imperial County Workforce & Economic Development  
1250 Main Street  
El Centro, CA 92243  
Contact: Jade Padilla (442) 265-7193

Attendance at the pre-proposal meeting **is not** mandatory requirement for those interested in submitting a proposal.

### 3.0 CALENDAR OF EVENTS

3.1	RFP issued	<b>October 21, 2025</b>
3.2	Pre-proposal conference	<b>November 05, 2025 3:00 P.M.</b>
3.3	Deadline for County to receive written questions	<b>November 06, 2025 12:00 P.M.</b>
3.4	Package, References, and other documentation must be <u>received</u> by County on or before	<b>November 14, 2025 5:00 P.M.</b>

### 4.0 SCOPE OF SERVICES

The individual or firm will perform these services under the supervision and direction of the Director of Imperial County Workforce & Economic Development Department. The County wishes to contract with an individual or firm on an as-needed basis to provide the following services:

- 4.1 The Consultant shall be responsible for assisting the County with activities needed to ensure that workers employed by the County's contractors and their subcontractors are hired and paid in compliance with all applicable labor standards. These services will be provided in support of the County's CDBG, EDA, CWSRF, and other grant programs for a period of three (3) years. The County reserves the option to amend this agreement for an extension of up to two (2) years.
- 4.2 The Consultant shall serve as the primary contact person for the County's contractors and their subcontractors for issues related to labor compliance standards. The Consultant shall attend pre-construction meetings to provide contractors and their subcontractors with informational materials and requirements regarding labor compliance standards and to review the labor compliance standards applicable to each project.
- 4.3 The Consultant shall immediately inform the County of any changes or developments regarding issues of federal or California compliance.
- 4.4 Prior to each bid advertisement, the Consultant shall obtain the most current and applicable wage decisions information and provide this in a timely manner to all prospective contractors and subcontractors. Thereafter, the Consultant shall immediately inform the contractors and their subcontractors of any changes or developments regarding issues of labor compliance, relevant to their contract performance for Imperial County.
- 4.5 Prior to commencement of contractors' or subcontractors' work, the Consultant shall provide verification that their licenses are current and active with the California State Contractor's License Board and they are not on a federal debarment list.

- 4.6** The Consultant shall provide the County and its contractors and their subcontractors with all required labor compliance standards contract language for inclusion in all applicable contracts to be executed by the County and its contractors.
- 4.7** The consultant must conduct all interviews at the work site. Interviews may occur at random, without providing previous notification to their contractor and subcontractor.
- 4.8** The Consultant shall respond promptly to all Requests for Information by the County and its contractors and their subcontractors for information pertaining to federal and California labor compliance standards.
- 4.9** The Consultant shall immediately inform the County whenever a contractor or subcontractor is found to be out of compliance with applicable labor standards.
- 4.10** The Consultant shall assist the County with contractors' applications for progress payments.
- 4.11** The Consultant shall promptly review the Certified Payroll Reports (CPRs) as received and notify the prime contractor of any deficiencies in wages, overtime compensation, incomplete or inaccurate CPRs, and/or incomplete or inaccurate Statements of Compliance.
- 4.12** The Consultant shall maintain all original documentation in an organized, manageable and current status and make it available to the County for review at any time.
- 4.13** The Consultant shall prepare and submit in a timely manner, all monthly, Semi-annual and final reports, so that the County has sufficient time for review prior to submitting them to the State of California Department of Housing and Community Development, EDA, CWSRF, and/or any other funding agencies.
- 4.14** At the conclusion of a project, the Consultant shall provide to the County, all CPRs and all other documentation and correspondence related to the project.
- 4.15** If requested, the Consultant shall participate in Labor Compliance Monitoring conducted by the State of California, at a time and place specified by the County and the State of California.
- 4.16** The Consultant shall monitor for Section 3 compliance in accordance with HCD requirements, proper tracking methods, and Section 3 guidance as well as utilizing the provided documentation included as Exhibits 3-8.
- 4.17** The Consultant shall monitor for labor compliance in accordance with HCD requirements and guidance as well as utilizing the provided documentation included as Exhibits 9-15.

## **5.0 MANDATORY REQUIREMENTS FOR ALL PROPOSALS**

- 5.1** All proposals must demonstrate that the consultant has a willingness and ability to comply with all documents, including but not limited to, the Governing Agreement, a sample of such is identified as Exhibit 16.
- 5.2** All proposals must be accompanied with the name(s), title(s) and resume(s) of the individual(s) who will be performing the services should the contract be awarded.
- 5.3** All parties submitting proposals shall include with their proposals at least three (3) current references, including name, address, and telephone number.
- 5.4** All proposals must include a completed Form CD-511, Certification Regarding Lobbying, which is provided as Exhibit 17.

## **6.0 CONTRACT TERMS AND CONDITIONS**

Please refer to the attached Exhibit 16, Governing Agreement. The attached Exhibit 16 is a draft agreement to be used as a sample of the agreement that the winning party will be expected to sign. It is not the final agreement and there may be additional or different terms included in the final agreement.

## **7.0 PREPARATION OF PROPOSAL**

All statements of proposals must include an original and five copies to be submitted in sealed envelopes bearing on the outside the name of the individual or firm, address, and the title of the RFP for which the qualifications are being submitted. It is the sole responsibility of respondent to ensure that the COUNTY receives proposals in the proper time. Any proposals received after the scheduled closing time for receipt will be returned to the individual or firm unopened. Proposals may not be submitted by facsimile, telegraph, electronic mail or any other means other than by personal delivery, United States Postal Service or other delivery services such as FedEx or United Parcel Service.

## **8.0 SIGNATURE**

The statement of qualifications document or any modification must be signed in the name of the individual and must bear the original signature of the person or persons authorized to sign the proposal.

## **9.0 MODIFICATIONS**

Any modification of any proposals submitted must be in writing and received by COUNTY prior to the closing time for proposals. Modifications may not be submitted by facsimile, telegraph, electronic mail or any other means other than by personal delivery, United States Postal Service or other delivery services such as FedEx or United Parcel Service.

Any qualifications or modifications received after the scheduled closing time for receipt of statement of qualifications will be returned to the consultant unopened.

## **10.0 ERASURES**

Proposals submitted must not contain any erasures, interlineations, or other corrections unless each such correction is suitably authenticated by putting in the margin immediately opposite the correction the surname or surnames of the person or persons signing the statement of qualifications.

## **11.0 WITHDRAWAL OF PROPOSALS**

Respondents may withdraw their proposals either personally or by written request at any time prior to the scheduled closing time for receipt of proposals.

## **12.0 PROPOSAL ELEMENTS**

**Proposals must address each of the elements in this section.**

### **12.1 Statement of Qualifications**

- a. Relevant Experience: All services shall be performed by qualified personnel under the supervision of a professional licensed or otherwise qualified by the state. Preference will be given to individuals/firms with HCD, EDA, CWSRF, and other funding source experience. Include the names, addresses and phone numbers of contact persons for several contracts for which you have performed services as solicited in this RFP.
- b. Relevant Education: Applicant's demonstration of certification and training required to perform services.
- c. Responsiveness to Project Requirements: Applicant's demonstrated success in completing projects on time and responsiveness to meeting changing requirements. Attentiveness to and compliance with RFP instructions, interview requirements, and other aspects of the selection process will be considered as an indication of responsiveness.
- d. A brief statement of your policy regarding affirmative action.
- e. The consultant shall carry not less than the following insurance and shall provide verification to the County upon request:
  1. Professional Liability Insurance: Errors and Omissions Insurance in an amount of at least \$1,000,000 single limit coverage, covering all personnel employed by the Consultant in the capacity of acting as an Agent of the municipality.



2. General Liability Insurance: General Liability Insurance in an amount of at least \$1,000,000, single limit coverage, covering all personnel employed by the Consultant in the capacity of acting as an Agent of the municipality.
3. Worker's Compensation: Worker's Compensation Coverage in full compliance with California statutory requirements for all personnel employed by the Consultant in the capacity of acting as an Agent of the municipality.
4. Automobile Liability Insurance: Automobile Liability Insurance in an amount of at least \$1,000,000 combined single limit coverage including owned, non-owned and hired vehicles.

## **12.2 Proposed Scope of Work**

A prospective Consultant should indicate an understanding of the requested services as described in Section 4, Scope of Services, and describe how it proposes to service the County in these aspects.

## **12.3 Project Personnel and Their Availability**

Provide resume(s) of the key personnel who would be assigned to perform the services as described. Indicate status of each person's relationship to your firm, whether an employee, partner, subcontractor, or other contractual agreement. The statement should also identify for each member of the project team, their area of expertise, role in the project, and experience with similar or related projects.

**12.3.1** Qualified personnel shall perform all services and shall maintain all necessary certificates and licenses required to perform such services.

**12.3.2** Except when, and if, the workload demands otherwise, all services shall be conducted within the normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

## **12.4 Cost of Proposed Services**

The cost of the Labor Compliance Services shall be based on the fee schedule proposed and work authorized. Describe your proposed fee schedule for determining the cost of the requested services for the term of the contract. Billing for the services shall be submitted to the Director of Imperial County Workforce & Economic Development.

## **12.5 Time**

Subject to any limitations stated in this proposal, the specified Labor Compliance Consultant Services shall be completed and delivered to the Workforce & Economic Development Director within 10 calendar days after written authorization to proceed is received, barring circumstances beyond the Consultant's control that

force a delay. In such instance, the Consultant will inform the Director of Imperial County Workforce & Economic Development of the cause of such delay.

## **12.6 Protection of Property**

The Consultant shall take all reasonable precautions to prevent damage to property, visible and concealed, and shall reasonably restore the site to the condition existing prior to the Consultant's entry.

## **12.7 Certification Regarding Lobbying**

Form CD-511, Certification Regarding Lobbying, has been included in this RFP as Exhibit 16. This form must be signed and included with your proposal in order to submit a responsive proposal.

## **13.0 SELECTION PROCESS**

The County of Imperial will review the qualifications based on the selection criteria and 100-point scale as follows:

1.	General firm and individual experience:	<b>10 points</b>
2.	Specific experience as it pertains to California Department of Housing and Community Development, USDA Rural Development, HUD, CDBG, EDA, CWSRF and/or other grant programs:	<b>20 points</b>
3.	Specific experience as it pertains to the Scope of Work above mentioned in Item 4.0:	<b>20 points</b>
4.	Capacity to perform the Scope of Work and ability to conclude the work in a timely manner:	<b>15 points</b>
5.	Quality of staff and their availability:	<b>15 points</b>
6.	Overall quality of qualifications, especially thoroughness:	<b>5 points</b>
7.	Cost of Services:	<b>15 points</b>
	Total Value:	<b>100 points</b>

Additional questions may be asked to respondents and formal interviews may be conducted as well. Respondents will be notified of any additional required information or interviews after written proposals have been evaluated.

The COUNTY reserves the right to reject any and all qualifications submitted; to request clarification of services submitted; to request additional information; and to waive any irregularity in the qualifications and review process, as long as COUNTY procedures remain consistent with HCD, EDA, CWSRF, and other grant procurement requirements. The COUNTY may select one consulting firm or a combination of consulting firms to provide the range of services requested.

## **14.0 PROHIBITION AS SUBCONTRACTORS UNDER COMPETITIVE SEALED**

## **PROPOSALS**

No party submitting a proposal who is permitted to withdraw a proposal shall, for compensation, perform any subcontract or other service for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn proposal was submitted.

### **15.0 FEDERAL REGULATIONS**

#### **15.1 Affirmative Action**

The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance and subject to 24 CFR 85.36(e). County hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged, minority and women's business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religious creed, sex, or national origin in consideration for an award. Minority- and women-owned and operated businesses are encouraged to apply.

#### **15.2 Section 3**

The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance and may be subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and moderate income persons residing within the project area and that the contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the area of the project. Regulations for implementing the Section 3 clause are contained in 24 CFR 135, as amended, and as specified in the project specifications.

#### **15.3 Federal Terms and Conditions**

During the performance of the contract, the Contractor must agree to comply with all applicable Federal laws and regulations including but not limited to each of the following:

##### **A. Equal Opportunity**

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

1. The Contractor will comply with Executive Order 11246 of September 24, 1965 entitled Equal Employment Opportunity as amended by Executive Order 11375 of October 1967 as supplemented in Department of Labor regulations (41 CFR Chapter 60).
2. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion,

sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the County setting forth the provision of the nondiscrimination clause.

3. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, or national origin.
4. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to this books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as

a result of such direction, the contractor may request the United States or enter into such litigation to protect the interests of the United States.

8. The contractor shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.
9. Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of the Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance reports prior to or as an initial part of their bid or negotiation of a contract.
10. Whenever the Contractor or subcontractor has a collective bargaining agreement or other Contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, that to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the Contractor, the Contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he/she has made to obtain such information.
11. The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent of behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provision of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.
12. The Contractor will cause the forgoing provision to be inserted in all subcontracts for work covered by this

Agreement so that such provisions will be binding upon each subcontractor, provided that the forgoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

B. Disadvantaged/Minority/Women Business Enterprise Federal Regulatory Requirements under 24 CFR 85.36(e)

1. The Contractor will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
2. Affirmative steps shall include:
  - a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
  - d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
  - e. Using the Services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

C. Copeland "Anti-Kickback" Act (18 U.S.C. 874)

Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

D. Compliance with Labor Standard Provisions

Contractor may be required to comply with all provisions contained in the form HUD-4010 and shall comply with all provisions contained in the Federal Labor Standards Provisions.

E. Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330)

Contractor will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). Requires the contracting officer to insert the clauses set forth in 29 CFR Part 5, construction contracts awarded by grantees and sub grantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).

F. Requirements and Regulations pertaining to Data and Design

All data and design and engineering work created under this Agreement shall be owned by the County and shall not be subject to copyright protection. The rights to any invention which is developed in the course of this Agreement shall be the property of the County.

G. Requirements and Regulations pertaining to Reporting

The County, State CDBG, HUD, EDA, USDA, other State and Federal Agencies, and the Comptroller General of the United States or any of their duly authorized representatives shall be granted access to any books, documents, papers and recorders of Contractor which are directly pertinent to the contract.

H. Compliance with Clean Air Act and Clean Water Act

1. Contractor shall comply with all applicable standards, orders and requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)).
2. Contractor shall comply with all applicable standards, orders and requirements issued under Section 508 of the Clean Air Act (33 U.S.C. 1368).
3. Contractor shall comply with Executive Order 11738 and Environmental Protection Agency regulations (40 CFR Part 15).

I. Compliance with Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871)

The Contractor shall comply with the 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).

D/MBE/WBE Implementation Guidelines

The following information, as applicable, shall be retained by Contractor and produced upon request by General Services if determined by General Services to be necessary to establish the bidder's "good faith efforts" to meet the Disadvantaged/Minority/Women Business Enterprise (D/M/WBE) requirements:

1. The names and dates of advertisement of each newspaper, trade paper, and minority-focus paper in which a request for D/M/WBE participation for this project was placed by the bidder.
2. The names and dates of notices of all certified D/M/WBEs solicited by direct mail for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the D/M/WBEs were interested.
3. The items of work for which the bidder request sub bids or materials to be supplied by D/M/WBEs, the information furnished interested D/M/WBEs in the way of plans, specifications and requirements for the work, and any

breakdown of items of work into economically feasible units to facilitate D/M/WBE participation. Where there are D/M/WBEs available for doing portions of the work normally performed by the bidder with his own forces, the bidder will be expected to make portions of such work available for D/M/WBEs to bid on.

4. The names of D/M/WBEs who submitted bids for any of the work indicated in (3) above, which were not accepted, and summary of the bidder's discussions and/or negotiations with them, the name of the subcontractor or supplier that was selected for that portion of work, and the reasons for the bidder's choice. If the reason for rejecting the D/M/WBE bid was price, give the price bid by the rejected D/M/WBE and the price bid by the selected subcontractor or supplier.
5. Assistance that the bidder has extended to D/M/WBEs identified in (4) above to remedy the deficiency in their sub bids.
6. To find a D/M/WBE certified firm, you may call (916) 455-3520, go online to: <http://www.dot.ca.gov/hq.bep>, or via email at: D/M/WBE Listing for County, CalTrans-Publications Distribution Unit, 1900 Royal Oaks, Sacramento, CA 95815-3800.





# EXHIBIT 3

CDBG – Section 3

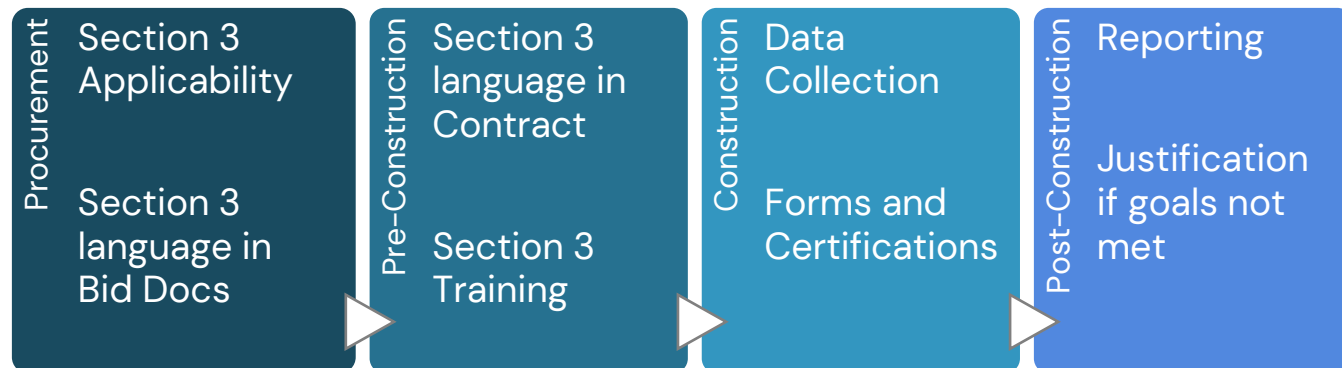
## Tool 5-1 – Section 3 of the HCD Act

Section 3 of the HCD Act requires Grantees and subrecipients to, the greatest extent possible, provide training, employment, contracting, and other economic opportunities to:

- Low- and very low-income persons, especially recipients of government assistance for housing
- Businesses that provide economic opportunities to low- and very low-income persons

This applies to housing construction, housing rehabilitation, or other public construction projects with contracts valued at \$200,000 or more, regardless of how grant funds are spent. For additional details, refer to section 5.3 Economic Opportunities (Section 3) of the Grants Management Manual (GMM).

Grantees must perform different tasks during the following phases of Section 3 covered projects:



### Procurement Phase

- ☐ Determine if the project triggers Section 3 requirements
- ☐ Insert Section 3 language and documents into Bid documents

### Pre-Construction Phase

- ☐ Insert Section 3 language into the Contract
- ☐ Provide Section 3 training to contractors and subcontractors



### Construction Phase

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- ☐ Collect data on labor hours, including Section 3 and Targeted Section 3 worker hours
- ☐ Collect forms and other documents to certify Section 3 workers and businesses

### Post-Construction Phase

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- ☐ Report Section 3 accomplishments to HCD
- ☐ If applicable, provide written justification if Section 3 goals were not met

# Section 3 Labor Hours Tracking Form

## Labor Hours Totals for All Companies

Company Name	Total Labor Hours	Section 3 Worker Hours		Targeted Section 3 Worker Hours	
		Number	Percentage	Number	Percentage
Company 1	163	10	6.1%	3	1.8%
Company 2	0	0	0.0%	0	0.0%
Company 3	0	0	0.0%	0	0.0%
Company 4	0	0	0.0%	0	0.0%
Company 5	0	0	0.0%	0	0.0%
Company 6	0	0	0.0%	0	0.0%
Company 7	0	0	0.0%	0	0.0%
Company 8	0	0	0.0%	0	0.0%
Company 9	0	0	0.0%	0	0.0%
Company 10	0	0	0.0%	0	0.0%
Total		163	6.1%	3	1.8%

### **Instructions**

This form should be used for tracking Total labor hours, Section 3 labor hours, Targeted Section 3 labor hours worked for CDBG construction projects that meet the requirements for Section 3 eligibility. These requirements can be found in the CDBG Manual.

Each company should be documented on a separate Tab. Each employee for the company who works on the project should be listed, and their weekly hours included under the column with the associated payroll number. The hours worked for each week where labor is performed should be included in the weekly columns. No-work weeks should not be included. On the table enter the payroll number associated with that week of work in the row labeled "Payroll #". Non-Section 3 worker hours may be combined for each payroll; simply enter "Non-Section 3 Workers" under the Employee Name. Employees who are listed should be marked "Yes" or "No" as being a Section 3 or Targeted Section 3 worker.

The Total labor hours, Section 3 labor hours, Targeted Section 3 labor hours worked will be automatically calculated and will be shown on this Totals Tab. If more than 10 companies are on the project, start a second workbook with the additional companies.







# EXHIBIT 5

## CDBG – Section 3 Worker/Employer-Certification

This form, or similar, may be used by Grantees, Contractors, and Subcontractors to certify Section 3 and Targeted Section 3 status of current and/or new workers.

- Section 1 is to be completed by the Section 3 Worker.
- Section 2 is to be completed by the business to certify Targeted Section 3 status.

### Section 3 Worker/Employer Certification

<b>Name:</b>			
<b>Permanent Address:</b>			
<b>I am a resident of :</b>	<b>Community:</b>	<b>County:</b>	

### Section 1: Worker Self-Certification

Please read the following statements and check all that apply to you currently or during the time period beginning November 30, 2020.

- ☐ My individual annual income was at or below 80% Area Median Income (AMI) figure for a household of 1 for the county or area in which I live. (Table at the end of this form provides annual 80% limits for each county.)
- ☐ I am or was a YouthBuild participant (within a 5-year window beginning on or after November 30, 2020).  
**Start (MM/DD/YYYY):**  
**End (MM/DD/YYYY):**
- ☐ I am or was a resident of public housing (within a 5-year window beginning on or after November 30, 2020).  
**Start (MM/DD/YYYY):**  
**End (MM/DD/YYYY):**
- ☐ I am or was a resident of other public housing projects or Section 8-assisted housing (within a 5-year window beginning on or after November 30, 2020).  
**Start (MM/DD/YYYY):**  
**End (MM/DD/YYYY):**
- ☐ None of the above apply to me.

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. Any false statements made knowingly and willfully may subject the signer to penalties under Section 1010 of Title 18 of the United States Code.

<b>Printed or Typed Name</b>	<b>Signature</b>	<b>Date</b>



## CDBG – Section 3 Worker/Employer-Certification

### Section 2: Employer Certification

<b>Employer Name:</b>	
-----------------------	--

Please read the following statements and **check all that apply to your employee currently or during the 5-year window prior to the date of certification. The 5-year period cannot begin before November 30, 2020.**

☐ The employee listed on page one of this form is employed by our company, which is a Section 3 Business concern.

☐ (For Housing and Community Development projects)  
Lives within the project service area as defined by the Grantee.  
(Employers should obtain a map of the project service area from the Grantee.)

**Dates of Residence:**

- Typically, this is a 1-mile radius of the project site or is within the allowed project service area (within the 5-year window).
- If fewer than 5,000 people live within one mile of the project site, the area is extended to a circle centered on the project site that encompasses a population of 5,000 people according to the recent census.

☐ None of the above apply.

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. Any false statements made knowingly and willfully may subject the signer to penalties under Section 1010 of Title 18 of the United States Code.

<b>Printed or Typed Name and Title</b>	<b>Signature</b>	<b>Date</b>





## 2022 CDBG Income Limits by County

County	80% Area Median Income (AMI) for a Household of 1
Alameda County	74,200
Alpine County	50,900
Amador County	48,550
Butte County	43,650
Calaveras County	50,400
Colusa County	43,650
Contra Costa County	74,200
Del Norte County	43,650
El Dorado County	56,750
Fresno County	43,650
Glenn County	43,650
Humboldt County	43,650
Imperial County	43,650
Inyo County	46,350
Kern County	43,650
Kings County	43,650
Lake County	43,650
Lassen County	45,000
Los Angeles County	66,750
Madera County	43,650
Marin County	104,400
Mariposa County	43,650
Mendocino County	45,000
Merced County	43,650
Modoc County	43,650
Mono County	45,000
Monterey County	63,700
Napa County	70,550
Nevada County	55,100
Orange County	75,900
Placer County	56,750



## CDBG – Section 3 Worker/Employer-Certification

County	80% Area Median Income (AMI) for a Household of 1
Plumas County	45,750
Riverside County	49,300
Sacramento County	56,750
San Benito County	58,900
San Bernardino County	49,300
San Diego County	72,900
San Francisco County	104,400
San Joaquin County	46,350
San Luis Obispo County	61,250
San Mateo County	104,400
Santa Barbara County	78,350
Santa Clara County	92,250
Santa Cruz County	87,350
Shasta County	44,450
Sierra County	50,400
Siskiyou County	43,650
Solano County	60,800
Sonoma County	66,550
Stanislaus County	44,650
Sutter County	43,650
Tehama County	43,650
Trinity County	43,650
Tulare County	43,650
Tuolumne County	46,600
Ventura County	70,250
Yolo County	55,550
Yuba County	43,650



# EXHIBIT 6

## CDBG – Section 3 Business Self-Certification

### Section 3 Business Self-Certification

Contractors or subcontractors who wish to be identified as a Section 3 Business must complete the Section 3 Business Self-Certification form and provide any backup documentation (proof of ownership, payroll documentation, etc.) requested by **GRANTEE**.

<b>Business Name:</b>			
<b>Business Address:</b>			
<b>County or Metropolitan Service Area (MSA) Where Business is Located:</b>			
<b>Business Services (list):</b>			

Please read the following statements and **check all that apply to your business.**

- ☐ Fifty-one percent (51%) or more of the business is owned by low- or very low-income persons.
- ☐ Seventy-five percent (75%) of the labor hours performed for the business over the prior three-month period were performed by Section 3 workers.
- ☐ At least fifty-one percent (51%) owned and controlled by current residents of public housing or Section 8-assisted housing
- ☐ None of the above apply to this business.

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. Any false statements made knowingly and willfully may subject the signer to penalties under Section 1010 of Title 18 of the United States Code.

<b>Printed or Typed Name and Title</b>	<b>Signature</b>	<b>Date</b>



# EXHIBIT 7

## Contractor/Subcontractor Workforce Report

When hiring new employees for the project, the goal is to outreach and hire Section 3 workers. However, any current employees hired on or after 11/30/2020 who met the definition of a [Section 3 worker](#), at the time of hiring, can be counted in the Section 3 worker labor hours for the project.

Employee Name	Job Title	Certified Section 3 Worker		Monthly Salary	Salary Below 80% of Median	
		YES	NO		YES	NO

I certify the above employees are permanent employees of **INSERT CONTRACTOR NAME**. I certify the above employees are on our regular monthly payroll and have their W-2 tax forms for our records. These records will be available to **the GRANTEE** for the above referenced project for verification purposes. I understand that falsifying information is perjury and subject to legal ramifications.

---

Project Name

---

Signature of Person Completing Form

---

Printed Name

---

Date

\*Attach additional sheets where necessary

# EXHIBIT 8

Appendix G - HCD CDBG Section 3 Monitoring Checklist			
Name of Grantee:			
Name of Subrecipient (if applicable):			
Grant Numbers and/or Program Income Reviewed:			
Staff Consulted:			
Name(s) of Reviewer(s)		Date	

**NOTE:** All questions that address requirements contain the citation for the source of the requirement. If the requirement is not met, the reviewer must make a “finding” of noncompliance. Questions that do not contain the citation for the requirement do not address requirements but are included to assist the reviewer in understanding the Grantee’s program more fully and/or to identify issues that, if not properly addressed, could result in deficient performance. Negative conclusions to these questions may result in a "concern" being raised, but not a "finding.”

**Instructions:** Section A covers the Grantee's compliance with Section 3 of the Housing and Community Development Act. Section B summarizes the reviewer’s determinations regarding the Grantee’s need for technical assistance and/or training in this program function.

**Review Documents:** Prior to monitoring, reviewer should review the Closeout Package and Certification submitted by the Grantee.

Additional **Review Documents:** Documentation of Section 3 Hours and Qualitative Efforts (weekly payrolls or other tracking system, contractor statements of employment and Section 3 employees, certified best faith estimate of hours, documentation of all qualificative efforts, certification of Section 3 business)

**Questions:**

<b>1</b>	Was the funded activity a <b>construction</b> project that received funds from HUD programs that provide housing and community development financial assistance and the total amount of assistance to the project exceeded a threshold of \$200,000. (The threshold is \$100,000 when any assistance is from the Lead Hazard Control and Healthy Homes programs.) <b>24 CFR 75.3(a)(2)</b>  <i>If yes, continue with Question #2.</i> <i>If no, skip to Question #6.</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<b>2</b>	Has the Grantee correctly indicated the need to comply with Section 3 on the <b>Section 3 Compliance Acknowledgement</b> (part of the <b>CDBG Combined Closeout Package</b> )?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<b>2</b>	Looking at the <b>Section 3 Closeout Report</b> (part of the <b>CDBG Combined Closeout Package</b> ) does Grantee indicate that they have met or exceeded the <b>Safe Harbor Benchmark for Total Section 3 Labor Hours</b> ? Indicate percentage shown.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> %
<b>3</b>	Looking at the <b>Section 3 Closeout Report</b> (part of the <b>CDBG Combined Closeout Package</b> ) does Grantee indicate that they have met or exceeded the <b>Safe Harbor Benchmark for Targeted Section 3 Labor Hours</b> ? Indicate percentage shown).	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> %
<b>4</b>	If the Grantee did not meet the Safe Harbor Benchmark for <b>EITHER OR BOTH</b> Total Section 3 Labor Hours and Targeted Section 3 Labor Hours, did the Grantee complete the <b>Section 3 Qualitative Efforts Description</b> , indicating at least one qualitative effort taken?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A

4a	If not, did the Grantee provide source documentation of all qualitative efforts made?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
5	Did the official authorized in the resolution sign the CDBG Combined Closeout Package Signature Based page, certifying all representations made in the package?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<b>Comment (if needed):</b>  				
6	<p>Based upon your review of forms submitted, including an appropriate signature certifying the representations made, has the Grantee complied with Section 3 requirements on the reviewed award/contract.</p> <p>■ If your response is “No,” you must enter a finding in the monitoring report citing <b>HUD Section 3 Final Rule, effective on November 30, 2020, codified at 24 CFR part 75.</b></p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<b>Describe Basis for Conclusion:</b>  				



### Wage Determination Lock-In Notice

Date Submitted in eCivis: \_\_\_\_\_

Grantee: \_\_\_\_\_ Grant #: \_\_\_\_\_

Contract Amount: \_\_\_\_\_

Project Title: \_\_\_\_\_

Project Location, Including County: \_\_\_\_\_

Bid Opening Date: \_\_\_\_\_

Wage Decision in effect on Bid Opening Date: \_\_\_\_\_  
(Ex: CA-20220018 dated 04/01/22 / Modification #6)

Wage Decision assigned to project if, the Grantee has determined there was not reasonable time available before bid opening to notify bidders of the modification (no more than 10 days):

\_\_\_\_\_  
(Ex: CA-20220018 dated 04/01/22 / Modification #6)

Justification of decision that there was not a reasonable time available to utilize the wage decision in effect on bid opening day: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

☐ **Check box to confirm all parties have been notified that this is the applicable wage decision for the duration of this project as long as the construction contract is awarded within 90 days of bid opening.** (All parties must be advised of the applicable wage determination before submission of the lock-in form.)

**NOTE:** If contract is not awarded within 90 days of bid opening, the wage decision that is in effect on the date contract is executed becomes applicable to the entire project.

Submitted by: \_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Signature – Labor Standards Officer



**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**  
**PRECONSTRUCTION CONFERENCE ATTENDANCE LIST**

**Community** \_\_\_\_\_ **Project Name** \_\_\_\_\_

Date \_\_\_\_\_ Location: \_\_\_\_\_

**ATTENDEE**

## ORGANIZATION

## Community Development Block Grant - CDBG PRE-CONSTRUCTION CONFERENCE CHECKLIST/MINUTES

(This document will serve as minutes to the conference. Please add any additional pages as necessary.)

Grantee		Grant #		Date	____/____/____
Project Name		Amount	\$	Time	
Engineer					
Administrator					
Contractor/Company				Contract # 1	
Represented By				\$	
Contractor/Company				Contract # 2	
Represented By				\$	
Contractor/Company				Contract # 3	
Represented By				\$	

<b>Conference Representation – The following entities should have representation at the meeting.</b>			
Check the box for each entity represented. Attendance list required.			
<input type="checkbox"/> Contractors	<input type="checkbox"/> Engineer	<input type="checkbox"/> Grantee	<input type="checkbox"/> Utility Companies
<input type="checkbox"/> Subcontractors	<input type="checkbox"/> Grant Administrator	<input type="checkbox"/> Grantee Attorney	

***Each item must be initialed by the meeting facilitator as discussed, completed/understood.***

<b>1. Labor Laws and Requirements</b>	
This federally funded project is subject to the following labor laws and regulations:	
	<b>Davis-Bacon and Related Acts</b> require the payment of prevailing wage rates to all laborers and mechanics working on the construction site. The prevailing wages for this project are listed in the contract documents. Prevailing wages include a basic hourly rate of pay and in most cases a fringe benefit payment.
	The <b>Copeland Act</b> makes it a crime for anyone to require any laborer or mechanic to kickback any part of their wages. Consequently, the only deductions that can be taken out of an employee's paycheck are those <b>required by law</b> or those <b>authorized by the employee in writing. The Copeland Act also requires that every contractor pay their employees weekly and submit weekly certified payroll reports (CPRs).</b>
	<b>The Contract Work Hours and Safety Standards Act (CWHSSA)</b> requires time and one-half pay for hours worked over 40 in any workweek. The time and one-half is computed on the basic hourly wage and then the fringe amount is added to it. CWHSSA violations carry a liquidated damages penalty of ten dollars per day per violation. Intentional violations of CWHSSA standards are considered a federal criminal misdemeanor
	<b>Section 3 of the Housing and Urban Development Act of 1968</b> , as amended requires the provision of opportunities for training and employment that arise through HUD-financed projects to lower-income residents of the project area. Also required is that contracts be awarded to businesses that provide economic opportunities for low- and very low-income persons residing in the project area, county or metropolitan statistical area. Section 3 language must be inserted into each contract and subcontract documents for this project. The prime or general contractor and all subcontractors are responsible for compliance with Section 3.
<b>2. Additional Classifications</b>	
	If the work classifications needed do not appear on the wage decision, a request for additional classification and wage rate will be needed. The contract administrator can assist you in this process. These additional classifications and rates must be approved by the U.S. Department of Labor.

**3. Job Site Postings**

The contractor is required to display, in a **conspicuous place**, the following:

The Wage Decision for this project which is: **CA** \_\_\_\_\_ with \_\_\_\_\_ modifications, dated \_\_\_\_\_

Appropriate Posters to be Posted at the Job Site (State & Federal)

**1. Notice to Employees**

Davis Bacon (English): <https://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>

Davis Bacon (Spanish): <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/davispan.pdf>

California Posters: <https://www.dir.ca.gov/wpndb.html/>

**2. Minimum Wage**

Federal Minimum Wage (English): <https://www.dol.gov/whd/regs/compliance/posters/flsa.htm>

Federal Minimum Wage (Spanish): <https://www.laborposters.org/federal/86-federal-minimum-wage-spanish-poster.htm#PDF>

California Minimum Wage: <https://www.dir.ca.gov/iwc/MW-2021.pdf>

**4. Payrolls**

- |    |   |
|----|---|
| A. | Original payrolls must be submitted weekly by all contractors and subcontractors.   |
| B. | Contractors are not required to use Payroll Form WH-347, but the payroll used must contain all information required on the WH-347; and the Statement of Compliance must be the exact same wording as on the reverse of WH-347. <a href="https://www.dol.gov/whd/forms/wh347.pdf">https://www.dol.gov/whd/forms/wh347.pdf</a>  |
| C. | Payroll information needed:   |
|    | Number of payrolls (mark last payroll final)  |
|    | All mechanics and laborers employed on the site must be listed on the payroll   |
|    | Employee name, and last four digits of social security number.  |
|    | Correct work classification taken from the wage decision or approved classification   |
|    | Hourly wage paid and fringe if paid in cash (see below for fringe paid to a plan)   |
|    | Daily and weekly total number of hours worked (only hours worked on this project)   |
|    | Gross pay for this project  |
|    | Allowable deductions (those required by law or authorized by the employee in writing)   |
|    | Net pay   |
|    | Reverse of WH-347 completed, box "a" or "b" checked, and the certification signed   |
| D. | Payroll deductions must be made according to DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to "kick-back" any of their earnings. Allowable deductions include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings account and any other legally permissible deduction <b>authorized by the employee</b> . Deductions may also be Made for payments on judgments and other financial obligations legally imposed against the employee. Non-permissible deductions are tools, gas and similar items. |
| E. | If fringe benefits are paid to a plan instead of in cash, the hourly contribution must be determined. Documentation of the plan and the amount paid into the plan per employee must be submitted with the first payroll. Fringe benefits include health insurance and retirement. They do not include employer payments or contributions required by other federal, state, or local laws, such as the employer's contribution to Social Security or some disability insurance payments.   |
| F. | If payrolls are not numbered sequentially by the respective contractor or subcontractor, then submit a letter or the "No Work" form to the contract administrator for the period that work is not performed so that a continuous record is maintained. One form may be submitted for extended period of inactivity on the job.  |
| G. | General and all subs submit Signature Authorization Form stating who is designated to sign payrolls if someone other than the owner signs them.   |
| H. | Payrolls must be submitted to _____ within seven (7) days after the payroll period ends.  |

5. Contractor/Subcontractor Certifications	
	Contractor/subcontractor certifications are to be submitted within ten (10) days of signing the contract. In lieu of the certification, a copy of the contract between the general contractor and subcontractor may be submitted. However, the contract must contain the Applicable Wage Determination and Labor Standards Provisions.
	<b>Prime contractors are responsible for the payment of employees of subcontractors and lower tier subcontractors and in compliance with Labor Standards Provisions.</b> It is the contractor's responsibility to employ only eligible subcontractors. <a href="http://www.sam.gov">www.sam.gov</a>
6. Split Classification	
	If employees perform work in more than one classification during the workweek, the wage rates specified for each classification can be paid <b>only if</b> accurate time records are maintained showing the amount of time spent in each classification of work. If there is a dispute, the contractor will be asked to provide the employee time records. <b>If accurate time records are not maintained, the employees must be paid the highest wage rate of all the classifications for work performed.</b>
7. Proper Designation of Trade	
	The classification of each employee must be selected from the wage decision, or an approved Additional Classification based on the actual type of work performed. Each worker must be paid no less than the wage rate on the wage decision for that classification regardless of their level of skill. In other words, if someone is performing carpentry work on the project, they must be paid no less than the wage rate on the wage decision for Carpenters, even if they aren't considered by the contractor to be fully trained as a Carpenter. <b>The only people who can be paid less than the rate for their craft are apprentices registered with the U.S. Department of Labor or approved program.</b>
8. Foremen	
	Foremen or supervisors who regularly spend more than 20% of their time performing construction work are covered laborers and mechanics (workers, employees) for labor standards purposes and must be paid the designated wage for the classification in which they work.
9. Relatives	
	Relatives are not exempt from Davis-Bacon requirements and must be paid the prevailing wage rate for the classification of work performed.
10. Apprenticeship Provisions	
	1. Documentation of Apprentice registration must be submitted with the first payroll on which he appears. If the papers are not submitted, the employee must be paid the mechanic rate for the classification of work being performed. The apprentice must be registered prior to going to work on the job.
	2. The Journeyman-Apprentice ratio must be observed. If more apprentices per journeymen are used than permitted, the extras must be paid at the journeyman's rate.
	3. California Apprentice Requirements <a href="https://www.dir.ca.gov/Public-Works/Apprentices.html">https://www.dir.ca.gov/Public-Works/Apprentices.html</a>
11. Wage Interviews	
	Every contractor must make their employees available for interviews at the job site. Interviews should be conducted individually and in private. Each employee should be informed that the information given is confidential, and that their identity will not be disclosed to the employer without the employee's permission.
12. Working Subcontractors	
	In the event the general contractor or the subcontractor hires a self-employed proprietor (someone who has no employees so will perform all the work themselves), the Davis-Bacon rate must be paid and the following procedure must be followed:
	1. Report the self-employed proprietor on the certified payroll of whoever hired them.
	2. Provide their name, address and social security number.
	3. State their classification of work (i.e. "finish carpenter").
	4. Indicated daily hours of work, by date, and the total hours per week.

	5.	Show the hourly rate of pay, with the gross amount earned in the week.
	6.	Enter "self-employed" and their contracting license number, where the payroll asked for "deductions."
<b>13. Truck Drivers</b>		
		Truck drivers employed by a construction contractor or subcontractor are not covered by Davis-Bacon prevailing wage requirements while engaged in transporting materials or supplies to or from <b>(BUT NOT DIRECTLY ON)</b> the site of the work. <b>These truck drivers must be paid Davis-Bacon rates for time spent while employed "directly upon the site of the work;"</b> and while hauling between the project site and any special facilities established exclusively for the project (i.e., "dedicated facilities" under 29 CFR 5.2(1)(2)).
<b>14. Violations</b>		
		Violations of state/federal prevailing wage requirements can result in withholding of funds, termination of the contract or contractor debarment.
<b>15. Equal Employment Opportunity</b>		
		The utilization of any worker, including apprentices, trainees and journeymen shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.
<b>16. Section 3 Hiring and Contracting Activity</b>		
	1.	Section 3 is MANDATORY for all CDBG projects receiving \$200,000 in federal assistance. Under Section 3, Grantees, contractors, and subcontractors must actively work to recruit and hire Section 3 Workers and direct economic opportunities to Section 3 Businesses.
	2.	The prime contractor and all subcontractors must submit a list of existing employees to the project administrator prior to construction. If additional employees are needed to complete a project, stringent Federal regulations apply to hiring activity, and all parties have a role in ensuring compliance.
	3.	Contractors must make a good faith effort to utilize Section 3 Workers as trainees and employees in connection with the project.
	4.	Contractors must make a good faith effort to award contracts to Section 3 business concerns for work in connection with the project.
	5.	Contractors must keep records documenting good faith efforts taken and results of these efforts.
	6.	In addition to the certifications and clauses in the Supplemental General Conditions, all contractors are required to complete an annual Section 3 Summary Report. If no Section 3 hiring or business activity occurred, the Grantee must document the actions taken to achieve compliance and explain why these actions fell short of Section 3 benchmarks.
<b>17. Changes</b>		
	1.	All work on a CDBG project must remain in the project area identified in the grant application and the environmental review record. Grant funds are awarded based upon strict criteria according to HUD National Objectives.
	2.	The Grantee may approve ( <b>in writing</b> ) field expedient change orders that add minimally or incidentally to the project cost, provided that approval is based upon a finding that the change is within the approved project scope and is necessary for the successful completion of the project and provided that sufficient funds are on hand to cover the change without jeopardizing the completion of the project. <b>The cumulative costs of all change orders cannot exceed 20% of the original contract amount.</b>
	3.	<b>All work initiated under a change order must be eligible under the CDBG guidelines.</b> The Grantee assumes responsibility for making eligibility determination prior to State concurrence. Detailed information on eligible activities can be found in <i>Chapter 2: National Objectives and Eligible Activities</i> .
	4.	<b>Under no circumstances will the Grantee approve change orders that alter the scope of the project or which adversely affect the project.</b>

## 18. Materials Provided

The following material was provided to the Prime Contractor on this project

- ☐ Wage Determination # CA \_\_\_\_\_ Mod# \_\_\_\_ Dated \_\_\_\_\_
- ☐ Payroll Form <http://www.dol.gov/whd/forms/wh347instr.htm>; <http://www.dol.gov/whd/formsw347.pdf>
- ☐ Federal Labor Standards Provisions (4010) <https://www.hud.gov/sites/documents/UPDATED4010.PDF>
- ☐ HUD-11, Record of Employee Interview (Spanish and English) <https://www.hud.gov/sites/documents/11.PDF>
- ☐ Making Davis-Bacon Work: A Contractor's Guide to Prevailing Wage Requirements for Federally Assisted Construction Projects  
<https://www.hudexchange.info/resources/documents/Making-Davis-Bacon-Work-Contractors-Guide-Prevailing-Wage-Requirements.pdf>

**19. Additional Topics Discussed – check all that apply, include notes.**

- |                          |   |
|--------------------------|---|
| <input type="checkbox"/> | Project Schedule  |
| <input type="checkbox"/> | Shop Drawings and Approval of Materials                           |
| <input type="checkbox"/> | Status of Bonds/Insurance   |
| <input type="checkbox"/> | Public Safety   |
| <input type="checkbox"/> | Easements   |
| <input type="checkbox"/> | Location of Utilities   |
| <input type="checkbox"/> | Clean up  |
| <input type="checkbox"/> | Status of Permits   |
| <input type="checkbox"/> | Communication Process   |
| <input type="checkbox"/> | Pay Request Process   |
| <input type="checkbox"/> | Recordkeeping   |
| <input type="checkbox"/> | Notice to Proceed <i>as closing of meeting</i>                    |
| <input type="checkbox"/> | Any mitigations specified in approved environmental record review |
| <input type="checkbox"/> | Other:  |
| <input type="checkbox"/> | Other:  |

## 20. Notes/Comments

[illegible]

**21. CERTIFICATION – Signatures Required**

**Please sign two documents; one for the grant administrator and one for the contractor.**

It is acknowledged that the above-mentioned Labor Standards Regulations information was discussed and all required material was remitted to \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
**Contractor**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Grantee Representative**

\_\_\_\_\_  
**Date**

**22. A copy of this checklist must be kept in the project file. See *Chapter 5: Procurement* and *Chapter 10: Reporting and Recordkeeping* for more information on documentation requirements.**



## Sample Restitution Wages and Affidavit

---

The following procedures cover the requirements for restitution of minimum wages payable in accordance with the applicable Davis-Bacon wage determination. These requirements cover all restitution to be paid by a contractor, regardless of the action that prompted it:

1. A fully completed restitution package shall consist of the following three items:
  - a. Correction Certified Payroll Report(s)
  - b. Copy of restitution check
  - c. Signed employee restitution affidavit
2. Copy of restitution check: Companies cannot combine restitution amounts with any other pay received. Restitution amounts must be totally separate from all other pay received (except for amounts of \$15.00 or less). In addition, pay statement shall clearly indicate the purpose of the check is to provide restitution and will list the project name and number thereon. One single check can be used to provide restitution to multiple pay periods as long as totals indicated on the worksheets equal the check amount. In those cases when restitution amounts are \$15.00 or less, companies may make restitution in the employee's next paycheck if the employee will work on the same project the week immediately following the week in which the underpayment was made. Companies must include a comment on the certified payroll that the restitution was included in the overall weekly gross amount paid to the employee and what the amount was.
3. Employee Restitution Affidavit: A signed employee restitution affidavit shall accompany each restitution submission.





## Employee Restitution Affidavit

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

Name of Project: \_\_\_\_\_ Project #: \_\_\_\_\_

I, \_\_\_\_\_, have received payment in the amount of \$\_\_\_\_\_. I understand that this amount represents the difference between previous wages paid by my employer and those required by the Federal Wage Decision made part of the contract and posted at the site of work. This amount represents restitution for weekly pay period(s) ending: \_\_\_\_\_ and are applicable to the following project:

Project Name & Number: \_\_\_\_\_

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Employee Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Printed Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

## EXHIBIT 12

Certified by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_



### Construction vs Installation

Davis-Bacon and Related Acts (DBRA) impose requirements of labor standards and prevailing wages for workers employed under construction contracts covered by the act. Understanding the difference between covered construction activities and installation is an important component to DBRA compliance. The definition of construction is described below along with a description of installation activities that are not covered, to assist Grantees with this determination. Please contact HCD staff with any questions.

Davis Bacon applicability is considered “site specific”. The site of work is limited to the physical place or places where the construction called for in the contract/scope of work will remain when the work has been completed and any other site where a significant portion of the building or work is constructed, provided that such site(s) is established specifically for the performance of the contract or project.

#### **CONSTRUCTION**

All types of work done on a particular building or work at the work site, including without limitation:

- (1) Altering, remodeling, installation (where appropriate) on the site of the work of items fabricated off-site.
- (2) Painting and decorating.
- (3) Manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work.
- (4) Transportation that includes:
  - Transportation between the site of the work and a facility which is dedicated to the construction of the building or work and deemed a part of the site. For example, an empty warehouse is being used to build walls and trusses which will be delivered to the site of a public facility project.
  - Transportation within or between covered project sites. For example, transportation between various locations within a community wide infrastructure project.

Except for the construction or development public housing (including Native American Housing), the transportation of materials or supplies to or from the site of the work by employees of the construction contractor or a construction subcontractor is not “construction, prosecution, completion, or repair”.

## **INSTALLATION**

Installation work performed in conjunction with supply or service (e.g., base support) contracts is not covered by the DBRA unless it involves more than an incidental amount of construction activity (i.e., the contract contains specific requirements for substantial amounts of construction, reconstruction, alteration, or repair work) and such work is physically or functionally separate from and can be performed on a segregated basis from the other non-construction work called for by the contract. For example, DBA is applicable to installing a security system or an intrusion detection system, installing permanent shelving which is attached to a structure, installing air-conditioning ducts, excavating outside cable trenches and laying cable, installing heavy generators, mounting radar antenna, and installing instrumentation grounding systems, where a substantial amount of construction work is involved.

DBRA does not apply to construction work which is incidental to the furnishing of supplies or equipment. Whether installation work involves more than an incidental amount of construction activity depends upon the specific circumstances of each particular case and no fixed rules can be established which would address every situation. Factors requiring consideration include the nature of the prime contract work, the type of work performed by the employees installing the equipment on the project site (i.e., the techniques, materials, and equipment used and the skills called for in its performance), the extent to which structural modifications to buildings are needed to accommodate the equipment (i.e., widening entrances, relocating walls, or installing wiring), and the cost of the installation work, either in terms of absolute amount or in relation to the cost of the equipment and the total project cost.

An employee of an equipment rental dealer or other company that performs repair work on-site is subject to DBRA if the employee performs more than an incidental amount of work on site.



## Fringe Benefit Statement

COMPANY INFORMATION			
Company Name			Date
Street Address		Suite/Unit #	
City	State	Zip	
License Number	Issuing State(s)	Classification	Expiration

CONTRACT INFORMATION	
Project Name/Number	Contract Number

In order that the proper Fringe Benefit rates can be verified for checking payrolls or applied to force account work on the above contract, the hourly rates for Fringe Benefits, subsistence and/or travel on the allowance payment made for employees on the various classes of work are tabulated below. THIS FORM MUST BE COMPLETED AND SUBMITTED WITH THE FIRST CERTIFIED PAYROLL, OR WHEN THERE HAVE BEEN ANY CHANGES.

CLASSIFICATION	FRINGE BENEFIT HOURLY AMOUNT	NAME AND ADDRESS OF PLAN, FUND OR PROGRAM
Effective Date	Vacation \$ _____	
	Health & Welfare \$ _____	
	Pension \$ _____	
Subsistence and/or Travel Pay	Apprentice/ Training \$ _____	
\$ _____	Other \$ _____	

CLASSIFICATION	FRINGE BENEFIT HOURLY AMOUNT	NAME AND ADDRESS OF PLAN, FUND OR PROGRAM
Effective Date	Vacation \$ _____	
	Health & Welfare \$ _____	
	Pension \$ _____	
Subsistence and/or Travel Pay	Apprentice/ Training \$ _____	
\$ _____	Other \$ _____	

SIGNATURE	
I hereby certify that fringe benefits are paid to the approved Plans, Funds, or Programs as listed above.	
Print Name	Title/Position
Authorized Signature	Date

# EXHIBIT 15

Appendix H – Labor Standards Administration Checklist			
Name of Grantee:			
Name of Subrecipient (if applicable):			
Grant Numbers and/or Program Income Reviewed:			
Staff Consulted:			
Name(s) of Reviewer(s)		Date	

**NOTE:** All questions that address requirements contain the citation for the source of the requirement (statute, regulation, handbook, Labor Relations Letter, NOFA, or grant agreement). If the requirement is not met, the reviewer must make a “finding” of **noncompliance**. Questions that do not contain the citation for the requirement do not address requirements but are included to assist the reviewer in understanding the Grantee’s program more fully and/or to identify issues that, if not properly addressed, could result in deficient performance. Negative conclusions to these questions may result in a "concern" being raised, but not a "finding.”

**Instructions:** Section A covers the Grantee's compliance with Davis-Bacon and Related Acts (DBRA) elements. Section B summarizes the reviewer’s determinations regarding the Grantee’s need for technical assistance and/or training in this program function.

**Review Documents:** Reviewer should request the following documents for review:

- Copy of the wage decision used on the project
- Sample of weekly payrolls (Maximum of 5-10% should be sufficient based on number of contractors and sub-contractors, as well as length of project)
- Copy of contracts for the sampled certified weekly payrolls
- Sampling of completed interview forms (at least some interviews must coincide with the submitted certified payrolls)
- Source documentation for any bona fide fringe benefits or deductions.
- Documentation of apprenticeship enrollment, if applicable.

**Questions:**

**A. Labor Standards Administration and Enforcement**

<b>1</b>	Is Davis-Bacon applicable to this CDBG project?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<b>Describe Basis for Conclusion:</b>  If "No", go past question 17 to part B: Summary.				
<b>2</b>	Does the Grantee have staff designated for labor standards administration and enforcement?  <b>Handbook 1344.1 REV-3, Paragraph 1-6(B)</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>				
<b>3</b>	If the answer to #2 is no, does the Grantee use a qualified labor standards consultant to assist with administration and enforcement?  <b>Handbook 1344.1 REV-3, Paragraph 1-6(B)</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>				
<b>4</b>	Based upon your review, if an activity is covered by DBRA, is the assigned wage decision and HUD-4010, "Federal Labor Standards Provisions," incorporated into each bid specification and all contracts and subcontracts?  <b>Handbook 1344.1, REV-2, Paragraph 1-5(B)(4)</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<b>4a</b>	Was the correct wage decision type used on the project?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>				

5	<p>Was the wage decision applicable on the date of bid opening used?</p> <p><b>29 CFR 1.6(c)(3)(i) and Handbook 1344.1, REV-3, Paragraph 3-10(A)</b></p>	<div> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> <div> Yes No N/A </div>
5a	<p>If not, did the Grantee document that the wage decision was “locked-in” and the date?</p> <p><b>29 CFR 1.6(c)(3)(i) and Handbook 1344.1, REV-3, Paragraph 3-10(A)</b></p>	<div> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> <div> Yes No N/A </div>
<p><b>Describe Basis for Conclusion:</b></p>		
6	<p>Based on your review, did the Grantee review the contract and/or subcontract scope of work compared to the payrolls, to ensure the correct wage rate classifications (carpenter, laborer, electrician, etc.) were used for the work performed under the contract?</p>	<div> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> <div> Yes No N/A </div>
<p><b>Describe Basis for Conclusion:</b></p>		
7	<p>Based upon your review, are all contractor/subcontractor payrolls (WH-347 or equivalent) being submitted weekly?</p> <p><b>29 CFR 5.5(a)(3)(ii)</b></p>	<div> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> <div> Yes No N/A </div>
<p><b>Describe Basis for Conclusion:</b></p>		
8	<p>Based upon your review, do all contractor/subcontractor payrolls include a signed Statement of Compliance (found on pg. 2 of the WH-347 form)?</p> <p><b>NOTE:</b> The DOL does not accept the statement of compliance utilized by California DIR.</p> <p><b>Handbook 1344.1, REV-3, Paragraph 4-3(D)</b></p>	<div> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> <div> Yes No N/A </div>
<p><b>Describe Basis for Conclusion:</b></p>		



9	Based on your review, did the Grantee collect source documentation for all deductions not required by law (SS, federal tax, state tax, workers comp, etc.)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>				
10	Based upon your review, is there evidence that all contractor and subcontractor payrolls are being reviewed for employer compliance (wage rates, fringe, overtime, deductions)?  <b>Handbook 1344.1, REV-3, Paragraph 5-2(A)</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>				
11	Based upon your review, are on-site employee interviews conducted with a cross section of contractors and employees?  <b>Handbook 1344.1, REV-3, Paragraph 5-9(C)</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>				
12	Did any contractors or subcontractors use apprentices?  <b>If no, skip to Question #13</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
13	If yes, was proper documentation provided to verify enrollment in apprenticeship program and appropriate wage?  <b>Handbook 1344.1, REV-3, Paragraph 5-10(G)</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>				
14	Describe any wage discrepancies/violations of labor standards and how they were resolved.  <b>Handbook 1344.1, REV-2, Paragraph 10-3(B)</b>			

<b>Describe Basis for Conclusion:</b>		
<b>15</b>	Does the Grantee have documentation that the required posters and wage determination were displayed at the jobsite? <b>Handbook 1344.1, REV-3, Paragraph 1-6(B)(6)</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>		
<b>16</b>	Based upon your review, are semi-annual Labor Standards reports being submitted to HCD in a timely manner? <b>Handbook 1344.1, REV-2, Paragraph 10-3(B)</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>		
<b>17</b>	Based upon your review, are enforcement reports submitted to HUD whenever an employer underpays workers by \$1,000 or more, or when determined to be willful? <b>Handbook 1344.1 REV-2, Paragraph 10-2(A)(1)</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>		

**B. Summary**

<b>1</b>	Based on your review of the Grantee's performance, is there a need for technical assistance concerning Davis-Bacon prevailing wage applicability or labor standards administration and enforcement? (If yes, describe the need(s) below.)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>		

# Exhibit 16

## SAMPLE AGREEMENT

### AGREEMENT FOR SERVICES

THIS AGREEMENT FOR SERVICES ("Agreement"), is made and entered into effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the COUNTY OF IMPERIAL, a political subdivision of the State of California, hereinafter referred to as "COUNTY/GRANTEE" by and through the IMPERIAL COUNTY COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT (ICCED) and [NAME OF CONSULTANT], [form of business entity] ("CONSULTANT") (individually, "Party;" collectively, "Parties").

### WITNESSETH

WHEREAS, ICCED is in need of \_\_\_\_\_ services for the \_\_\_\_\_ Projects (PROJECT); and

WHEREAS, COUNTY desires to engage CONSULTANT to provide services by reason of its qualifications and experience for performing such services, and CONSULTANT has offered to provide the required services for the PROJECT on the terms and in the manner set forth herein;

NOW, THEREFORE, in consideration of their mutual covenants, COUNTY and CONSULTANT have and hereby agree to the following:

#### 1. TERM.

- 1.1. The term of this Agreement shall be from date first executed above for a period of \_\_\_\_\_ year(s).
- 1.2. COUNTY and CONSULTANT agree that time is of the essence as it relates to the terms and conditions of this AGREEMENT.

#### 2. CONTRACT COORDINATION.

- 2.1. The IMPERIAL COUNTY COMMUNITY & ECONOMIC DEVELOPMENT MANAGER ("the MANAGER") shall be the representative of COUNTY for all purposes under this Agreement. The MANAGER or his/her designated representative, is hereby designated as the CONTRACT MANAGER for COUNTY. He/She shall supervise the progress and execution of this Agreement.
- 2.2. CONSULTANT shall assign a single PROJECT MANAGER to have overall responsibility for the progress and execution of this Agreement. \_\_\_\_\_, \_\_\_\_\_, is

hereby designated as the PROJECT MANAGER for CONSULTANT. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute PROJECT MANAGER for any reason, the PROJECT MANAGER designee shall be subject to the prior written acceptance and approval of COUNTY's CONTRACT MANAGER.

3. DESCRIPTION OF WORK.

3.1. CONSULTANT shall provide all materials and labor to perform this Agreement as detailed in the [Name of Document] dated [date] ("PROPOSAL") attached as "Exhibit A". In the event of a conflict among this Agreement and the Request for \_\_\_\_\_ ("RF \_\_\_\_\_"), the Agreement shall take precedence. In the event of a conflict between any Task Order or the Agreement, the Agreement will take precedence.

3.2. The RF\_\_ titled "[Name of Document] dated [date] [and includes Addendum NO (#)]" is attached as "Exhibit B".

4. WORK TO BE PERFORMED BY CONSULTANT.

4.1. CONSULTANT shall comply with all terms, conditions and requirements of the PROPOSAL and this Agreement.

4.2. CONSULTANT shall perform such other tasks as necessary and proper for the full performance of the obligations assumed by CONSULTANT hereunder.

CONSULTANT shall:

4.2.1. Procure all permits and licenses, pay all charges and fees, and give all notices that may be necessary and incidental to the due and lawful prosecution of the services to be performed by CONSULTANT under this agreement;

4.2.2. Make every reasonable effort to keep itself fully informed of all applicable Federal, State and local laws, ordinances, regulations, orders and decrees which may affect those engaged or employed under this Agreement, any materials used in CONSULTANT's performance under this Agreement or the conduct of the services under this Agreement;

1 4.2.3. At all times make every reasonable effort observe and comply with, and cause all of  
2 its employees to observe and comply with all of said laws, ordinances, regulations,  
3 orders and decrees mentioned above; and

4 4.2.4. Immediately report to COUNTY's CONTRACT MANAGER in writing any  
5 discrepancy or inconsistency it discovers in said laws, ordinances, regulations,  
6 orders and decrees mentioned above in relation to any plans, drawings,  
7 specifications or provisions of this Agreement.

8 4.3. Any videotape, reports, information, data or other material given to, or prepared or  
9 assembled by, CONSULTANT under this Agreement shall be the property of COUNTY  
10 and shall not be made available to any individual or organization by CONSULTANT  
11 without the prior written approval of COUNTY's CONTRACT MANAGER.

12 5. REPRESENTATIONS BY CONSULTANT.

13 5.1. CONSULTANT understands and agrees that COUNTY has limited knowledge in the  
14 multiple areas specified in the PROPOSAL. CONSULTANT has represented itself to be  
15 qualified in these fields and understands that COUNTY is relying upon such representation.

16 5.2. CONSULTANT represents that it is a lawful entity possessing all required licenses and  
17 authorities to do business in the State of California and perform all aspects of this  
18 Agreement.

19 5.3. CONSULTANT shall not commence any work under this Agreement or provide any other  
20 services, or materials, in connection therewith until CONSULTANT has received written  
21 authorization from COUNTY's CONTRACT MANAGER to do so.

22 5.4. CONSULTANT represents that the people executing this Agreement on behalf of  
23 CONSULTANT have the authority of CONSULTANT to sign this Agreement and bind  
24 CONSULTANT to the performance of all duties and obligations assumed by  
25 CONSULTANT herein.

26 5.5. CONSULTANT represents that any employee, contractor and/or agent who will be  
27 performing any of the duties and obligations of CONSULTANT herein possess all required  
28 licenses and authorities, as well as the experience and training, to perform such tasks.

1 5.6. CONSULTANT represents that the allegations contained in the PROPOSAL are true and  
2 correct.

3 5.7 CONSULTANT is familiar with the State and Federal requirements that may be applicable  
4 to CONSULTANT pursuant to the [Funding Source] agreements between the COUNTY  
5 through ICCED and the State of California that are incorporated into this Agreement  
6 including but not limited to the Davis-Bacon Act (40 U.S.C 3141-3148; 24 CFR Part 85.36),  
7 the Anti-Kickback Act of 1986 (41 U.S.C. 51-58), Contract Work Hours and Safety  
8 Standards Act-CWHSSA (40 U.S.C. 3702.)

9 5.8. CONSULTANT understands that COUNTY considers the representations made herein to  
10 be material and would not enter into this Agreement with CONSULTANT if such  
11 representations were not made.

12 6. RETENTION AND ACCESS OF BOOKS AND RECORDS.

13 6.1 CONSULTANT represents that it shall maintain books, records, documents, reports and  
14 other materials developed under this AGREEMENT as follows:

15 6.1.1. CONSULTANT shall maintain all ledgers, books of accounts, invoices, vouchers,  
16 cancelled checks, and other records relating to CONSULTANT's charges for  
17 services or expenditures and disbursements charged to COUNTY for a minimum  
18 period of five (5) years, or for any longer period required by law, from the date of  
19 final payment to CONSULTANT pursuant to this AGREEMENT.

20 6.1.2. CONSULTANT shall maintain all reports, documents and records which  
21 demonstrate performance under this AGREEMENT for a minimum period of five  
22 (5) years, or for any longer period required by law, from the date of termination or  
23 completion of this AGREEMENT.

24 6.1.3. Any records or documents required to be maintained by CONSULTANT pursuant  
25 to this AGREEMENT shall be made available to COUNTY for inspection or audit,  
26 at any time during CONSULTANT's regular business hours provided COUNTY  
27 provides CONSULTANT with seven (7) days advanced written or oral notice.  
28 Copies of such documents shall at no cost to COUNTY, be provided to COUNTY

1 for inspection at CONSULTANT's address indicated for receipt of notice under this  
2 AGREEMENT.

3 7. COMPENSATION.

4 The total compensation payable under this Agreement shall be at the hourly rates identified in the  
5 Hourly Rate Schedule for identified employees as set forth as "Exhibit C", or as agreed upon under any  
6 approved Task Order. .

7 8. PAYMENT.

8 CONSULTANT will bill COUNTY on a time and material basis at the hourly rates identified in the  
9 Hourly Rate Schedule for identified employees as set forth as "Exhibit C", or as agreed upon under any  
10 approved Task Order. COUNTY shall pay CONSULTANT for completed and approved services upon  
11 presentation of its itemized billing. COUNTY shall retain ten percent (10%) of the total compensation  
12 until the Work to be Performed by Consultant has been completed in accordance with this Agreement,  
13 as determined by COUNTY, and payment in full of all subcontractors of CONTRACTOR has been  
14 certified.

15 9. METHOD OF PAYMENT.

16 CONSULTANT shall at any time prior to the fifteenth (15<sup>th</sup>) day of any month, submit to the  
17 MANAGER a written claim for compensation for services performed the prior month under any approved  
18 Task Order. The claim shall be in a format approved by COUNTY. No payment shall be made by  
19 COUNTY prior to the claims being approved in writing by the MANAGER or his/her designee.  
20 CONSULTANT may expect to receive payment within a reasonable time thereafter and in any event in the  
21 normal course of business within thirty (30) days after the claim is submitted.

22 10. TIME FOR COMPLETION OF THE WORK.

23 Both Parties agree that time is of the essence in the performance of this Agreement.  
24 CONSULTANT acknowledges that the services called for herein are on an "as needed" basis. Time  
25 extensions under any approved Task Order may be allowed for delays caused by COUNTY, other  
26 governmental agencies or factors not directly brought about by the negligence or lack of due care on the  
27 part of CONSULTANT.  
28

11. SUSPENSION OF AGREEMENT.

COUNTY's CONTRACT MANAGER shall have the authority to suspend this Agreement, wholly or in part, for such period as deemed necessary due to unfavorable conditions or to the failure on the part of CONSULTANT to perform any provision of this Agreement. CONSULTANT will be paid the compensation due and payable to the date of suspension.

12. TERMINATION.

12.1. COUNTY retains the right to terminate this Agreement for any reason by notifying CONSULTANT in writing seven (7) days prior to termination and by paying the compensation due and payable to the date of termination; provided, however, if this Agreement is terminated for fault of CONSULTANT, COUNTY shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT's services which have been completed in accordance with this Agreement. Said compensation is to be arrived at by mutual agreement between COUNTY and CONSULTANT; should the Parties fail to agree on said compensation, an independent arbitrator shall be appointed and the decision of the arbitrator shall be binding upon the Parties.

12.2. Upon such termination, CONSULTANT shall immediately turn over to COUNTY any and all copies of videotapes, studies, sketches, drawings, computations and other data, whether or not completed, prepared by CONSULTANT in connection with this Agreement. Such materials shall become the permanent property of COUNTY.

13. INSPECTION.

CONSULTANT shall furnish COUNTY with every reasonable opportunity for COUNTY to ascertain that the services of CONSULTANT are being performed in accordance with the requirements and intentions of this Agreement. All work done and materials furnished, if any, shall be subject to COUNTY's CONTRACT MANAGER's inspection and approval. The inspection of such work shall not relieve CONSULTANT of any of its obligations to fulfill its Agreement as prescribed. CONSULTANT shall also permit monitoring and auditing by the [Funding Source] and/or a similar agency, if applicable.



1 14. OWNERSHIP OF MATERIALS.

2 All original drawings, videotapes and other materials prepared by or in possession of  
3 CONSULTANT pursuant to this Agreement shall become the permanent property of COUNTY and shall  
4 be delivered to COUNTY upon demand. CONSULTANT shall not be held liable for any reuse of such  
5 COUNTY-owned materials for purposes outside this Agreement.

6 15. INTEREST OF CONSULTANT.

7 15.1. CONSULTANT covenants that it presently has no interest, and shall not acquire any  
8 interest, direct or indirect, financial or otherwise, which would conflict in any manner or  
9 degree with the performance of the services hereunder.

10 15.2. CONSULTANT covenants that, in the performance of this Agreement, no subcontractor or  
11 person having such an interest shall be employed.

12 15.3. CONSULTANT certifies that no one who has or will have any financial interest under this  
13 Agreement is an officer or employee of COUNTY.

14 16. INDEMNIFICATION.

15 16.1. CONSULTANT agrees to the fullest extent permitted by law to indemnify, defend, protect  
16 and hold COUNTY and its representatives, officers, managers, designees, employees,  
17 agents, successors and assigns harmless from any and all claims, expenses, liabilities, causes  
18 of action, demands, losses, penalties, attorneys fees and costs, in law or equity, of every kind  
19 and nature whatsoever arising out of or in connection with CONSULTANT's negligent acts  
20 and omissions or willful misconduct under this Agreement ("Claims"), whether or not  
21 arising from the passive negligence of COUNTY, but does not include Claims that are  
22 finally determined to be the result of the gross negligence or willful misconduct of  
23 COUNTY.

24 16.2. CONSULTANT agrees to defend with counsel mutually acceptable, indemnify and hold  
25 COUNTY harmless from all Claims, including but not limited to:

26 16.2.1. Personal injury, including but not limited to bodily injury, emotional injury,  
27 sickness or disease or death to persons including but not limited to COUNTY's  
28 representatives, officers, managers, designees, employees, agents, successors and

1 assigns, subcontractors and other third parties and/or damage to property of anyone  
2 (including loss of use thereof) to the extent caused by CONSULTANT's negligent  
3 performance, or willful misconduct under this Agreement, or anyone directly or  
4 indirectly employed by CONSULTANT or anyone for whose acts CONSULTANT  
5 may be liable;

6 16.2.2. Liability arising from injuries to CONSULTANT and/or any of CONSULTANT's  
7 employees or agents to the extent caused by CONSULTANT's negligent  
8 performance or willful misconduct under this Agreement, or anyone directly or  
9 indirectly employed by CONSULTANT or anyone for whose acts CONSULTANT  
10 may be liable;

11 16.2.3. Penalties imposed upon account of the violation of any law, order, citation, rule,  
12 regulation, standard, ordinance or statute caused by the negligent action or inaction,  
13 or willful misconduct of CONSULTANT or anyone directly or indirectly employed  
14 by CONSULTANT or anyone for whose acts CONSULTANT may be liable;

15 16.2.4. Infringement of any patent rights which may be brought against COUNTY arising  
16 out of CONSULTANT's work;

17 16.2.5. Any violation or infraction by CONSULTANT of any law, order, citation, rule,  
18 regulation, standard, ordinance or statute in any way relating to the occupational  
19 health or safety of employees; and

20 16.2.6. Any breach by CONSULTANT of the terms, requirements or covenants of this  
21 Agreement.

22 16.3. The indemnification provisions of Paragraphs 16.2.1 through 16.2.6 above shall extend to  
23 Claims occurring after this Agreement is terminated, as well as while it is in force.

24 //

25 //

17. INDEPENDENT CONTRACTOR.

In all situations and circumstances arising out of the terms and conditions of this Agreement, CONSULTANT is an independent contractor, and as an independent contractor, the following shall apply:

17.1. CONSULTANT is not an employee or agent of COUNTY and is only responsible for the requirements and results specified by this Agreement or any other Agreement.

17.2. CONSULTANT shall be responsible to COUNTY only for the requirements and results specified by this Agreement and except as specifically provided in this Agreement, shall not be subject to COUNTY's control with respect to the physical actions or activities of CONSULTANT in fulfillment of the requirements of this Agreement.

17.3. CONSULTANT is not, and shall not be, entitled to receive from, or through, COUNTY, and COUNTY shall not provide, or be obligated to provide, CONSULTANT with Worker's Compensation coverage or any other type of employment or worker insurance or benefit coverage required or provided by any Federal, State or local law or regulation for, or normally afforded to, an employee of COUNTY.

17.4. CONSULTANT shall not be entitled to have COUNTY withhold or pay, and COUNTY shall not withhold or pay, on behalf of CONSULTANT, any tax or money relating to the Social Security Old Age Pension Program, Social Security Disability Program, or any other type of pension, annuity, or disability program required or provided by any Federal, State or local law or regulation.

17.5. CONSULTANT shall not be entitled to participate in, or receive any benefit from, or make any claim against any COUNTY fringe program, including, but not limited to, COUNTY's pension plan, medical and health care plan, dental plan, life insurance plan, or any other type of benefit program, plan, or coverage designated for, provided to, or offered to COUNTY's employee.

17.6. COUNTY shall not withhold or pay, on behalf of CONSULTANT, any Federal, State, or local tax, including, but not limited to, any personal income tax, owed by CONSULTANT.

17.7. CONSULTANT is, and at all times during the term of this Agreement, shall represent and conduct itself as an independent contractor, not as an employee of COUNTY.

17.8. CONSULTANT shall not have the authority, express or implied, to act on behalf of, bind or obligate COUNTY in any way without the written consent of COUNTY.

17.9 Without receiving CONSULTANT's written permission, COUNTY agrees not to actively solicit the hiring, or contracting with any employee of CONSULTANT who performs services for COUNTY under this AGREEMENT for a period of one year from the date this AGREEMENT is terminated.

18. INSURANCE.

18.1. CONSULTANT hereby agrees at its own cost and expense to procure and maintain during the entire term of this Agreement, and any extended term thereof, commercial general liability insurance (bodily injury and property damage), employer's liability insurance, commercial automobile liability insurance (bodily injury and property damage) and professional liability insurance in a sum acceptable to COUNTY and adequate to cover potential liabilities arising in connection with the performance of this Agreement and in any event not less than the minimum limit set forth as follows:

<u>Insurance</u>	<u>Minimum Limit</u>
Errors & Omissions Coverage	[TBD by Scope of Work] [where applicable]
Worker's Compensation, Coverage A	Statutory
Employers Liability, Coverage B	[TBD by Scope of Work] [where applicable]
Commercial General Liability (Including Contractual Liability):	
Bodily Injury	[TBD by Scope of Work] per occurrence [TBD by Scope of Work] aggregate
Property Damage	[TBD by Scope of Work] per occurrence [TBD by Scope of Work] aggregate
Commercial Automobile Liability (owned, hired & non-owned vehicles)	

[TBD by Scope of Work] per occurrence

[TBD by Scope of Work] per occurrence

18.2. Special Insurance Requirements. All insurance required under paragraph 18 shall:

18.2.1. Be procured from an insurer authorized to do business in California.

18.2.2. Be primary coverage as respects COUNTY and any insurance or self-insurance maintained by COUNTY shall be in excess of CONSULTANT's insurance coverage and shall not contribute to it.

18.2.3. Name COUNTY as an additional insured on all policies, except Workers' Compensation, and Professional Liability and provide that COUNTY may recover for any loss suffered by COUNTY by reason of CONSULTANT's negligence.

18.2.4. State that it is primary insurance and regards COUNTY as an additional insured and contains a cross-liability or severability of interest clause.

18.2.5. Not be canceled, non-renewed or reduced in scope of coverage until after thirty (30) days written notice has been given to COUNTY. However, CONSULTANT may not terminate such coverage until it provides COUNTY with proof that equal or better insurance has been secured and is in place. Cancellation or change without the prior written consent of COUNTY shall, at the option of COUNTY, be grounds for termination of this Agreement.

### 18.3. Additional Insurance Requirements.

18.3.1. Complete copies of certificates of insurance for all required coverages including additional insured endorsements and 30-day notice of cancellation clause endorsements shall be attached hereto as **“Exhibit D”** and incorporated herein.

18.3.2. COUNTY is to be notified immediately of all insurance claims. COUNTY is also to be notified if any aggregate insurance limit is exceeded.

18.3.3. The comprehensive or commercial general liability shall contain a provision of endorsements stating that such insurance:

A. Includes contractual liability;

- 1 B. Does not contain any exclusions as to loss or damage to property caused  
2 by explosion or resulting from collapse of buildings or structures or  
3 damage to property underground, commonly referred to by insurers as the  
4 “XCU Hazards;”
- 5 C. Does not contain a “pro rata” provision which looks to limit the insurer’s  
6 liability to the total proportion that its policy limits bear to the total  
7 coverage available to the insured; and
- 8 D. Does not contain an “excess only” clause which requires the exhaustion of  
9 other insurance prior to providing coverage.

10 18.4. Deposit of Insurance Policy. Promptly on issuance, reissuance, or renewal of any  
11 insurance policy required by this Agreement, CONSULTANT shall, if requested by  
12 COUNTY, cause to be given to COUNTY satisfactory evidence that insurance policy  
13 premiums have been paid together with a duplicate copy of the policy or a certificate  
14 evidencing the policy and executed by the insurance company issuing the policy or its  
15 authorized agent.

16 18.5 Additional Insurance. Nothing in this, or any other provision of this Agreement, shall be  
17 construed to preclude CONSULTANT from obtaining and maintaining any additional  
18 insurance policies in addition to those required pursuant to this Agreement.

19 19. WORKERS’ COMPENSATION CERTIFICATION.

20 19.1. CONSULTANT shall sign and file with COUNTY the following certification prior to  
21 performing the Work: “I am aware of the provisions of California Labor Code §§3700 *et*  
22 *seq.* which require every employer to be insured against liability for Workers’  
23 Compensation or to undertake self-insurance in accordance with the provisions of that  
24 code, and I will comply with such provisions before commencing the performance of the  
25 work of this contract.”

26 19.2. This certification is included in this Agreement and signature of the Agreement shall  
27 constitute signing and filing of the certificate.  
28

1 19.3. CONSULTANT understands and agrees that any and all employees, regardless of hire  
2 date, shall be covered by Workers' Compensation according to the statutory requirements  
3 prior to beginning work on the Project.

4 19.4. If CONTRACTOR has no employees, initial here: \_\_\_\_\_.

5 20. ASSIGNMENT.

6 Neither this Agreement nor any duties or obligations hereunder shall be assignable by  
7 CONSULTANT without the prior written consent of COUNTY. CONSULTANT may employ other  
8 specialists to perform services as required with prior approval by COUNTY.

9 21. NON-DISCRIMINATION.

10 21.1 During the performance of this Agreement, CONSULTANT and its subcontractors shall not  
11 unlawfully discriminate, harass or allow harassment against any employee or applicant for  
12 employment because of sex, race, color, ancestry, religious creed, national origin, physical  
13 disability (including HIV and AIDS), mental disability, medical condition (cancer), age  
14 (over forty (40)), marital status and denial of family care leave. CONSULTANT and its  
15 subcontractors shall insure that the evaluation and treatment of their employees and  
16 applicants for employment are free from such discrimination and harassment.  
17 CONSULTANT and its subcontractors shall comply with the provisions of the Fair  
18 Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable  
19 regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285  
20 et seq.). The applicable regulations of the Fair Employment and Housing Commission  
21 implementing Government Code §12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2  
22 of the California Code of Regulations, are incorporated into this Agreement by reference  
23 and made a part hereof as if set forth in full. The applicable regulations of Section 504 of  
24 the Rehabilitation Act of 1973 (29 U.S.C. §794 (a)) are incorporated into this Agreement by  
25 reference and made a part hereof as if set forth in full. CONSULTANT and its  
26 subcontractors shall give written notice of their obligations under this clause to labor  
27 organizations with which they have a collective bargaining or other agreement.  
28

CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform Work under this Agreement.

The Civil Rights, HCD, and Age Discrimination Acts Assurances:

21.2 During the performance of this Agreement, the GRANTEE assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, or handicap, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, and the Age Discrimination Act of 1975, and all implementing regulations.

21.3 The Training, Employment, and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance:

21.3.1. The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for Work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

21.3.2. The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

21.3.3. The GRANTEE will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or



1 understanding, if any, a notice advertising the said labor organization or worker's  
2 representative of his commitments under this Section 3 clause and shall post copies  
3 of the notice in conspicuous places available to employees and applicants for  
4 employment or training.

5 21.3.4. The GRANTEE will include these Section 3 clauses in every contract and  
6 subcontract for Work in connection with the project and will, at the direction of the  
7 State, take appropriate action pursuant to the contract upon a finding that the  
8 CONSULTANT or any contractor or subcontractor is in violation of regulations  
9 issued by the Secretary of Housing and Urban Development, 24 CFR Part 135 and,  
10 will not let any contract unless the CONSULTANT or contractor or subcontractor  
11 has first provided it with a preliminary statement of ability to comply with the  
12 requirements of these regulations.

13 21.3.5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR  
14 Part 135, and all applicable rules and orders of the Department issued thereunder  
15 prior to the execution of the Agreement shall be a condition of the Federal financial  
16 assistance provided to the project, binding upon the CONSULTANT, its successors,  
17 and assigns. Failure to fulfill these requirements shall subject the CONSULTANT,  
18 its contractors and subcontractors, its successors, and assigns to those sanctions  
19 specified by the grant or contract through which Federal assistance is provided, and  
20 to such sanctions as are specified by 24 CFR Part 135.

21 21.4. State Nondiscrimination Clause:

22 21.4.1. During the performance of this Agreement, CONSULTANT and its subcontractors  
23 shall not unlawfully discriminate, harass, or allow harassment against any employee  
24 or applicant for employment because of sex, race, color, ancestry, religious creed,  
25 national origin, physical disability (including HIV and AIDS), mental disability,  
26 medical condition (cancer), age (over 40), marital status and denial of family care  
27 leave. CONSULTANT and subcontractors shall ensure that the evaluation and  
28 treatment of their employees and applicants for employment are free from such

discrimination and harassment. CONSULTANT and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7258.0 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. CONSULTANT and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

21.4.2. This CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

“The CONSULTANT hereby agrees to abide by the requirement of executive order 11246 and all implement regulations of the Department of Labor.”

22. “SECTION 3” CLAUSE.

CONSULTANT will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing Regulations at 24 CFR, Part 135.

23. NOTICES AND REPORTS.

23.1. Any notice to be given pursuant to this Agreement shall be in writing and personally delivered or sent by United States First Class Mail, postage prepaid, return receipt requested or by overnight carrier, priority overnight delivery, postage and delivery charges prepaid, addressed to each Party at the following address:

**COUNTY**

Esperanza M. Colio,  
Community & Economic Development Manager  
County of Imperial  
940 Main St Suite 203  
El Centro, CA 92243

**CONSULTANT**

[Business Name]  
[Street Address or PO Box]  
[City, State ZIP]

23.2. Notice shall be deemed to have been delivered only upon receipt by the Party, seventy-two (72) hours after deposit in the United States mail or twenty-four (24) hours after deposit with an overnight carrier.

23.3. The addressees and addresses for purposes of this paragraph 21 may be changed to any other addressee and address by giving written notice of such change in the manner provided in paragraph 21.1. Unless and until written notice of change of addressee and/or address is delivered in the manner provided in paragraph 21.1, the addressee and address set forth in this Agreement shall continue in effect for all purposes hereunder.

24. ENTIRE AGREEMENT.

This Agreement contains the entire Agreement between COUNTY and CONSULTANT relating to the transactions contemplated hereby and supersedes all prior or contemporaneous agreements, understandings, provisions, negotiations, representations, or statements, either written or oral.

25. MODIFICATION.

No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing and signed by the Party against whom the enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.

26. CAPTIONS.

Captions in this Agreement are inserted for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or any of the terms thereof.

27. PARTIAL INVALIDITY.

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

28. GENDER AND INTERPRETATION OF TERMS AND PROVISIONS.

As used in this Agreement and whenever required by the context thereof, each number, both singular and plural, shall include all numbers, and each gender shall include a gender. CONSULTANT as used in this Agreement or in any other document referred to in or made a part of this Agreement shall likewise include both the singular and the plural, a corporation, a partnership, individual, firm or person

1 acting in any fiduciary capacity as executor, administrator, trustee or in any other representative capacity  
2 or any other entity. All covenants herein contained on the part of CONSULTANT shall be joint and  
3 several if more than one person, firm or entity executes this Agreement.

4 29. WAIVER.

5 No Waiver of any breach or of any of the covenants or conditions of this Agreement shall be  
6 construed to be a waiver of any other breach or to be consent to any further or succeeding breach of the  
7 same or any other covenant or condition.

8 30. DISPUTE RESOLUTION PROCESS.

9 The parties shall attempt to resolve any dispute arising out of or relating to this contract through  
10 negotiations between the Contract Manager for COUNTY and the Project Manager for CONSULTANT,  
11 who have authority to settle the same.

12 31. CHOICE OF LAW.

13 This Agreement shall be governed by the laws of the State of California. This Agreement is  
14 made and entered into in Imperial County, California. Any action brought by either Party with respect  
15 to this agreement shall be brought in a court of competent jurisdiction within said County.

16 32. ATTORNEY'S FEES.

17 If either Party herein brings an action to enforce the terms thereof or declare rights hereunder, the  
18 prevailing Party in any such action, on trial or appeal, shall be entitled to its reasonable attorney's fees  
19 and actual costs to be paid by the losing Party as fixed by the court.

20 33. AUTHORITY.

21 33.1. Each individual executing this Agreement on behalf of CONSULTANT represents that:

22 33.1.1. He/She is duly authorized to execute and deliver this Agreement on behalf of  
23 CONSULTANT;

24 33.2.2. Such execution and delivery is in accordance with the terms of the Articles of  
25 Incorporation or Partnership, any by-laws or Resolutions of CONSULTANT and;

26 33.2.3. This Agreement is binding upon CONSULTANT accordance with its terms.

27 33.2.4 CONSULTANT shall deliver to COUNTY evidence acceptable to COUNTY of  
28 the foregoing within thirty (30) days of execution of this Agreement.

34. COUNTERPARTS.

This Agreement (as well as any amendments hereto) may be executed in any number of counterparts, each of which when executed shall be an original, and all of which together shall constitute one and the same Agreement. No counterparts shall be effective until all Parties have executed a counterpart hereof.

35. REVIEW OF AGREEMENT TERMS.

35.1. Each Party has received independent legal advice from its attorneys with respect to the advisability of making the representations, warranties, covenants and agreements provided for herein, and with respect to the advisability of executing this Agreement.

35.2. Each Party represents and covenants with the other Party that:

35.2.1. This Agreement in its reduction to final written form is a result of extensive good faith negotiations between the Parties and/or their respective legal counsel;

35.2.2. The Parties and their legal counsel have carefully reviewed and examined this Agreement for execution by said Parties; and

35.2.3. Any statute or rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

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36. NON-APPROPRIATION.

This Agreement is based upon the availability of public funding. In the event that public funds are unavailable and not appropriated for the performance of the services set forth in this Agreement, this Agreement shall be terminated without penalty after written notice to CONSULTANT of the unavailability and/or non-appropriation of funds.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement on the day and year first above written.

**COUNTY OF IMPERIAL:**

**CONSULTANT:**

By: \_\_\_\_\_  
[Name], Chairman  
Imperial County Board of Supervisors

By: \_\_\_\_\_  
[Designee Name]  
[Business, Title]

**ATTEST:**

\_\_\_\_\_  
[Name], Clerk of the Board,  
County of Imperial, State of California

**APPROVED AS TO FORM:**

MICHAEL ROOD  
County Counsel

By: \_\_\_\_\_  
[ATTORNEY NAME]  
[Title]

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**EXHIBIT E**

**ANTI-LOBBYING CERTIFICATION**

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

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the 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.
- 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, 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

**CONSULTANT:**

By: \_\_\_\_\_

[Designee Name]

[Business, Title]

# **EXHIBIT 17**

## **CERTIFICATION REGARDING LOBBYING FORM CD-51**



## CERTIFICATION REGARDING LOBBYING

Applicants should also review the instructions for certification included in the regulations before completing this form. Signature on this form provides for compliance with certification requirements under 15 CFR Part 28, "New Restrictions on Lobbying." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Commerce determines to award the covered transaction, grant, or cooperative agreement.

### LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 15 CFR Part 28, for persons entering into a grant, cooperative agreement or contract over \$100,000 or a loan or loan guarantee over \$150,000 as defined at 15 CFR Part 28, Sections 28.105 and 28.110, the applicant certifies that to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, 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 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, 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 undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) 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 section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure occurring on or before October 23, 1996, and of not less than \$11,000 and not more than \$110,000 for each such failure occurring after October 23, 1996.

### Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

In any 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 commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure occurring on or before October 23, 1996, and of not less than \$11,000 and not more than \$110,000 for each such failure occurring after October 23, 1996.

**As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above applicable certification.**

NAME OF APPLICANT

AWARD NUMBER AND/OR PROJECT NAME

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

SIGNATURE

DATE