



Department of Procurement & Contracts
1800 Main Street, 2nd Floor, Columbia, SC 29201 · Phone 803-545-3470 · Fax 803-758-1013

March 7, 2023

Re: Notice to Proceed for Davis-Bacon Compliance Consultant for
Community Development Block Grant Mitigation (CDBG-MIT)

Deborah Wilder
Contractor Compliance and Monitoring, Inc.
635 Mariners Island Boulevard, #200
San Mateo, CA 94404

Dear Deborah,

The City Manager approved the subject Agreement with your firm on February 22, 2023. I have enclosed a fully executed duplicate for your file.

This is your written authorization to proceed effective March 7, 2023 with the work described in the Agreement. The City's Community Development Administrator, Dollie Heron, will be managing this project and will be working with you through contract closeout.

Please forward all invoices for your services to AccountsPayable@columbiasc.gov with a complete description of services rendered and include the **Purchase Order #P197950**. We also respectfully ask that the words "Final Invoice" be clearly displayed on the last invoice submitted for payment. I have further enclosed a new form (Form 100) for your information. This form is to be submitted with all invoices you submit to the City of Columbia so that we can accurately report Subconsultant payments.

If this is the first contract you have executed with the City of Columbia under your current name, we ask that you submit a W-9 to the address above so that payment may be set up properly.

We look forward to working with you on this project. If you have any questions, please let me know at kenton.davis@columbiasc.gov.

Sincerely,

Kent Davis
Procurement Manager II

Enclosure

Cc: Ms. Shannon Lizewski, CPPB, NIGP-CPP, Director of Procurement & Contracts
Ms. Melissa Gentry, Assistant City Manager – Development
Ms. Dollie Heron, Administrator, Community Development



COLUMBIA
 A Capital Place to Be
 1136 Washington St., 4th Floor
 Columbia, South Carolina 29201

PURCHASE ORDER	
P.O. NUMBER	P197950
DATE	03/07/23
VENDOR I.D.	V017392
DELIVERY DATE	
FOB	DESTINATION
REQUISITION NO	R215122
OUR PURCHASE ORDER NUMBER MUST APPEAR ON ALL INVOICES, PACKING LIST AND CORRESPONDENCE.	

TO: CONTRACTOR COMPLIANCE AND MONITORING INC
 635 MARINERS ISLAND BLVD SUITE 200
 SAN MATEO, CA 94404

Page 1 of 2
 JMARKETTE@CCMILCP.COM

FAX#

DELIVER ITEMS TO:

COMMUNITY DEVELOPMENT
 1401 MAIN STREET 4TH FLOOR
 COLUMBIA, SC 29201

SEND INVOICE TO:

ACCOUNTING DIVISION
 PO BOX 147
 COLUMBIA, SC 29217

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION
001	Davis-Bacon Compliance Consultant for Community Development Block Grant Mitigation All Prices, Specifications, Terms, and Conditions in accordance with RFP014-20-21-KDD Davis-Bacon Compliance Consultant for Community Development Block Grant Mitigation Grants (CDBG-MIT), Professional Service Agreement, and exhibits. Scope of Services: Provide support in areas of Davis-Bacon and Section 3 compliance related to projects proposed for funding with CDBG-MIT, CDBG-DR, or other Federal funds for the City of Columbia, SC. Term of Agreement: The term of the agreement is the date of the execution of a Notice to Proceed and a valid Purchase Order from the City of Columbia, effective March 7, 2023 for an initial term of 3 years with the option to extend work at the mutual pleasure of both parties.	99,350	EA	1.00	99,350.00
002	Contingency - this contingency amount will be administered, if necessary, at the discretion of the City ***Continued on Next Page***	30,650	EA	1.00	30,650.00

THE ARTICLES SPECIFIED ARE SUBJECT TO THE FOLLOWING CONDITIONS:

1. Submit all claims for payments by detailed itemized invoice in duplicate.
2. Goods other than those specified on this order must not be substituted or prices changed without authorization.
3. The right of cancellation in case of long delay in shipment is reserved.
4. If the quantity shipped is short of the purchase order quantity, specify on the packing slip if that quantity is on back order or cancelled.
5. Prepay shipping charges, if any, and add to invoice.
6. Ship "Open Account." No C.O.D.'s will be accepted.

TOTAL

AUTHORIZED SIGNATURE

Gannon Lizewski



COLUMBIA

A Capital Place to Be
 1136 Washington St., 4th Floor
 Columbia, South Carolina 29201

PURCHASE ORDER	
P.O. NUMBER	P197950
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TO: CONTRACTOR COMPLIANCE AND MONITORING INC
 635 MARINERS ISLAND BLVD SUITE 200
 SAN MATEO, CA 94404

FAX#

Page 2 of 2
 JMARKETTE@CCMILCP.COM

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SEND INVOICE TO:

ACCOUNTING DIVISION
 PO BOX 147
 COLUMBIA, SC 29217

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION
	POC: Dollie Heron (803) 545-3371 Department of Procurement & Contracts Phone: 803-545-3470 procurement@columbiasc.gov				
				SALES TAX	0.00
				TOTAL	130,000.00

THE ARTICLES SPECIFIED ARE SUBJECT TO THE FOLLOWING CONDITIONS:

1. Submit all claims for payments by detailed itemized invoice in duplicate.
2. Goods other than those specified on this order must not be substituted or prices changed without authorization.
3. The right of cancellation in case of long delay in shipment is reserved.
4. If the quantity shipped is short of the purchase order quantity, specify on the packing slip if that quantity is on back order or cancelled.
5. Prepay shipping charges, if any, and add to invoice.
6. Ship "Open Account." No C.O.D.'s will be accepted.

AUTHORIZED SIGNATURE

Shannon Lizewski



AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is being awarded under procurement method RFP014-20-21-KDD Davis-Bacon Compliance Consultant for Community Development Block Grant Mitigation Grants (CDBG-MIT).

1. **PURPOSE** – This Agreement is entered into as of the date of the last signature affixed hereto, by and between the City of Columbia, South Carolina (hereinafter referred to as the “City”) and Contractor Compliance and Monitoring, Inc., (hereinafter referred to as the “Consultant”), to provide support in areas of Davis-Bacon compliance related to projects proposed for funding with CDBG-MIT, CDBG-DR, or other Federal funds for the City of Columbia, SC).

For and in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

2. **SCOPE OF SERVICES** – Upon written notification by the City to proceed, the Consultant shall provide the scope of services more fully described in Exhibit A, attached hereto. The Consultant shall perform any and all incidental services not specifically set forth in Exhibit A, which are necessary to fully complete the scope of services described in Exhibit A.
3. **SUPPLEMENTAL OR ADDITIONAL SERVICES** – The City may require supplemental or additional services of the Consultant or recommended by the Consultant and approved by the City in writing.

The Consultant must obtain written approval from the City for any supplemental or additional services prior to the work being performed. If the Consultant fails to obtain

prior written approval to perform the work, the City is under no obligation to compensate the Consultant for services performed.

4. **TERM OF AGREEMENT** – The term of the Agreement is the date of the execution of a *Notice to Proceed and a valid Purchase Order from the City of Columbia* for an initial term of Three (3) years, with the option to extend work for at the mutual pleasure of both parties.

The decision whether to extend the Agreement, upon written request, shall be the sole and exclusive discretion of the City and neither party shall be under any obligation to agree to an extension of the initial term or any additional term. The decision to extend the initial term and any subsequent extension periods may be determined no later than 90 days prior to the end date of each period.

5. **SCHEDULE FOR COMPLETION OF SERVICES** – The Consultant shall complete any and all services performed under this Agreement within the timeframes as outlined in Exhibit B, attached hereto.
6. **COMPENSATION** – (See Exhibit C)

- A. The total compensation to be paid by the City to the Consultant under this Agreement shall not exceed One Hundred Thirty Thousand Dollars and No/100 (\$130,000.00).

Owner will pay Consultant for performance of the work in accordance with the Contract Documents in current funds at the contract amount agreed upon on the Consultants Compensation Form attached to this Contract which establishes the contract value shall not exceed Ninety-Nine Thousand, Three Hundred Fifty Dollars and Zero Cents (\$99,350.00) **unless written approval is authorized by the City.**

Contractor Compliance and Monitoring, Inc.
Davis-Bacon Compliance Consultant for Community Development Block Grant Mitigation
Grants (CDBG-MIT)

The maximum potential value of the contract includes a City controlled contingency allowance in the amount of Thirty Thousand, Six Hundred Fifty Dollars and Zero Cents (\$30,650.00). This contingency amount will be administered, if necessary, at the discretion of the City for optional additional services within the pre-determined Scope of Services for this Contract.

- B. The Consultant shall submit invoices no more frequently than monthly for services rendered during each phase of the Project. Each invoice submitted must describe the services for which payment is requested, show payment calculations and specify the person(s) rendering such service(s). Consultant must invoice monthly regardless of work being completed during that period. If no work is completed, a zero balance invoice should be submitted. **Each invoice must also clearly identify any portion of the fee invoiced for subcontracted services, including any such services that are specified in the Summary of Proposed Subconsultants shown on Exhibit D hereto.**

Each invoice shall bear the signature of the Consultant, whose signature shall certify that the information contained in the invoice is true and accurate and that the invoice amount is currently due and owing. The City will not pay interest or penalty on any past due amount.

- C. Invoicing Procedure:

Failure of the Consultant to follow these invoice requirements will result in the delay of payment of the invoice.

- D. Prompt Payment to Subconsultants and Material Suppliers (Use Prompt Payment Affidavit)

1. The Consultant is required to pay all Subconsultants and material suppliers for all work that the Subconsultant has satisfactorily completed, no later than twenty (20) calendar days after the Consultant has received payment from the City.

2. In addition, all retainage amounts received from the City by the Consultant must be paid by the Consultant to the Subconsultant no later than fourteen (14) calendar days after the Subconsultant has, in the opinion of the Assistant City Consultant for Construction or his/her designee, satisfactorily completed its portion of the Work.
3. A delay in or postponement of payment to the Subconsultant or material supplier requires good cause and prior written approval of the City's Assistant City Consultant for Construction or his/her designee.
4. The Consultant is required to include, in each Subcontract, a clause requiring the use of appropriate arbitration mechanisms or other method to resolve all payment disputes.
5. The City will not pay the Consultant for subsequent work performed unless and until the Consultant ensures that the Subconsultants have been promptly paid for the work they have performed under all previous payment requests, as evidenced by the filing of City lien waivers, canceled checks (if requested), and the Consultant's sworn statement that it has complied with the prompt payment requirements. The Consultant must submit a Prompt Payment Affidavit, Subconsultant list that identifies each Subconsultant (both Disadvantaged Business Enterprises (DBEs) and non-DBEs) including Subcontract values and the date and amount of the last payment to such Subconsultant(s). That documentation must be provided with every payment request submitted to the City, except for the first payment request.
6. Failure to comply with these prompt payment requirements is a breach of this Agreement. The City reserves the right to pursue any and all

remedies permitted under law for breach of contract, including, but not limited to, Consultant debarment.

E. Affirmative Action Procurement and Contracting Goals:

It is the goal of the City of Columbia, SC to maximize opportunities for historically Disadvantaged Business Enterprises (DBEs) including, but not limited to, Small Business Enterprises (SBEs), Minority Business Enterprises (MBEs), and Women-Owned Business Enterprises (WBEs). The City has implemented an overall citywide 15% goal to encourage socially and economically disadvantaged business participation. This goal extends to bidders, contractors, Subconsultants and suppliers on its procurement and contracting offerings.

Additional information on the City's affirmative action goals and objectives may be obtained by contacting the following office: City of Columbia Office of Business Opportunities, 1401 Main Street, 4th Floor, Columbia, SC 29201, (803) 545-3950.

The City's success in tracking the amount of business received by SBE, MBE and WBE firms (whether as a prime Consultant or Subconsultant) is dependent upon the business community partnering with the City in this important endeavor.

The Consultant must comply with the affirmative action terms and conditions as outlined herein. The Consultant, shall in the performance of the Agreement, make constructive efforts to assist the City in complying with best practices in contracting as it relates to meeting affirmative action objectives

F. Subcontracting Goals

Under this Agreement, the subcontracting goals are as follows:

SB Goals	<u>N/A</u>	%
MBE	<u>N/A</u>	%
WBE	<u>N/A</u>	%
LSA	<u>N/A</u>	%

The Consultant will ensure Subconsultant performance during the period of performance, and optional periods as applicable. Achievement of these goals are expected during the life of the Agreement, including any extensions thereof.

7. **MENTOR-PROTÉGÉ PROGRAM** (<http://www.columbiasc.net/business-outreach/>)
Non-applicable – The City of Columbia encourages, where economically feasible, establishment of mentor-protégé relationships to ensure contracting opportunities for all businesses, including minority / women / small business enterprises. The Mentor-Protégé Program (MPP) helps develop private sector business relationships and enhances the contracting capabilities of minority-owned business enterprises (MBE), women-owned business enterprises (WBE), and small business enterprises (SBE). In order to provide opportunities for growth and to encourage hands-on business relationships, certain capital improvement projects may be designated by the City of Columbia as Mentor-Protégé Program projects. The City of Columbia has determined that participation in the City’s Mentor-Protégé Program is required for this project.

The Consultant must comply with Mentor-Protégé Program Guidelines. The Consultant agrees that the Mentor Protégé Program does not create any third-party beneficiary status or contractual rights and/or duties between the City and the Protégé and that the City is not a party to the Implementation Plan. The Consultant agrees that it has or will enter into a separate contractual Agreement with the Protégé to which the City is not a party. The MPP Implementation Plan is attached hereto as Exhibit E.

8. INDEMNIFICATION & INSURANCE

- A. The Consultant shall procure and shall maintain during the life of this Agreement, whether such operation be by itself or by a Subconsultant or anyone directly or indirectly employed by either of them, such insurance as required by statute, ordinance, or this Agreement, to adequately protect the City from any claims or damages including bodily injury or death, which may arise during performance and operations under this Agreement.

Each insurance policy required by these instructions shall be endorsed to state that coverage shall not be suspended, voided, OR cancelled by either party, reduced in coverage or in limits, unless thirty (30) days prior written notice, by certified mail, return receipt requested, has been given to the City.

Workers Compensation Insurance: The Consultant shall procure and shall maintain during the life of this Agreement, Workers Compensation Insurance for all employees to be engaged in work on the project under this Agreement, and in case any work is subcontracted, the Consultant shall require the Subconsultant similarly to provide Worker Compensation Insurance for all of the latter employees to be engaged in such work unless such employees are covered by the protection afforded by the Consultant's Worker Compensation Insurance. The Consultant shall not permit any person who is not protected by Workers Compensation Insurance or a properly approved Self-Insured Workers Compensation Program to perform any activity related to this Agreement.

General Liability: The Consultant shall provide to the City evidence of General Liability insurance in an amount not less than One Million Dollars and no/100 (\$1,000,000) per occurrence, and Two Million Dollars and no/100 (\$2,000,000)

dollars aggregate in accordance with the current Code of Ordinances, City of Columbia, South Carolina, which can be located at www.columbiasc.net.

Professional Liability: Professional Liability Insurance in an amount not less than One Million Dollars and No/100 (\$1,000,000.00) per occurrence, and Two Million Dollars and No/100 (\$2,000,000.00) Aggregate.

Automobile Liability Insurance: Five Hundred Thousand Dollars and No/100 (\$500,000.00) combined single limit per accident for bodily injury and property damage.

- B. The Consultant shall furnish the City with a certificate showing satisfactory proof of carriage of the insurance required hereunder and such insurance shall be approved by the City prior to the Consultant and any Subconsultant of the Consultant commencing any services under this Agreement and this insurance shall remain in effect throughout the term of this Agreement, and any extensions of service. Insurance shall remain in effect for the duration of the project and for a period of one (1) year after completion. The City of Columbia shall be the Certificate Holder and shall be named as an *Additional Insured*.

- C. The Consultant shall indemnify, defend, hold harmless and reimburse the City, its agents, and employees from and against any and all losses, liabilities, expenses, and all claims for damages of any nature whatsoever relating to or arising out of any action or failure to act by Consultant, its Subconsultants, officers, agents and employees of any of the obligations under the Agreement. Losses, liabilities, expenses and claims for damages shall include, but will not be limited to, civil and criminal fines and penalties, loss of use or services, bodily injury, death, personal injury, or injury to real or personal property, defense costs, legal fees and costs, and attorney's fees for an appeal.

The Consultant will also agree to promptly notify the City of any civil or criminal actions filed against the Consultant or of any notice of violation from any federal or state agency, or of any claim as soon as practical as relates to the services provided under this Agreement. The City, upon receipt of such notice, shall have the right at its election to defend any and all actions or suits or to join in defense.

9. PERMITS & LICENSES

- A. The Consultant shall be responsible for obtaining any approvals, permits and/or licenses as may be required of the Consultant in performing the services required under this Agreement. The Consultant shall be responsible for any costs relating to same.

- B. The Consultant shall be responsible for identifying the necessity for and providing any applications and supporting documentation to the City for any approvals and/or permits required of the City in order for the Consultant to perform the services required under this Agreement. Such approvals and/or permits may include, but not be limited to, South Carolina Department of Health and Environmental Control (SCDHEC) Construction Permits, SCDHEC Stormwater Management for Construction Sites Permits, SCDHEC Water Resources Permits, Corps of Consultants Permits, City/County/ South Carolina Department of Health and Environmental Control (SCDOT) Encroachment Permits, encroachment permits for other utility rights-of-way and railroad right-of-way encroachment permits/agreements. The City shall obtain the approvals and/or permits identified by the Consultant and pay any costs relating to same.

- C. The Consultant shall answer questions and consult with the City and/or appropriate authorities as necessary to assist the City's efforts in obtaining required permits/approvals.

D. The Consultant shall procure a City of Columbia business license while performing services under this Agreement.

10. **DUTIES UPON TERMINATION** – At termination of this Agreement, the Consultant shall immediately provide the City with all records and data in any format the Consultant is capable of producing and at no cost to the City, which were generated, created or received by the Consultant in performance of the services required by this Agreement or as the City may deem necessary to perform the required services by the City or the Consultant’s successor. All records shall be free from any proprietary claims or interest. The Consultant agrees to fully cooperate with the City and any successor to ensure an effective transition to continuously provide the required services.

11. **INTEREST OF CONSULTANT** – The Consultant covenants that Consultant presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement or which is adverse to the interests of the City. The Consultant further covenants that in the performance of this Agreement no person having such interest shall be employed.

The Consultant is expected to make Consultant's services available to other entities but agrees to refrain from representing other entities in matters where the position of the City conflicts with that of the other entity. The City may at its discretion, waive this provision. The Consultant has provided a list of all of its clients with whom there may be potential conflicts with the City. This list shall be supplemented throughout the duration of this Agreement.

12. **TERMINATION OF AGREEMENT** – The City may terminate this Agreement at any time upon any of the following grounds:

Contractor Compliance and Monitoring, Inc.
Davis-Bacon Compliance Consultant for Community Development Block Grant Mitigation
Grants (CDBG-MIT)

- A. Failure by the City to appropriate funds for the performance of any of the services required in this Agreement in any annual budget;
- B. The Consultant fails to perform any of the services required in this Agreement and does not correct such deficiency within fifteen (15) days after being notified by the City of such deficiency;
- C. Force Majeure;
- D. The City, at its sole option and discretion, has the right to terminate this Agreement for any reason whatsoever. A termination for default under this Agreement, if wrongfully made, shall be treated as a termination for convenience under this clause;
- E. Upon expiration of the term of this Agreement; and
- F. By mutual agreement.

Notice of termination shall be sent by registered mail, return receipt requested. In the event of termination, the Consultant shall only be entitled to the actual direct costs of all labor and material expended on the services required under this Agreement prior to the effective date of the termination or the Consultant shall be entitled to be paid a pro-rata percentage of the total Agreement price which is equal to its percent of completion, whichever of the two methods provides the lowest sum to be paid to the Consultant. In no event shall the Consultant be entitled to anticipatory profit or damages for any termination under this Agreement. In no event shall the Consultant be entitled to assert a claim in quantum meruit or any other measure of damages other than that stated herein.

13. **OWNERSHIP OF PROJECT** - All data, documents or other information of any description generated by or used by the Consultant or any Subconsultant retained by the Consultant and related to the services required by this Agreement shall be the property of the City and shall not be used by the Consultant for any purpose whatsoever except to perform the services required by this Agreement.
14. **OWNERSHIP OF PROJECT DOCUMENTS** - All data, documents or other information of any description generated by or used by the Consultant or any Subconsultant retained by the Consultant and related to the services required by this Agreement shall be the property of the City and shall not be used by the Consultant for any purpose whatsoever except to perform the services required by this Agreement.
15. **NOTICE** - All notices and communications in connection with this Agreement will be addressed to the following:

City of Columbia

Name: Office of Procurement and Contracts
Title: Purchasing Agent
Address: 1800 Main Street
Second Floor
Columbia, SC 29201
Phone: (803) 545-3470
Fax: N/A
Email: procurement@columbiasc.gov

Contractor Compliance & Monitoring, Inc.

Name: Deborah Wilder
Title: President
Address: 635 Mariners Island Blvd. #200
2343 Donnington Way
San Mateo, CA, 94404
Phone: 650-522-4403
Fax: N/A
Email: deborah@wilderlawfirm.com

16. **CONSENT DECREE - Non-Applicable**

- A. The services performed by the Consultant pursuant to this Agreement are required in whole or in part to satisfy the terms of the Consent Decree entered by the United States District Court for the District of South Carolina on May 21, 2014, in the case captioned *The United States of America and State of South Carolina by and through the Department of Health and Environmental Control*

- v. City of Columbia*, Civil Action No. 3:13-2429-TLW (the "Consent Decree"), a copy of which has been provided to the Consultant by the City and is incorporated by reference herein. The Consultant shall perform the services pursuant to this Agreement in conformity with the terms of the Consent Decree as required by Paragraph 5 therein.
- B. In addition to the requirements above, the Consultant shall comply with the document retention requirements of Paragraph 68 of the Consent Decree which includes, but is not limited to, the obligation to preserve all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in the Consultant's possession or control that relate in any manner to the Consultant's performance under this Agreement ("Preserved Documents"). Upon the Consultant's performance of all services required under this Agreement, the Consultant shall provide the City with all Preserved Documents. In addition to the requirements above, the Consultant shall provide the City with all Preserved Documents upon termination of this Agreement.
- C. Upon the occurrence of a force majeure event as defined in Paragraph 55 of the Consent Decree, the Consultant shall provide notice to the City's Director of Utilities and Engineering in person, by phone, or by electronic mail within twenty-four (24) hours of when the Consultant first knew or should have known that the event might cause a delay. Within three (3) days thereafter, the Consultant shall provide written notice in accordance with Section XII above to include the following information: an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken in an effort to prevent or minimize the delay; a schedule for implementation of any measures to be taken in an effort to prevent or mitigate the delay or the effect of the delay; and the Consultant's rationale for attributing such delay to a force majeure event. The Consultant shall include with any

notice all available documentation supporting the claim that the delay was attributable to a force majeure event.

- D. The Consultant shall reimburse the City the amount of any stipulated penalties imposed on the City pursuant to Paragraph 47 of the Consent Decree if the Consultant neglects, fails, or refuses to meet the deadlines set forth in Exhibit B attached hereto. The Consultant agrees that any failure to meet such deadlines will result in the City's failure to meet the deadlines set forth in the Consent Decree except in the event of force majeure notice by the Consultant that results in the extension of said deadline by the U.S. Environmental Protection Agency under the Consent Decree. The City reserves all other remedies available for the Consultant's failure to perform pursuant to the Agreement.
- E. The Consultant shall perform the services pursuant to this Agreement using sound Consulting practices as set forth in Paragraph 9 of the Consent Decree.

17. MISCELLANEOUS

- A. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.
- B. The Consultant shall be responsible for performance of all services required by this Agreement. The Consultant does not act as the City's agent or employee.
- C. The Consultant will not assign or sublet its obligations to perform the services required by this Agreement without the written consent of the City. The Consultant shall be as fully responsible to the City for the acts and omission of its Subconsultants, as it is for the acts and omissions of persons directly employed by the Consultant.

The Consultant shall furnish and its Subconsultants shall furnish all information and reports required hereunder.

- D. In the event there are any disagreements between the City and the Consultant with regard to any of the requirements, specifications or interpretation of this Agreement, the Consultant agrees to defer to the reasonable interpretations of the City as, from time to time, may be made by the City. Ambiguities in the terms of this Agreement, if any, shall not be construed against the City.
- E. This Agreement shall be construed in accordance with the laws and City of Columbia Code of Ordinances and those of the State of South Carolina. The Consultant agrees to subject itself to the jurisdiction and venue of the courts of Richland or Lexington County, State of South Carolina as to all matters and disputes arising or to arise under this Agreement and the performance thereof. The City may seek attorney's fees and the Consultant agrees to pay such fees as awarded by the Court or other body. No attorney's fees may be sought by, nor will be paid to, the Consultant.
- F. This Agreement represents the entire agreement between the City and the Consultant and supersedes all prior communications, negotiations, representations or agreements, either written or oral. The parties may amend this Agreement at any time provided that such Amendments are executed in writing, signed by a duly authorized representative of both organizations, and approved, where applicable, by the City's governing body.

The City may, in its discretion, amend this Agreement to conform with federal, state, or local governmental guidelines, policies and available funding amounts, or for other reasons. If such Amendments result in a change in the funding, the scope of services, or schedule of, the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by written

amendment signed by both the City and the Consultant.

- G. The failure of either the Consultant or the City to insist upon the strict performance of any provision of this Agreement shall not be deemed to be a waiver of the right to insist upon strict performance of such provision or of any other provision of this Agreement at any time. Partial payment by the City shall not be construed as a waiver. Waiver of any breach of this Agreement shall not constitute waiver of a subsequent breach.
- H. In the event any provision of this Agreement is determined to be void or unenforceable, all other provisions shall remain in full force and effect.
- I. This Agreement is subject to City Council approval.
- J. The Consultant acknowledges, for itself and its Subconsultants, that it is subject to the provisions of the 1991 Ethics Reform Act (8-13-100, et seq, South Carolina Code of Laws, 1976, as amended). Under this Act, "A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with intent to:
 - 1. influence the discharge of a public official's, public member's, or public employee's official responsibilities;
 - 2. influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or,
 - 3. induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

“Anything of value” includes, but is not limited to, lodging,
transportation, entertainment, food, meals, beverages, money, gifts,
honorariums, discounts and interest-free loans.

- K. In carrying out the service, the Consultant shall not discriminate against any employee or applicant for employment because of that employee or applicant’s age, sex, gender, gender identity or expression, sexual orientation, race, religion, creed, color, disability, national origin, veteran or military status, political affiliation, or any other characteristic protected by federal, state, or local laws (“protected characteristic”). The Consultant shall take affirmative steps to ensure equal employment opportunities for all applicants for employment, without regard to their protected characteristics. For the purpose of this Non-Discrimination in Contracting Policy, the term “sex” includes medical needs and / or lactation needs arising from pregnancy, childbirth, or related medical conditions pursuant to the South Carolina Pregnancy Accommodations Act, 2018 S.C. Act No. 244. This Non-Discrimination in Contracting Policy extends to all aspects of the Consultant’s operations, including, but not limited to the Consultant’s employment practices (including selection, hiring, assignment, re-assignment, training, promotion, transfer, compensation, layoff, leave of absence, return from layoff or leave of absence, discipline, and termination); selection of volunteers and vendors, and provision of services. The Consultant shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government setting forth the provisions of this Non-Discrimination in Contracting Policy. The Consultant shall incorporate the provisions of this Non-Discrimination in Contracting Policy in all subcontracts for service work.
- L. This Agreement shall be binding upon the respondent and upon its successors and assignees. This Agreement shall be binding upon the City in accordance with its terms and provisions.

- M. All of the reports, information, data, records or documents of any kind, prepared or assembled by the Consultant under this Agreement are matters of public record, but that the Consultant agrees that they shall only be made available to any individual or organization by the City and the Consultant shall not make them available to any individual or organization without the prior written approval of the City.
- N. Every exhibit, schedule and appendix attached to this Agreement and referred to herein is hereby incorporated into this Agreement by reference unless this Agreement expressly provides otherwise. This Agreement, exhibits and other documents include, but are not limited to the Conditions of Federal Contracting and Fair Labor Standards, Conflict of Interest Statement, Non-collusion Affidavit, Business Information Record for Subconsultants /Subcontractors, Local Business Enterprise, and Mentor Protégé Implementation forms are incorporated by reference in this Agreement and set forth the entire understanding between the parties hereto regarding the subject matter hereof.

18. **TERMS AND CONDITIONS** - Federal Funding Conditions: The Consultant must comply with the conditions of federal funding as follows:

1. ANTI-KICKBACK ACT OF 1986: Prohibits any payment or gratuity made for the purpose of inducing award of a subcontract or prime contract with the federal government. The Consultant shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Agreement to insure compliance by the Subconsultants with such regulations, and shall be responsible for the submission of affidavits required of Subconsultants thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

2. DEBARMENT, SUSPENSION, AND INELIGIBILITY: The Consultant represents and warrants that it and its subcontractors are not debarred,

suspended, or placed in ineligibility status by any federal, state, or local regulatory authorities.

3. UNIFORM ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES 24 CFR 200: which revises the following, 24 CFR 570.502, 570.610 Consultant shall comply with the requirements and standards of OMB Circular A-122, "Cost Principles for Non-profit Organizations", OMB Circular A-133, "Audits of Institutions of Higher Education, and Other Non-profit Institutions". Audits shall be conducted annually. Consultant shall also comply with the provisions of OMB Circular A-110, "Uniform Administrative Requirements", implemented at 24 CFR Part 84, "Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations or the related HMGP provisions.

4. AMERICANS WITH DISABILITIES ACT: Consultant agrees to comply fully with any and all provisions of the Americans with Disabilities Act (hereinafter referred to as "ADA") as applicable with the Consultant and the activities to be performed by Consultant under the scope of this Agreement. If employing more than fifteen (15) employees, Consultant agrees to comply fully with Title I of the "ADA" as set forth at 28 CFR Part 130. If providing "public accommodations" as defined by the Act in Section 301(7)(A) -(L), Consultant agrees to comply fully with Title III of the "ADA" as set forth at 28 CFR Part 36. If providing public transportation, Consultant agrees to comply fully with the federal regulations as set forth at 49 CFR Parts 37 and 38.

5. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT: The Consultant must comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §7401-7671(q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §1251-1387).

The Consultant will report each violation to the City, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office (EPA).

The Consultant agrees to include these requirements in each subcontract exceeding Twenty-Five Thousand Dollars (\$25,000.00) financed in whole or in part with federal assistance provided by FEMA.

6. Every exhibit, schedule and appendix attached to this Agreement and referred to herein is hereby incorporated into this Agreement by reference unless this Agreement expressly provides otherwise. This Agreement, exhibits and other documents include, but are not limited to the Scope of Services and Schedule, Fee, Subconsultant Form, Conditions of Federal Funding and Fair Labor Standards, Invoicing Procedures, Prompt Payment Affidavit, the Conflict of Interest Statement, Non-collusion Affidavit, Local Business Enterprise, and Mentor Protégé Implementation forms are incorporated by reference in this Agreement and set forth the entire understanding between the parties hereto regarding the subject matter hereof.

7. AMENDMENTS: The parties may amend the Agreement at any time provided that such amendments are executed in writing, signed by a duly authorized representative of both parties, and approved, where applicable by the City's governing body. The City may in its discretion, amend the Agreement to conform with federal, state, or local governmental guidelines, polices and available funding amounts, or for other reasons. If such amendments result in a change on the funding, the scope of services, or schedule of, the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by written amendment and signed by both parties.

8. The City will maintain oversight to ensure the Consultant performs in accordance with all terms, conditions and specifications. The Consultant will be responsible for performance of all services required by the Agreement.

9. ACCESS TO RECORDS: The State, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have, at any time and from time

to time during normal business hours, access to any work product, books, documents, papers, and records of the Subcontractor which are related to this contract, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions.

The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Consultant agrees to provide the State, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

In compliance with the Disaster Recovery Act of 2018, the City and the Consultant acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by FEMA Administrator or the Comptroller General of the United States.

10. DHS SEAL, LOGO, AND FLAGS: The Consultant shall not use the DHS seal(s), logos, crests, or reproductions of flags or likeness of DHS agency officials without specific FEMA pre-approval.


11. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS: The Consultant acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Consultant's actions pertaining to this contract.

**REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK – SIGNATURE
PAGE FOLLOWS**

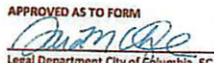
Witness the parties' respective hands and seals on the date first written below.

CITY OF COLUMBIA, SOUTH CAROLINA


Witness


Teresa Wilson, City Manager

Date: 2/22/2023

APPROVED AS TO FORM

Legal Department City of Columbia, SC
2.09.2022

NAME OF FORM


Deborah E.G. Wilder
Print: Name/Title
President


Signature

Date: 2/11/2022

(Corporate Seal) Contractor Compliance and Monitoring, Inc.

Attest/Witness


Signature
Russell H. Wilder

Date: 2/11/2022

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List of Exhibits

Exhibit A – Scope of Services

Exhibit B – Schedule for Completion of Services

Exhibit C – Compensation

Exhibit D – Business Information Statement for Subconsultant/Subcontractor

Exhibit E – Conditions of Federal Funding

EXHIBIT A - SCOPE OF SERVICES

Contractor Compliance & Monitoring, Inc. shall have thoroughly reviewed the Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant (CDBG) Mitigation Grantees found in Federal Register Notice 84 FR 45840 and all pertinent Federal Register notices, and the City of Columbia CDBG-DR Action Plan and all amendments thereto.

The purpose of labor standards compliance monitoring is to ensure that each worker is paid a fair and equitable wage in accordance with all appropriate federal, state, local and CDBG-specific regulations. The selected consultant will perform all tasks relevant to monitoring the labor standards of the contractors and all sub-contractors for the specified contract period of each project. The selected consultant will be expected to provide all required reporting and monitoring documentation to Columbia's Office of Community Development (Grantee).

A. Licenses and Certifications

All Offerors shall possess a valid and current State of South Carolina Business License. Any Offerors/Respondents who do not possess a valid State of South Carolina Business License at the time submissions are due will be found non-responsive.

All Offerors shall possess a valid and current City of Columbia Business License at the time of the solicitation due date. Any Offerors/Respondents who do not possess a valid City of Columbia Business License at the time submissions are due will be found non-responsive.

B. Project Specific Licenses and Certifications – Not applicable

C. Deliverables

The Scope of Services includes, but not limited to, the following activities:

1. Participation with the City in the dissemination of information and postings related to Davis-Bacon Act standards and CDBG-MIT program and contract requirements and deliverables.
2. Monitoring and auditing of labor standards compliance under the Davis-Bacon Act, CDBG-MIT and other federal, state and local requirements including, but not limited to:
 - a. Obtaining applicable state and federal wage classification decisions as applicable.
 - b. Reviewing procurements and bid packages to ensure that the correct recording and reporting forms and wage rates are included per requirements of the project's federal funding program.
 - c. Reviewing pertinent provisions of collective bargaining agreements (if any).
 - d. Auditing payroll and benefit records and certified payroll submissions on a weekly basis to evaluate compliance with Davis-Bacon requirements.
 - e. Sending out wage class requests,
 - f. Conducting on-site labor interviews to verify payroll information.
 - g. Auditing Davis-Bacon payrolls and billing documentation to determine compliance with HUD Labor Standards requirements.
 - h. Providing technical assistance to the Office of Community Development with mandatory HUD reports including HUD Form 4710 – Semi-annual Labor Standards Enforcement Report Local Contracting Agencies, HUD Form 2516 – Contract and Subcontract Activity, and other labor related reports, forms or requirements for the Office of Community Development.
 - i. Complying with additional recordkeeping and other requirements, as requested.
 - j. Attending the pre-construction conferences to provide the Contractors and any sub-contractors with contractor labor compliance handouts, applicable wage rate information, and other pertinent documents.

3. Provide technical assistance to contractors, if needed, related to Davis-Bacon labor standard requirements.
4. If requested, provide weekly written contractor review summaries to the City, assess areas of noncompliance and provide suggestions regarding method of correction to the City and Contractor, as needed.
5. Monitor corrective action plans as needed.
6. Provide monthly written reports to the City regarding CDBG-MIT funded contractor compliance.
7. Provide other data and annual and/or quarterly reports as requested by the City related to compliance with its CDBG-MIT projects labor standard requirements.
8. Deliver all required Davis-Bacon related documents to the City at the conclusion of each project.
9. Section 3 Compliance
 - a. Oversight for contracts over \$200,000.00.
 - b. Training and technical assistance to contractors and City staff to build capacity.
 - c. Report all Labor hours and note if Section 3 employee or Targeted Section 3 employee (lives within a mile radius of the project) or a Non-Section 3 employee.
 - d. Track all labor hours as HUD has safe harbor benchmarks of 25% Section 3 and 5% Targeted Section 3.
10. Submit data monthly for HUD Quarterly Performance Reporting.

D. Ownership of Documents and Access to Records

All data, documents or other information of any description generated by or used by the Consultant or any Subconsultant retained by the Consultant and related to the services required by this Agreement shall be the property of the City and shall not be used by the Consultant for any purpose whatsoever except to perform the services required by this Agreement.

The Consultant shall make available for examination by the City all of its records with respect to all matters covered by the final agreement and shall maintain such records for a period not less than three (3) years after receipt of final payment under the Agreement.

The State, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have, at any time and from time to time during normal business hours, access to any work product, books, documents, papers, and records of the Subcontractor which are related to this contract, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions

In addition, the following access to records requirements apply to the final agreement:

- The Consultant agrees to provide the City, and if at the City's direction, HUD, the Comptroller General of the United States, or other third party access to any books, documents, papers, and records of the Agreement that are directly pertinent to the Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- The Consultant agrees to permit any of the foregoing parties to reproduce, at the expense of the requestor, by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- All requests for access to Consultants records shall be made in writing.
All specific City of Columbia IT requirements as listed within the Scope of Services Consultant's Responsibilities shall apply.

Contractor Compliance & Monitoring, Inc. may be asked to provide additional Davis Bacon compliance services, as identified by the City, which may be funded from other federal sources.

EXHIBIT B – SCHEDULE FOR COMPLETION OF SERVICES

The schedule of services will be on a City of Columbia CDBG-MIT project by project basis and determined by the City's Community Development Department.

Additional services as identified in Exhibit A – Scope of Services will be on a project by project basis and determined by the City's Community Development Department.



CONTRACTOR COMPLIANCE & MONITORING, INC.

www.ccmilcp.com

635 MARINERS ISLAND BLVD, SUITE 200, SAN MATEO CA 94404 - P 650-522-4403 - dwilder@ccmilcp.com

May 27, 2021

Re: RFP14-20-21-KDD Davis Bacon Compliance Consultant for Community Development Block Grant Mitigation Grants (CDBG-MIT)

Contractor Compliance and Monitoring Inc. (CCMI) is pleased to submit the following Cost Proposal

Our billable rates are as follows:

\$85 Technician

\$95 Analyst

\$105 Sr. Analyst (Brooker, Lopez)

\$135 Manager (Noguera)

\$400 Principal (Wilder)

Onsite interviews \$1,000 per month

While we have completed the Cost Proposal Detail Sheet, those numbers are based on the following presumptions:

- That two of the four projects will start the first year and the remaining projects will start in the second year.
- Some of the projects will overlap, but not all projects will be ongoing at the same time.
- Onsite interviews will occur periodically, but not monthly.
- The number of hours will ebb and flow based on the prevailing wage experience of the contracting community.

APPENDIX – COST PROPOSAL DETAIL SHEET

Name of Consultant Contractor Compliance & Monitoring, Inc		Date of Proposal May 27, 2021	
Street Address 635 Mariners Island Blvd #200		Federal ID Number 46-0509386	
City, State, Zip San Mateo CA 94404		DUNS Number 18-255-1320	
A. Direct Labor (specify personnel by name)			
Attach a copy of the scope of services identified in the contract. Each task identified in the scope of services should be assigned an estimated amount of time for completion. The total amount of time identified on the scope of services should correspond to the estimate in this section.			
Personnel Name	Est. No. of Hours	Hourly Rate	Est. Cost
1. Steve Noguera	100	135	13,500
2. Delia Lopez	100	95	9,500
3. Ida Brooker	150	105	15,750
4. Deborah Wilder	10	400	4,000
5. Total Direct Labor	360		42,750
	<u>Rate</u>	<u>Base</u>	<u>Est. Cost</u>
B. Overhead/Indirect Costs			
C. Other Direct Costs			
Transportation	Est. # of site visits	Rate	Est. Cost
	8	850	6800
Per Diem	Est. No. of Days	Daily Rate	Est. Cost
Production	Est. No. of Pages	Page Rate	Est. Cost
Other (specify)			\$
1. Initial Travel and Mtg with client			\$ 950
2. LCP Tracker Costs			\$ 1600
3.			\$
4.			\$
5. Total Other Direct Costs			\$
D. Subcontracts			
Name of Subcontractor(s)	Est. No. of Days	Daily Rate	Est. Cost
1.			
2.			
3. Total Subcontractor Costs			
Total Estimated Costs (Line A5+B+C5+D3)			\$
Profit			\$
TOTAL PRICE – YEAR ONE			\$52,100

Name of Consultant Contractor Compliance & Monitoring, Inc.		Date of Proposal 5-27-2021	
Street Address 635 Mariners Island Blvd #200		Federal ID Number 46-0509386	
City, State, Zip San Mateo CA 94404		DUNS Number 18-255-1320	
A. Direct Labor (specify personnel by name) Attach a copy of the scope of services identified in the contract. Each task identified in the scope of services should be assigned an estimated amount of time for completion. The total amount of time identified on the scope of services should correspond to the estimate in this section.			
Personnel Name	Est. No. of Hours	Hourly Rate	Est. Cost
1. Steve Noguera	100	135	13,500
2. Delia Lopez	100	95	9,500
3. Ida Brooker	120	105	12,600
4. Deborah Wilder	10	400	4,000
5. Total Direct Labor	330		39,600
B. Overhead/Indirect Costs	<u>Rate</u>	<u>Base</u>	<u>Est. Cost</u>
C. Other Direct Costs			
Transportation	Est. # of site visits	Rate	Est. Cost
	6	850	\$ 5100
Per Diem	Est. No. of Days	Daily Rate	Est. Cost
	—	—	—
Production	Est. No. of Pages	Page Rate	Est. Cost
	—	—	—
Other (specify)			\$
1. Initial Travel & Meeting with client			\$ 950
2. LCP Tracker costs			\$ 1600
3.			\$
4.			\$
5. Total Other Direct Costs			\$7,650
D. Subcontracts			
Name of Subcontractor(s)	Est. No. of Days	Daily Rate	Est. Cost
1.			
2.			
3. Total Subcontractor Costs			
Total Estimated Costs (Line A5+B+C5+D3)			\$ —
Profit			\$ —
TOTAL PRICE – YEAR TWO			\$47,250
TOTAL PRICE – TWO YEAR TOTAL			\$99,350

Name of Consultant Contractor Compliance & Monitoring Tr.	Date of Proposal May 27, 2021
Street Address 635 Mariners Island Blvd #200	Federal ID Number 46-0509386
City, State, Zip San Mateo, CA 94404	DUNS Number 18-255-1320

A. Direct Labor (specify personnel by name)

Attach a copy of the scope of services identified in the contract. Each task identified in the scope of services should be assigned an estimated amount of time for completion. The total amount of time identified on the scope of services should correspond to the estimate in this section.

Personnel Name	Est. No. of Hours Total	Hourly Rate	Est. Cost
1. Steve Noguera	200	135	27,000
2. Delia Lopez	200	95	19,000
3. Ida Brooker	270	105	28,350
4. Deborah Wilder	20	400	8,000
5. Total Direct Labor	690		82,350
B. Overhead/Indirect Costs	<u>Rate</u>	<u>Base</u>	<u>Est. Cost</u>
			0
C. Other Direct Costs			
Transportation	Est. # of site visits	Rate	Est. Cost
	14	850	11,900
Per Diem	Est. No. of Days	Daily Rate	Est. Cost
	2 x 950		1900

Travel to Columbia for mtg
LCP tracker costs

1900
3200
3199,350

EXHIBIT D - BUSINESS INFORMATION RECORD FOR SUBCONSULTANTS/SUBCONTRACTORS

The Bidder shall list all subcontractors and vendors, who will be providing subcontracting services, furnishing materials, etc. for this project. The list shall be submitted in the format provided below. Any proposed changes from the list shall be submitted in writing to the Owner prior to initiation of any action, with the reason for proposed changes.

MUST BE TYPED AND REFLECT ONLY THOSE PROVIDING A SERVICE “NO LINE STRIKE THROUGH”

Business Name (as shown on W9 or SAM.gov) / DUNS # (REQUIRED)	City of Columbia Vendor number	Services and/or Materials Provided	Cost of Services and/or Material (\$ Value)	Percentage of Total Contract	MBE, WBE, SBE, DBE, LBE, CDBE (indicate all that apply)	Minority Association Code (If applicable - Use 2 letter Code - See Key Below)
None				%		
				%		
				%		
				%		
				%		
				%		

Key: Minority/Women Owned Business Enterprise Association Code

AF – Asian American Female **AM** – Asian American Male **BF** – African American Female
BM – African American Male **FB** – Non-Minority Female Owned **HF** – Hispanic American Female
HM – Hispanic American Male **NF** – Native American Female **NM** – Native American Male

COMBINED TOTAL SUB AMOUNT \$ _____
TOTAL CONTRACT AMOUNT: \$ _____

I certify this information is true, correct, complete and active.

Business Name: Contractor Compliance and Monitoring, Inc.

Representative Name/Title: Deborah Wilder - President

Date: May 27, 2021

EXHIBIT E - CONDITIONS OF FEDERAL FUNDING



**Community Development Block Grant
Mitigation Program**

Conditions of Federal Funding



The contractor acknowledges that federal financial assistance will be used to fund the Contract. Contractor will comply with all applicable federal law, regulations, executive orders, and agency policies, procedures, and directives.

The federal government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

Compliance with Federal Regulations: The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from HUD.

1. RELIGIOUS ACTIVITIES 24 CFR 570.200 (j)

As a general rule, in accordance with First Amendment Church/State Principles, CDBG assistance may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities, except as cited at 24 CFR 570.200(J)(1)(2)(3).

2. POLITICAL ACTIVITIES 24 CFR 570.207

CONTRACTOR will comply with this section, which prohibits the use of CDBG funds to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration.

a) HATCH ACT CHAPTER 15, TITLE 5, U.S. CODE

CONTRACTOR further agrees that none of the personnel employed in the administration of the within defined Project shall be in any way or to any extent, engaged in the conduct of political activities in contravention of Chapter 15, Title 5, U.S. Code.

3. OTHER PROGRAM REQUIREMENTS 24 CFR

CONTRACTOR shall carry out its activities in compliance with all Federal laws and regulations as described in 24 CFR 570.600-570.612, except that CONTRACTOR will not assume the CITY'S environmental responsibilities described at 24 CFR 570.604, nor the CITY'S responsibility for initiating the review process under the provisions of 24 CFR Part 58.

4. GENERAL-24 CFR 570.600

CONTRACTOR agrees to comply with such laws and Program requirements as are applicable to grants made under section 106 of Title I of the Housing and Community Development Act of 1974.

5. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964--24 CFR 570.601 FAIR HOUSING ACT-24 CFR 570.601 EXECUTIVE ORDER 11063--24 CFR 570.601

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964, P.L. 88-352; the Fair Housing Act; and Executive Order 11063, as amended by Executive Order 12259; and HUD regulations at 24 CFR Part 1, providing for non-discrimination on the grounds of race, color, creed, sex, familial status, disability, or national origin under any activity receiving Federal funds and also obligating CONTRACTOR to use Federally-funded property for the purpose for which the Federal funds were awarded.

6. SECTION 109 OF THE ACT--24 CFR 570.602 AGE DISCRIMINATION ACT of 1975--24 CFR 570.602(c) SECTION 504 OF THE REHABILITATION ACT OF 1973--24 CFR 570.602(c)

This Agreement is subject to Section 109 of the Housing and Community Development Act of 1974, The Age Act of 1975, and Section 504 of the Rehabilitation Act of 1973, which requires that no person in the United States shall, on the grounds of age, race, color, national origin, disability, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity funded in whole or in part with Community Development Block Grant funds.

7. SECTION 3 (IF APPLICABLE)

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Contractor, the Subcontractor and any of the Subcontractor's Subcontractors. Failure to fulfill these requirements shall subject the Contractor, the Subcontractor and any of the Subcontractor's Subcontractor, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Contractor certifies and agrees that no contractual or other disability exist which would prevent compliance with these requirements. The Contractor further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

The work to be performed under this contract is an activity assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Community Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low-and very low-income residents of the activity area and contracts for work in connection with the activity be awarded to business concerns that provide economic opportunities for low-and very low- income persons residing in the metropolitan area in which the activity is located."

The Contractor further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction activity are given to low and very low-income persons residing within the metropolitan area in which the CDBG funded activity is located; where feasible, priority should be given to low- and very low-income persons within the service area of the activity or neighborhood in which the activity is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection to housing rehabilitation, housing construction, or other public construction activity are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which CDBG-funded activity is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low -income residents within the service area or neighborhood in which the activity is located, and to low- and very low-income participants in other HUD programs.

8. LABOR STANDARDS & DAVIS BACON ACT 24 CFR 570.603 (IF APPLICABLE)

Section 110(a) of the Act contains labor standards that apply to non-volunteer labor financed in whole or in part with assistance provided under the Act. The Contract Work Hours and Safety Standards Act also applies. Contractors or subcontractors on construction work shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. Contractor will comply with the following conditions:

- a) Overtime requirements. No contractor or sub-contractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (A) of this section the contractor and any sub-contractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and sub-contractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.
- c) Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or sub-contractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or sub-contractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- d) Subcontracts. The contractor or sub-contractor shall insert in any subcontracts the clauses set forth in paragraph (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier sub-contractor with the clauses set forth in paragraphs (A) through (D) of this section.

9. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 USC 3701-3708)

When applicable all contracts awarded by the City in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 USC 3702 and 3704, as supplemented by the Department of Labor Regulations (29 CFR Part 5) Under 40 USC 3702 of the Act, each contractor must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40.

10. ENVIRONMENTAL STANDARDS 24 CFR 570.604

This Agreement is subject to the National Environmental Policy Act of 1969, as detailed in implementing regulations 24 CFR Part 58. No funds related to the project or activity can be obligated or expended until an Environmental Clearance Authorization is completed and the contract is executed. Any expenditures for a program that takes place before the execution of a contract and the completion of the Environmental Clearance cannot be reimbursed. The City is responsible for providing the Contractor the HUD required Environmental Clearance Authorization.

11. NATIONAL FLOOD INSURANCE PROGRAM 24 CFR 570.605

This Agreement is subject to the Flood Disaster Protection Act of 1973, and the regulations in 44 CFR Parts 59 through 79.

12. DISPLACEMENT, RELOCATION, ACQUISITION, AND REPLACEMENT OF HOUSING 24 CFR 570.606

CONTRACTOR shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, non-profit organizations, and farms) as a result of activities pursuant to Part 570.606. Relocation of displaced persons shall be provided in conformance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 as amended.

13. EMPLOYMENT AND CONTRACTING OPPORTUNITIES 24 CFR 570.607

CONTRACTOR shall comply with Executive Order 11246, as amended by Executive Order 12086, which provides for Equal Employment Opportunity, and Section 3 of the Housing and Urban Development Act of 1968, with implementing regulations at 24 CFR Part 135. Section 3 requires that employment and other economic development opportunities arising in connection with housing rehabilitation, housing construction, or other public construction projects shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be given to low- and very low-income persons.

14. LEAD-BASED PAINT 24 CFR 570.608

This Agreement is subject to the regulations at 24 CFR Part 35, prohibiting the use of lead- based paint in residential structures constructed or rehabilitated with assistance provided pursuant to Part 570.608; notification of hazards of lead-based paint poisoning; and elimination of lead- based paint hazards.

15. USE OF DEBARRED, SUSPENDED, OR INELIGIBLE CONTRACTORS OR CONTRACTORS 24 CFR 570.609

This Agreement is subject to the requirements set forth in 24 CFR Part 5, in which is incorporated 24 CFR Part 24, which provides for the listing of debarred and suspended participants, participants declared ineligible, and participants who have voluntarily excluded themselves from participation in covered transactions pursuant to Part 24.

The Contractor is subject to non-procurement Debarment and Suspension Regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. pt. 180 (2 C.F.R. §200.212). The Agreement is a covered transaction for the purposes of C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor(s), its principals (defined at 2 C.F.R. §180.995), or its affiliates (defined at 2 C.F.R. §180.905) are excluded (defined at 2 C.F.R. §180.940) or disqualified (defined at 2 C.F.R. §180.935).

Execution of the Contract is a material representation of fact relied upon by the City. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, sub-part C and 2 C.F.R. pt. 3000, sub-part C in addition to remedies available to the State of South Carolina Emergency Management Division and the City of Columbia, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The Contractor shall comply with the requirements of 2 C.F.R. pt. 180, sub-part C and 2 C.F.R. pt. 3000; sub-part C during the duration of the project and throughout the period that may arise from this project. The Contractor further agrees to include a provision requiring such requirements in its lower tier covered transactions throughout the duration of this contract.

The Contractor shall notify the City, if your firm or sub-contractor(s) becomes suspended or debarred during the course of this project. This Contract may be terminated in accordance with the Termination for Cause provisions contained elsewhere in the contract.

16. UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES AND AUDIT REQUIREMENTS FOR FEDERAL FUNDS – 2 CFR PART 200

CONTRACTOR shall comply with the requirements and standards of this Super Circular.

17. CONFLICT OF INTEREST 24 CFR 570.611

This Agreement is subject to the general rule that no person who is an employee, agent, consultant, officer, or elected official or appointed official of the CITY as Recipient, or of any designated public agencies, or of CONTRACTOR who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted pursuant to Part 570.611, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or Agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

18. LIMITED ENGLISH PROFICIENCY (LEP)

Executive order 13166 enacted August 11, 2000, mandates the federal government reduce language barriers to limited English proficiency (LEP) persons with regard to accessing federal benefits. Recipients of HUD assistance including state and local governments, public housing authority assisted housing providers, profit and non-profit organizations and other entities receiving funds directly or indirectly from HUD are subject to executive order 12166 and title vi provisions as a condition of receiving federal funds. Failure to ensure limited English persons (LEP) access to HUD benefits may violate Title VI Civil Rights protections based upon national origin.

19. DRUG-FREE WORKPLACE

As a Contractor of CDBG funds, and in connection with public services offered, the CONTRACTOR agrees that it shall comply with the provisions of the Drug-Free Workplace Act of 1988, 24 CFR Part 21, which requires that CONTRACTOR shall maintain a facility free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

20. ANTI-LOBBYING

Section 319 of Public Law 101-121, of the Department of the Interior Appropriations Act, prohibits CONTRACTOR from using appropriated Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan, and requires that no Federal appropriated funds have been paid or will be paid, by or on behalf of CONTRACTOR to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or

employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

21. AMERICANS WITH DISABILITIES ACT

CONTRACTOR agrees to comply fully with any and all provisions of the Americans with Disabilities Act (hereinafter referred to as ADA) as applicable to the CONTRACTOR and the activities to be performed by CONTRACTOR under the scope of this Agreement. If employing more than fifteen (15) employees, CONTRACTOR agrees to comply fully with Title I of the ADA as set forth at 28 CFR Part 130. If providing public accommodations as defined by the Act in Section 301(7)(A) -(L), CONTRACTOR agrees to comply fully with Title III of the ADA as set forth at 28 CFR Part 36. If providing public transportation, CONTRACTOR agrees to comply fully with the federal regulations as set forth at 49 CFR Parts 37 and 38.

22. ACCESS TO RECORDS

The Contractor shall make available for examination by the City all of its records with respect to all matters covered by this Agreement and shall maintain such records for a period not less than three (3) years after receipt of final payment under the Agreement. In addition, the following access to records requirements apply to the contract:

1. The Contractor agrees to provide the City, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative(s) access to any books, documents, papers, and records of the Agreement that are directly pertinent to the Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to provide the FEMA Administrator or his/her authorized representative(s) access to information pertaining to the work being completed under the Contract/Agreement.

23. CONFIDENTIALITY

All of the reports, information, data, records or documents of any kind, prepared or assembled by the Contractor under the Agreement are confidential and the Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City.

24. INTEREST OF CONTRACTOR

The Contractor covenants for himself and on behalf of his employees that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under the Agreement or which is adverse to the interests of the City of Columbia. The Contractor further covenants that in the performance of the Agreement no person having such interest shall be employed.

The Contractor is expected to make its services available to other entities but agrees to refrain from representing other entities in matters where the position of the City conflicts with that of the other entity. The City may at its

discretion waive this provision. The Contractor has provided a list of all of its clients with whom there may be potential conflicts with the City. This list shall be supplemented throughout the duration of the Agreement.

25. PROGRAM FRAUD AND FALSE OR FRAUDELEND STATEMENTS OR RELATED ACTS

The contractor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The False Claims Act (FCA), 31 U.S.C. §§ 3729

Under Liability for Certain Acts, in general any person who:

- a) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
- b) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
- c) conspires to commit a violation of subparagraph a), b), c), d), e), f), or g);
- d) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;
- e) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- f) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or
- g) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government, is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 ([28 U.S.C. 2461](#) note; [Public Law 104–410 \[1\]](#)), plus 3 times the amount of damages which the Government sustains because of the act of that person.

26. CLAIMS AND DISPUTES 2 CFR 200.318(k)

This contract is subject to Contract Disputes.

- All disputes arising under or relating to this contract shall be resolved under this clause.
- Claim, as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under this provision.

All claims must comply with the submission and certification requirements of this provision if it is disputed either as to liability or amount must be acted upon in a reasonable time.

A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 (six) months after accrual of the claim to the Contracting Officer for a written decision.

A claim by the City against the Contractor shall be subject to a written decision by the Contracting Officer.

The Contractor shall provide the certification specified below when submitting any claim.

- a) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.
- b) The certification shall state as follows: “I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the City is liable; and that I am authorized to certify the claim on behalf of the Contractor.”
- c) The certification may be executed by any person authorized to bind the Contractor with respect to the claim.

For Contractor claims, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request.

The Contracting Officer’s decision shall be final unless the Contractor appeals.

If the claim by the Contractor is submitted to the Contracting Officer or a claim by the City is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor’s specific reasons for rejecting the offer.

The City shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment.

With regard to claims having defective certifications, interest shall be paid from the date a proper certification is provided. Simple interest on claims shall be paid at the rate. Which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the State during the pendency of the claim.

The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

27. DISPUTES

This contract is subject to 41 U.S.C. chapters 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the Claims and Disputes Clause. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

28. EQUAL EMPLOYMENT OPPORTUNITY

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

The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, or national origin.

Such action shall include, but not be limited to Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- a) 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 considerations for employment without regard to race, color, religion, sex, sexual orientation, or national origin.
- b) 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 advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- c) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- d) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- e) In the event of the Contractor's noncompliance with the non-discrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- f) The Contractor will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (G) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub-contractor or vendor.
- g) The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct 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 sub-

contractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

29. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor must comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §7401-7671(q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §1251-1387).

The Contractor will report each violation to the City, Federal Emergency Management Agency (FEMA) and the appropriate Environmental Protection Agency Regional Office (EPA).

The Contractor agrees to include these requirements in each sub-contract exceeding twenty-five thousand dollars (\$25,000.00) financed in whole or in part with federal assistance provided by FEMA.

30. USE OF RECOVERED MATERIALS

The Contractor shall comply with Section 6002 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (2 C.F.R. §200.322). In performance of the Agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired.

31. OVERSIGHT 2CFR 200.318(b)

The City will maintain oversight to ensure the Contractor performs in accordance with terms, conditions and specifications per (2 C.F.R. §200.318(b) (General Procurement Standards) and 44 C.F.R. §13.36 (Procurement).

32. SYSTEM FOR AWARD MANAGEMENT (SAM)

Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government’s reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete.

Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

If a Contractor has legally changed its business name, “doing business as” name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements, the Contractor shall provide the responsible Contracting Officer a minimum of one business day’s written notification of its intention to:

Incorporation by reference. The Contractor’s representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

33. DHS SEAL, LOGO, AND FLAGS

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

Federal Labor Standards Provisions

U.S. Department of Housing
and Urban Development
Office of Labor Relations

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(a) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(b) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(c) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis- Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account asset for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor or sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis- Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH- 347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/formslwh347ins.tr.htm> or its successor site. The prime contractor or is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current addresses of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(I) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general dispute's clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12 (a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of influencing in any way the action of such Administration, makes, utters or publishes any statement knowing the same to be false....

shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC, 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.