



AGENDA REPORT

Meeting Date: April 6, 2010
Item Number: G-14
To: Honorable Mayor & City Council
From: Ara Maloyan, Deputy City Engineer
Juan Martinez, Civil Engineer *jm*
Subject: APPROPRIATION OF FUNDS IN THE AMOUNT OF \$77,836.00 FOR THE CONSTRUCTION OF ADA ACCESSIBILITY RAMPS UTILIZING COMMUNITY DEVELOPMENT BLOCK GRANT RECOVERY (CDBG-R) PROGRAM FUNDS;

APPROVAL OF THE AWARD OF A CONTRACT TO THE LOWEST RESPONSIBLE BIDDER, EC CONSTRUCTION CO., FOR THE CDBG REC043-09 ADA ACCESSIBILITY RAMP UTILIZING AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDS FEDERALLY FUNDED PROJECT (CITY OF BEVERLY HILLS GRANT CODE # 0605101F015), AND APPROVAL OF THE PLANS AND SPECIFICATIONS THEREFOR; AND

APPROVAL OF A PURCHASE ORDER TO EC CONSTRUCTION CO., FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$60,722.40

Attachments:

1. Agreement
2. Vicinity Map
3. County of Los Angeles Contract # 104496 - Agreement to implement a (CDBG-R) project with the City of Beverly Hills, dated October 1, 2009
4. County of Los Angeles Contract # 70716-R - Reimbursable contract with the City of Beverly Hills, dated August 26, 2009
5. Agenda Report (June 16, 2009) Adopting Resolution No. 09-R-12685 Approving funding for installation of ADA Compliant Curb Ramps with \$77,836 of CDBG-R funds.
6. Categorical Exemption

RECOMMENDATION

Staff recommends that the City Council move to: 1) Appropriate funds in the amount of \$77,836.00 as follows:

From			To	
\$77,836.00	06-30000 Fund Balance Infrastructure Capital Projects Fund		\$77,836.00	0605101F015-85040 Construction CDBG Recovery Grant

2) Award a construction contract to the lowest responsible bidder, EC Construction Co. for the CDBG REC043-09 ADA Accessibility Ramp Utilizing American Recovery and Reinvestment Act (ARRA) Funds Federally Funded Project (City of Beverly Hills Grant Code # 0605101F015) in the amount of \$50,602.00; 3) Approve plans and specifications for the Project dated February 2010, which are adopted and approved with respect to design criteria; 4) Approve a contingency in the amount of \$10,120.40 for change orders, which can be approved by the City Manager or his designee; and 5) Approve a purchase order in the amount of \$60,722.40

INTRODUCTION

This report is a request for City Council approval to appropriate the City’s federal CDBG-R allocation in the amount of \$77,836.00 and award a contract to the lowest responsible bidder for the CDBG REC043-09 ADA Accessibility Ramp within the City of Beverly Hills, California Utilizing American Recovery and Reinvestment Act (ARRA) Funds Federally Funded Project. This Federally-funded project consists of ADA-compliant construction of 18 new curb ramps and the ADA-upgrading of 28 existing curb ramps, along the entire length of Olympic Boulevard within the City of Beverly Hills. This project has a 30 work day completion requirement.

DISCUSSION

Section 504 of the Federal Rehabilitation Act of 1973 (Nondiscrimination Under Federal Grants and Programs) and Title II of the Americans with Disabilities Act of 1990 (ADA) requires public agencies (federal, state and local) to make public rights-of-way accessible to persons with disabilities. On public streets, there must be curb ramps, primarily at street intersections, to allow access to sidewalks for persons with visual and ambulatory disabilities.

On June 16, 2009, City Council adopted Resolution No. 09-R-12685 (Attachment 5) approving funding for installation of Americans with Disabilities Act (ADA) Compliant Curb Ramps with \$77,836.00 of CDBG-R Funds.

On August 26, 2009, pursuant to the adoption of this Resolution, the County of Los Angeles (through the Community Development Commission of the County of Los Angeles) entered into a reimbursable contract with the City of Beverly Hills regarding the expenditure of these CDBG-R program funds, which were authorized under the 2009 ARRA Act.

On October 1, 2009, the City of Beverly Hills and the County of Los Angeles signed a contract agreeing to implement the ADA Curb Ramps CDBG-R project.

On March 3 and 11, 2010, a Notice Inviting Bids was published in the Beverly Hills Courier, Beverly Hills Weekly and on the City's web site. The bid package was also distributed to McGraw-Hill Information Systems, Bid America, Construction Bid Board, and Reed Construction Data for publishing. Seven contractors requested bid documents and on March 23, 2010, two sealed bids were received and opened, as follows:

EC Construction Co.	\$50,602.00
HYM Engineering Inc.	\$53,500.00

These amounts were tabulated using unit prices, which take precedence over the submitted total bid amounts. All documents submitted by all the bidders were in order, and the apparent low bidder is EC Construction Co. The Engineer's Estimate was \$65,000.00. Staff recommends that the lowest responsible and responsive bidder be accepted and awarded.

A contingency allowance in the amount of \$10,122.40 consisting of 20% of the total contract amount has been included in the total purchase order amount of \$60,722.40. Any change orders that require expenditures from this allowance shall be made only upon written request in accordance with City Ordinance No. 06-O-2504.

NOTIFICATION

Staff has included in the project specifications that there be construction signs posted along and adjacent to the project. In addition, businesses and residents adjacent to the project will be provided notice of construction letters, indicating the type of work and its impact on the area.

FISCAL IMPACT

Since this project was approved as part of the American Recovery and Reinvesting Act, the project will be 100% federally funded and does not require local match funds to be executed. Therefore, it will not have a negative impact on the City of Beverly Hills Infrastructure Capital Projects Fund.

This project is funded solely with \$77,836.00 in Community Development Block Grant Recovery monies. Funds are available in 0605101F015 85040-CDBG recovery grant account.

Scott Miller
Finance Approval



For David Gustavson
Approved By

AGREEMENT

THIS AGREEMENT, made and entered into this 6 day of April, 2010, by and between the CITY OF BEVERLY HILLS, a municipal corporation, hereinafter referred to as "City", and EC Construction CO. hereinafter referred to as "Contractor";

WITNESSETH

In this consideration of their covenants the parties hereto agree as follows:

1. Contractor shall furnish all labor, materials and equipment necessary to perform the following work in the City of Beverly Hills, California, strictly in accordance with the Notice to Bidders, Proposal form, Plans and Specifications for such improvement, Standard Contractual Requirements and inclusive of Addendums, each of which documents are made a part of this Contract as though fully set forth herein:

CDBG REC043-09 ADA ACCESSIBILITY RAMP Within the City of Beverly Hills, CALIFORNIA UTILIZING AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDS FEDERALLY FUNDED PROJECT

2. In consideration of such work City agrees to pay Contractor and Contractor agrees to accept the sum of Fifty Thousand Six Hundred and Two and no cents (\$50,602.00) in the manner provided in subject Plans and Specifications and subject to adjustment provided therein.
3. Concurrently with the execution of this Contract, Contractor shall file with the City the bonds and certificates of insurance specified in said Standard Contractual Requirements.
4. This Contract shall not be assigned without the written permission of the City Council.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

ATTEST:

CITY OF BEVERLY HILLS,
A municipal corporation

BYRON POPE, City Clerk

JIMMY DELSHAD , Mayor

APPROVED AS TO CONTENT:

CONTRACTOR:

JEFFREY KOLIN, City Manager

KARL KIRKMAN, Risk Manager

DAVID D. GUSTAVSON, Director Of Public Works
& Transportation

APPROVED AS TO FORM:

FUNDS AVAILABLE:

LAURENCE S. WIENER, City Attorney

SCOTT MILLER,
Director of Finance Administration

COUNTY OF LOS ANGELES
AGREEMENT TO IMPLEMENT A COMMUNITY DEVELOPMENT
BLOCK GRANT RECOVERY (CDBG-R) PROJECT WITH A PARTICIPATING CITY

Operating Agency: CITY OF BEVERLY HILLS

Contract Number: 104496

The Operating Agency is hereby authorized to implement the CDBG-R Project (s) identified below upon execution of this Agreement by the Operating Agency's authorized signatory. Said implementation shall be in full accordance with the requirements, conditions, and assurances defined in the Reimbursable Contract Number 70716 - R, between the Operating Agency and the County of Los Angeles. In addition, the Operating Agency agrees to comply with the following:

1. SCOPE OF SERVICE. The Project described in the Exhibit A(s), listed below, shall be implemented.
2. TIME OF PERFORMANCE. Services are to commence as of August 26, 2009, and be completed no later than June 30, 2012.
3. BUDGET SECTION. No more than the amounts specified in the Exhibit A's, listed below, may be spent, without written approval of the Community Development Commission of the County of Los Angeles.

<u>Project No.</u>	<u>Project Name</u>	<u>Amount</u>
REC043-09	ADA CURB RAMPS CDBG-R	\$77836.00
CITY OF BEVERLY HILLS TOTAL		\$77,836.00

Attachment # 3

City of Beverly Hills
Operating Agency

By: **Rod Wood** _____
Digitally signed by Rod Wood
DN: cn=Rod Wood, o=City of Beverly Hills, ou=City
Manager, email=wood@beverlyhills.org, c=US
Date: 2008.10.01 07:28:04 -0700

Title: _____

COUNTY OF LOS ANGELES

By:  _____

Title: Director, CDBG _____

Community Development Commission
of the County of Los Angeles

**COUNTY OF LOS ANGELES
COMMUNITY DEVELOPMENT BLOCK GRANT - RECOVERY PROGRAM
REIMBURSABLE CONTRACT
WITH PARTICIPATING CITY**

CONTRACT NUMBER: 70716 - R

THIS REIMBURSABLE CONTRACT (Contract) is made and entered into this 26th day of August, 2009, by and between the County of Los Angeles, hereinafter called the "County", acting by and through the Community Development Commission of the County of Los Angeles (Commission), and the City of Beverly Hills, hereinafter called the "Operating Agency".

WITNESSETH THAT:

WHEREAS, the County has entered into a contract with the United States of America, through its Department of Housing and Urban Development (HUD), to execute the County's Community Development Block Grant – Recovery Program, hereinafter called the “CDBG-R Program;” and this program was authorized under the American Recovery and Reinvestment Act of 2009, herein after called the “Act,” which appropriated supplemental funding for the CDBG Program;

WHEREAS, funding for the CDBG-R Program is authorized under the Act and it appropriated funds to states and local governments to carry out, on an expedited basis, eligible activities under the regular CDBG Program;

WHEREAS, the same statutory and regulatory provisions governing the CDBG Program will also apply to the CDBG-R Program as well as, the Housing and Community Development Act of 1974, as amended;

WHEREAS, California Government Code Section 53703 authorizes County and Operating Agency to enter into this Contract in furtherance of the Program; and

WHEREAS, Operating Agency desires to participate in said Program.

NOW, THEREFORE, in consideration of the mutual covenants herein set forth and the mutual benefits to be derived therefrom, the parties agree as follows:

1. CONTRACT ADMINISTRATION. The Commission through its Executive Director (Commission), or his designee, shall have full authority to act for the County in the administration of this Contract consistent with the provisions contained herein.
2. SCOPE OF SERVICES. The Operating Agency is to perform services consistent with the goals and objectives set forth in the amended Community Development Commission Housing and Community Development Consolidated Plan (HCDCP), adopted by the County Board of Supervisors on, May 28, 2008, or any amendment or successor thereto, which is incorporated herein by this reference.

3. AGREEMENT TO IMPLEMENT. Operating Agency is eligible for reimbursement for a project implemented under this Contract only after an Agreement to Implement (ATI), accompanied by detailed Project Descriptions and Budgets for each project funded, are developed to the satisfaction of the Executive Director, or his designee, and is executed by both the Executive Director, or his designee, and the Operating Agency. This Contract shall consist of this document, the ATI, and attachments: Exhibit A(s), Project Descriptions and Activity Budgets and Exhibit B, Insurance Requirements.
4. TIME OF PERFORMANCE. Operating Agency shall commence services no sooner than the date first written above, and shall complete same by no later than June 30, 2012. Specified project start and completion dates shall be a part of the ATI procedure described above for initiating the project(s). All projects funded under the CDBG-R Program shall be completed by no later than June 30, 2012.
5. COMPENSATION AND METHOD OF PAYMENT. For satisfactory performance under this Contract, County shall reimburse Operating Agency an amount not to exceed, Seventy-Seven Thousand Eight Hundred Thirty-Six Dollars and Zero Cents **(\$77,836.00)**, which shall constitute full and complete compensation hereunder for the implementation of this Contract. Said compensation will only be paid out of funds received by the County from the Federal government under the Act, for allowable costs actually paid for the expressed purposes specified. The parties understand and agree that such compensation, if any, shall be conditioned upon receipt of said funds by the County from the federal government and shall not be a charge against any other funds of the County. Further, such funds, if any, shall be paid only after development and execution of the ATI(s) necessary to implement the project(s) covered by this Contract and submission and approval of the electronic payment request form. This payment request form must be submitted on a minimum of a monthly basis as specified and provided by the County. Operating Agency shall bill for expenditures on a reimbursable basis for each project for which an ATI has been executed. After timely receipt and approval of each payment request form, the County will draw a check in favor of the Operating Agency in the approved amount. After the expiration of the financial closeout period, those funds not paid under this Contract, if any, will be immediately returned to the County.

Operating Agency shall have no claim against the County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Operating Agency after the expiration or other termination of this Contract. Should Operating Agency receive any such payment, it shall immediately notify the County and shall immediately repay all such funds to the County. Payment by the County for services rendered after expiration and/or termination of this Contract shall not constitute a waiver of the County's right to recover such payment from Operating Agency. This provision shall survive the expiration or other termination of this Contract.

6. ACCOUNTING. The Operating Agency shall establish and maintain on a current basis an adequate accounting system in accordance with generally accepted accounting principles and standards, and the County Auditor-Controller Contract Accounting and Administration Handbook. Regardless of the Operating Agency's method of accounting, expenses must be reported in accordance with Sections 5 and 47 of this Contract.
7. EXPENDITURE STANDARDS. In accordance with the Act, all CDBG-R funds must be expended by the County by September 30, 2012. All CDBG-R Grantees must expend their entire allocation by this date. Any funds not expended by this date will be recaptured by HUD and returned to the U.S. Treasury. Therefore, each quarter the County will review the Operating Agency's expenditure rate. If the Operating Agency has not expended at least 50 percent of its CDBG-R funds by January 31, 2011, the Operating Agency will be deemed to be noncompliant with the County's Performance Policy. This may result in the recapture of enough funds to bring the Operating Agency into compliance. The County reserves the right to make the final determination, in its sole discretion, as to the amount of reduction of the Operating Agency's grant allocation, if any.
8. COMPLIANCE WITH LAWS. All parties agree to be bound by all applicable Federal, State, and local laws, ordinances, regulations and directives as they pertain to the performance of this Contract. This Contract is subject to and incorporates the terms of the Act; 2 CFR Part 176, U.S. Office of Management and Budget (OMB); the Housing and Community Development Act of 1974, as amended; 24 CFR Part 570, OMB Circular A-87; Executive Order 12372; the County Auditor-Controller Contract Accounting and Administration Handbook; and all amendments or successor laws, regulations or guidelines thereto (hereinafter called the "Laws, Regulations and Guidelines"). The Catalog of Federal Domestic Assistance (CFDA) number assigned to the CDBG-R Program is 14.253. The Operating Agency has, and shall maintain, copies of the Laws, Regulations and Guidelines. Furthermore, the Operating Agency acknowledges that it has read and understands the Laws, Regulations, and Guidelines.

The Operating Agency shall comply with applicable uniform administrative requirements, as described in 24 CFR Section 570.502. The Operating Agency shall carry out each activity in compliance with all Federal laws and regulations described in 24 CFR Part 570, Subparts J and K, except that:

- i. The Operating Agency does not assume the County environmental responsibilities described in 24 CFR Section 570.604; and
- ii. The Operating Agency does not assume the County's responsibility for initiating the review process under Executive Order 12372.

Operating Agency agrees to be bound by applicable federal, state and local laws, regulations and directives as they pertain to the performance of the Contract,

including, but not limited to, Sections a-j below. This Contract is subject to and incorporates the terms of the Housing and Community Development Act of 1974, as amended by the Cranston-Gonzales National Affordable Housing Act, 1990 and the 24 CFR Part 85.

- a. Operating Agency shall comply with the Civil Rights Act of 1964 Title VI which provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- b. Operating Agency shall comply with Section 109 of the Housing and Community Development Act of 1974 which states that no person in the United States shall, on the grounds of race, color, sex or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
- c. The Operating Agency shall comply with the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, which require that no person in the United States shall be excluded from participating in, denied the benefits of, or subject to discrimination under this Contract on the basis of age or with respect to an otherwise qualified disabled individual.
- d. The Operating Agency shall ensure equal opportunity, in the award and performance of any contract, to all persons without regard to race, color, gender, sexual orientation, religion, national origin, ancestry, age, marital status, or disability.
- e. During the performance of this contract, the Operating Agency agrees as follows:
 - i. Operating Agency shall comply with Executive Orders 11246 and 11375, Equal Opportunity in Employment, which requires that during the performance of this Contract, the Operating Agency will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Operating Agency will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, promotion, 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 Operating Agency agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of

the non-discrimination clause.

- ii. The Operating Agency will, in all solicitations or advertisements for employees placed by or on behalf of the Operating Agency, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- iii. The Operating Agency will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency of the Operating Agency's contracting officer, advising the labor union or worker's representative of the Operating Agency's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- iv. The Operating Agency will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- v. The Operating Agency will furnish all information and reports required by the Executive Orders and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Commission and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- vi. In the event the Operating Agency fails to comply with the non-discrimination clauses of this Contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part, and the Operating Agency may be declared ineligible for further Government contracts in accordance with procedures authorized in the Executive Orders and such other sanctions may be imposed and remedies invoked as provided in the Executive Orders or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- vii. The Operating Agency will include the provisions of these paragraphs in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of the Executive Order No. 11246 of September 24, 1965, that such provisions shall be binding upon each subcontractor or vendor. The Operating Agency will take such actions with respect to any subcontract or purchase order as the County may direct as a means of enforcing such provisions including sanctions for noncompliance, provided however, that in the event the Operating Agency becomes

involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the County, the Operating Agency may request the United States to enter into such litigation to protect the interests of the United States.

- f. The Operating Agency shall comply with Executive Order 13166, titled "Improving Access to Services by Persons with Limited English Proficiency." Executive Order 13166 requires that federally assisted agencies make reasonable efforts to provide language assistance to ensure meaningful access for Limited English Proficiency (LEP) persons to the agency's programs and activities. HUD guidelines on LEP were published in the Federal Register on January 22, 2007, and were effective February 21, 2007. These HUD guidelines should be applied to federally-subsidized housing, programs and other services which may be contracted out to other contractors.
- g. Should the Operating Agency require additional or replacement personnel after the effective date of this Contract, the Operating Agency shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. The Operating Agency shall contact the County's GAIN/GROW Division at (626) 927-5354 for a list of GAIN/GROW participants by job category.
- h. The Operating Agency is prohibited by the Department of Interior and Related Agencies Appropriations Act, known as the Byrd Amendments, and HUD's 24 CFR Part 87, from using federally appropriated funds for the purpose of 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, loan or cooperative Contract, and any extension, continuation, renewal, amendment or modification of said documents.

Should the Operating Agency or persons/subcontractors acting on behalf of the Contract fail to fully comply with the Federal Lobbyist Requirements civil penalties shall result.

- i. The Operating Agency and each County lobbyist or County lobbyist firm, as defined in Los Angeles County Code Chapter 2.160 (County Ordinance 93-0031), retained by the Operating Agency, shall fully comply with the requirements as set forth in said County Code Chapter.
- j. The Operating Agency shall comply with 2 CFR Part 176, Subpart B – Buy American Requirements Under Section 1605 of the Act. Section 1605 of the Act prohibits use of recovery funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron,

steel, and manufactured goods used in the project are produced in the United States. Section 1605 of the Act also requires that this prohibition be applied in a manner consistent with U.S. obligations under international agreements, therefore, the Buy American requirement as set forth in 2 CFR Part 176.70, shall not be applied where the iron, steel, or manufactured goods used in the project are from a party to an international agreement. Countries covered under these international agreements are listed in 2 CFR Part 176.90.

Failure of Operating Agency to comply with the requirements of this Section shall constitute a material breach of contract upon which the Commission, through its Executive Director or his designee may immediately cancel, terminate or suspend this Contract.

9. LOBBYING CERTIFICATIONS. With regard to the certification for contracts, grants, loans and Cooperative Agreements, the undersigned certify, to the best of their knowledge and belief, that:
- a. The Operating Agency is familiar with the Los Angeles County Code Chapter 2.160 and assures the County that all persons acting on behalf of the Operating Agency will comply with the County Code.
 - b. The Operating Agency is familiar with the Federal Lobbyist Requirements and assures the County that all persons and/or subcontractors acting on behalf of the Operating Agency will comply with the Federal Lobbyist Requirements.
 - c. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, 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.
 - d. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
 - e. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including

sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

10. TERMINATION FOR FAILURE TO COMPLY WITH FEDERAL AND COUNTY LOBBYIST REQUIREMENTS. Failure on the part of the Operating Agency and/or its Lobbyist(s) to fully comply with said Federal and County Lobbyist requirements shall constitute a material breach of the Contract upon which the County may immediately terminate this Contract, and the Operating Agency shall be liable for any and all damages incurred by the County and/or any federal agency as a result of such breach
11. PROGRAM REVIEW AND EVALUATION. The County will monitor, evaluate and provide guidance to the Operating Agency in the performance of the CDBG-R Program. Reviews will focus on the extent to which planned CDBG-R Program has been implemented and measurable goals achieved effectiveness of program management, and impact of the program.

Operating Agency shall make available for inspection to authorized County and HUD personnel and their agents, for a total of five (5) years from the expiration date of this Contract, all records, including financial, pertaining to its performance under this Contract, and allow said County and HUD personnel and agents to inspect and monitor Operating Agency's facilities and program operations, and interview Operating Agency staff and program participants, as required by the County and/or HUD.

Operating Agency agrees to submit all additional data that are necessary to complete reporting requirements under the Act and monitor program accountability and progress in accordance with HUD requirements in the format and at the time designated by the Commission, through its Executive Director or his designee.

CDBG-R funds under this Contract can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Act and OMB Guidance.

Failure of Operating Agency to comply with the requirements of this Section shall constitute a material breach of contract upon which the Commission, through its Executive Director or his designee may immediately cancel, terminate or suspend this Contract.

12. AUDITS. The Operating Agency shall make available for inspection and audit to authorized County and HUD personnel and their agents, for a total of five (5) years from the expiration date of this Contract, and allow said County and HUD personnel and agents to inspect and audit all of its books and records relating to the operating of each project or business activity which is funded in whole, or in part, with Federal or State grant monies, including the project(s) under this Contract.

Failure of Operating Agency to comply with the requirements of this Section shall constitute a material breach of contract upon which the Commission, through its Executive Director may cancel, terminate or suspend this Contract.

13. AUDIT EXCEPTIONS. Operating Agency agrees that in the event the program established hereunder is subject to audit exceptions by appropriate audit agencies, it shall be responsible for complying with such exceptions and paying the County the full amount of County's liability to the funding agency resulting from such audit exceptions.
14. CONFIDENTIALITY OF REPORTS. Operating Agency shall keep confidential all reports, information and data received, prepared or assembled pursuant to performance hereunder. Such information shall not be made available to any person, firm, corporation or entity without the prior written consent of the County.
15. SAFETY STANDARDS AND ACCIDENT PREVENTION. The Operating Agency shall comply with all applicable federal, state and local laws governing safety, health and sanitation. The Operating Agency shall provide all safeguard safety devices and protective equipment and take any other needed actions, as its own responsibility, as reasonably necessary to protect the life and health of employees on the job, the safety of the public and personal and real property in connection with the performance of this Contract.
16. SEVERABILITY. In the event that any provision herein contained is held to be invalid, void, or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Contract and shall in no way affect, impair or invalidate any other provision contained herein. If any such provision shall be deemed invalid due to its scope of breadth, such provision shall be deemed valid to the extent of the scope of breadth permitted by law.
17. INTERPRETATION. No provision of this Contract shall be interpreted for or against either party because that party or that party's legal representative drafted such provision, but this Contract is to be construed as if both parties drafted it hereto.
18. WAIVER. No breach of any provision hereof can be waived unless in writing. Waiver of breach of any provision herein shall not be deemed to be a waiver of additional breaches of the same provision or breach of any other provision herein.

19. REPORTS AND RECORDS. Operating Agency agrees to prepare and submit financial, program progress, monitoring, evaluation or other reports required by County. Operating Agency shall maintain, and permit on site inspections of such property, personnel, financial and other records and accounts as are considered necessary by County to assure proper accounting for all Contract funds during the term of this Contract and for a total of five (5) years thereafter. Operating Agency will ensure that its employees, agents, City Council members, officers and board members furnish such information which, in the judgment of County representatives, may be relevant to a question of compliance with contractual conditions, with County or HUD directives, or with the effectiveness, legality and achievements of the program.
20. AFFIRMATIVE ACTION. The Operating Agency shall make every effort to ensure that all projects funded wholly or in part by CDBG-R funds shall provide equal employment and career advancement opportunities for minorities and women. In addition, the Operating Agency shall make every effort to employ residents of the project area(s) specified in the ATI(s).
21. DISCRIMINATION. No person shall, on the grounds of race, gender sexual orientation, creed, color, religion, national origin, age or physical handicap, be excluded from participating in, be refused the benefits of, or otherwise be subject to discrimination in any activities, programs or employment supported by this Contract.
22. FISCAL LIMITATIONS. The United States of America, through HUD, may in the future place programmatic or fiscal limitation(s) on CDBG-R funds. Accordingly, the County reserves the right, in its sole discretion, to revise this Contract in order to take into account actions and events affecting CDBG-R program funding. In the event of a CDBG-R funding reduction by HUD, the County may, in its sole discretion, reduce the compensation amount of this Contract in whole or in part, or may limit the rate of the Operating Agency's use of both its uncommitted and its unspent funds. The Commission, through its Executive Director, or his designee, may act for the County in implementing and effecting such a reduction in the compensation amount of this Contract.

Where the Commission, through its Executive Director, or his designee, has reasonable grounds to question the fiscal accountability, financial soundness, or compliance with this Contract of the Operating Agency, the Commission, through its Executive Director, or his designee, may suspend this Contract for up to sixty (60) days, upon three (3) days notice to Operating Agency pending an audit or other resolution of such questions. In no event, however, shall a revision made by the County affect expenditures and legally binding commitments made by the Operating Agency before it received notice of such revision, provided that such amounts have been committed in good faith and are otherwise allowable, that such commitments are consistent with HUD cash withdrawal guidelines, and that CDBG-R funds are available to County to satisfy such expenditures or legally binding commitments.

23. PROGRAM INCOME. Program Income generated from the use of CDBG-R funds will be treated as program income to the regular CDBG Program. The County will expect that Program Income generated from the use of CDBG-R funds will be returned monthly during the duration of this Contract.
24. JOINT FUNDING. For projects in which there are sources of funds in addition to CDBG-R funds, Operating Agency shall provide proof of such other funding upon request. The County shall not pay for any costs incurred by Operating Agency, which are funded by other sources. All restrictions and/or requirements provided for in this Contract, relative to accounting, budgeting and reporting, apply to the total project regardless of funding source. Separate financial records shall be kept for each funding source and program.
25. INDEPENDENT CONTRACTOR. Both parties hereto in the performance of this Contract will be acting in an independent capacity and not as agents, employees, partners, joint venture partners or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever, including workers' compensation liability. Operating Agency shall bear the sole responsibility and liability for furnishing workers' compensation benefits to any person for injuries arising from or connected with services performed on behalf of the Operating Agency pursuant to this Contract.
26. USE OF FUNDS. All funds approved under this Contract shall be used solely for costs approved in the project budget(s) for the ATI(s) under this Contract. Contract funds shall not be used as a cash advance between contracts, as security to guarantee payments for any non-program obligations, or as loans for non-program activities. Separate financial records shall be kept for such funding source(s) and program.
27. DISALLOWED COSTS. If Operating Agency has failed to return funds spent for disallowed costs related to any CDBG-R contract it has with the County, the County may withhold and offset payments to be made to Operating Agency under this Contract.
28. ASSIGNMENT. Operating Agency may not assign or subcontract any portion of this Contract without the express written consent of the County. Any attempt by Operating Agency to assign or subcontract any performance of the terms of this Contract shall be null and void and shall constitute a material breach of this Contract, upon which the County may immediately terminate this Contract through the Executive Director.
29. SUBCONTRACTING. The requirements of this Contract may not be subcontracted by the Operating Agency without compliance of procurement standards and methods as outlined in 24 CFR, Part 85, Section 85.36 of the Common Rule. Any attempt by the Operating Agency to subcontract without adherence to federal regulations as required by the County may be deemed a material breach of this Contract.

If the Operating Agency desires to subcontract, the Operating Agency shall provide the following information promptly at the County's request:

- A description of the work to be performed by the Subcontractor;
- A draft copy of the proposed subcontract; and
- Other pertinent information and/or certifications requested by the County.

The Operating Agency shall indemnify and cause the subcontractor(s) to indemnify and hold the County harmless with respect to the activities of each and every subcontractor in the same manner and to the same degree as if such subcontractor(s) were the Operating Agency's employees.

The Operating Agency shall remain fully responsible for all performances required of it under this Contract, including those that the Operating Agency has determined to subcontract, notwithstanding the County's approval of the Operating Agency's proposed subcontract.

The County's consent to subcontract shall not waive the County's right to prior and continuing approval of any and all personnel, including subcontractor employees, providing services under this Contract. The Operating Agency is responsible to notify its subcontractors of this County right.

The Commission's Executive Director or his designee is authorized to act for and on behalf of the County with respect to approval of any subcontract and subcontractor employees. After approval of the subcontract by the Commission, the Operating Agency shall forward a fully executed subcontract to the County for their files.

The Operating Agency shall be solely liable and responsible for all payments or other compensation to all subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the County's consent to subcontract.

The Operating Agency shall obtain and maintain on site certificates of insurance, which establish that the subcontractor maintains all the programs of insurance required by the County from each approved subcontractor. The County may request copies of the certificates and endorsements required herein at any time. Failure by the Operating Agency to comply with the County's request may be deemed by the County as a material breach of this contract.

30. AMENDMENTS/VARIATIONS. This writing, with attachments, embodies the whole of the agreement of the parties hereto. No oral agreement shall be binding upon the parties unless expressly stated herein. Except as provided herein, any addition to or variation of the terms of this Contract shall not be valid unless made in the form of a written amendment of this Contract formally approved and executed by

both parties. All Amendments must be received by County no more than sixty (60) calendar days from the expiration date of this Contract.

31. NOTICES. All notices shall be served in writing. The notices to the Operating Agency shall be sent to the following address:

City of Beverly Hills
455 N. Rexford Dr.
Beverly Hills, CA 90210-4857

Notices, reports and statements to the County shall be personally delivered or sent via First Class U.S. mail to the Executive Director or his designee at:

Community Development Commission of the County of Los Angeles
2 Coral Circle
Monterey Park, California 91755

Each party shall promptly notify the other of any change in its mailing address.

32. WARRANTY OF AUTHORITY. The undersigned signatory for the Operating Agency covenants, warrants and guarantees that he/she is empowered and authorized to sign this Contract on behalf of Operating Agency in accordance with the terms and conditions stated herein.
33. REVERSION OF ASSETS. Upon expiration or termination of this Contract, the Operating Agency shall immediately transfer to the County any remaining CDBG-R funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG-R funds. Any real property under the Operating Agency's ownership or possession that was acquired or improved in whole or in part with CDGB-R funds in excess of \$25,000 shall be either:
- i. Used to meet one of the national objectives in 24 CFR Section 570.208 for five (5) years following the close-out of the CDBG-R grant from which assistance to the property was provided after expiration of this Contract (24 CFR Section 570.505), or such longer period of time as may be specified in the Exhibit A; or
 - ii. Disposed of in a manner, which results in the County being reimbursed in the amount of the current market value of the property less any portion thereof attributable to expenditures of non-CDBG-R funds for acquisition of, or improvement to, the property. Such reimbursement is not required after the period of time and under the conditions specified in subparagraph i above.

The Operating Agency shall maintain the use of the real property and documentation verifying compliance with the national objective for a period of five (5) years after closeout of this project. The Operating Agency must submit to the County a

completed certification form verifying that the real property is used exclusively for the eligible use and purpose as provided in the Exhibit A. This form shall be submitted on an annual basis, when requested, beginning in year two (2) and for a period of five (5) years after closeout of the project. In case of a change of use or disposition, the County must be reimbursed for the market value of the property at the time of disposition, or proceeds from the sale, less the pro rata share of expenditures made with non-CDBG-R funds to acquire or improve the property.

34. CERTIFICATION PROHIBITING USE OF EXCESSIVE FORCE. In accordance with Section 519 of Public Law 101-144, the undersigned certifies, to the best of the Operating Agency's knowledge and belief that it has adopted and is enforcing:

- (1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
- (2) A policy of enforcing applicable State and local laws against individuals physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

35. DRUG-FREE WORKPLACE. Operating Agency agrees to provide a drug-free workplace by:

- (1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Operating Agency's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (2) Establishing an ongoing drug-free awareness program to inform employees about -
 - a. The dangers of drug abuse in the workplace;
 - b. The Operating Agency's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1 of this Section 35;

- (4) Notifying the employee in the statement required by paragraph 1 of this Section 35 that, as a condition of employment under the grant, the employee will -
 - a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (5) Notifying the County in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (6) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -
 - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5, and 6.

36. RESIDENTIAL ANTIDISPLACEMENT AND RELOCATION ASSISTANCE

PLAN. Section 104(d) of the Housing and Community Development Act of 1974, also known as the Barney Frank Amendment, requires relocation assistance for displaced low-income families and requires one-for-one replacement of low/moderate income dwelling units that are demolished or converted to other use. When CDBG-R funds are used in a project, including financing for rehabilitation, or project delivery costs, Section 104(d) is triggered. CDBG Regulations further describe the requirements under 24 CFR Section 570.606 Displacement, Relocation, Acquisition, and Replacement of Housing.

Operating Agency must adopt and make public a Residential Antidisplacement and Relocation Assistance Plan as part of its administrative requirements to HUD. Before Operating Agency enters into a Contract committing it to provide funds for any activity that will directly result in the demolition, or conversion to another use, of low/moderate-income dwelling units, it must make public and submit to HUD the information as described in Sections 24 CFR Sections 570.457; 570.496 (a); 570.606 (c); and 570.702 (f).

37. SECTION 3. In order to comply with the Housing and Urban Development Act of 1968, the Operating Agency and, where applicable, its contractor(s) and subcontractor(s) shall comply with Section 3 regulations as described in 24 CFR Part 135. Section 3 compliance activities of the Operating Agency and its contractor(s) and subcontractor(s) shall be governed by the Commission's CDBG Compliance Instructions, as amended, which can be made available to Operating Agency for inspection and copying upon request, if Operating Agency does not already possess a copy.
- a. The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
 - b. The parties to this Contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
 - c. The Operating Agency agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining Contract or other understanding, if any, a notice advising the labor organization or workers' representative of the Operating Agency's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
 - d. The Operating Agency agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and

agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Operating Agency will not subcontract with any subcontractor where the Operating Agency has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

- e. The Operating Agency will certify that any vacant employment positions, including training positions, that are filled (1) after the Operating Agency is selected but before the Contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Operating Agency's obligations under 24 CFR Part 135.
 - f. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.
 - g. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
38. COUNTY'S QUALITY ASSURANCE PLAN. The County will evaluate Operating Agency's performance under this Contract on not less than an annual basis. Such evaluation will include assessing Operating Agency's compliance with all Contract terms and performance standards. Operating Agency's deficiencies which County determines are severe or continuing and that may place performance of the Contract in jeopardy, if not corrected, will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Operating Agency. If improvement does not occur consistent with the corrective measure, County may terminate this Contract, or impose other penalties as specified in this Contract.
39. TERMINATION FOR IMPROPER CONSIDERATION (GRATUITIES). The County may, by written notice to the Operating Agency, immediately terminate the right of the Operating Agency to proceed under this Contract if it is found that improper consideration, in any form, was offered or given by the Operating Agency, either directly or through an intermediary, to any County officer, employee or agent

with the intent of securing the Contract or securing favorable treatment with respect to the award, amendment or extension of the Contract or the making of any determinations with respect to the Operating Agency's performance pursuant to the Contract. In the event of such termination, the County shall be entitled to pursue the same remedies against Operating Agency as it could pursue in the event of default by the Operating Agency.

Operating Agency shall immediately report any attempt by the County officer or employee to solicit such improper consideration. The report shall be made to the Executive Director of the Commission or the County Auditor-Controller's Employee Fraud Hotline 800-544-6861.

40. INSURANCE. The Commission, acting as an agent of the County, authorizes the Commission's Risk Manager to determine the requirements of the insurance policies to be procured and maintained by Operating Agency with respect to its activities and obligations hereunder. Without limiting Operating Agency's indemnification requirements as set forth in section 42 below, the Operating Agency shall provide and maintain at its own expense during the term of this Contract, a program of insurance satisfactory to the Commission's Risk Manager covering its operations hereunder, as specifically defined in Exhibit B to this Contract, a copy of which is attached hereto and incorporated herein by this reference.
41. FAILURE TO PROCURE INSURANCE. Failure on the part of Operating Agency to procure or maintain required insurance, pursuant to Exhibit B shall constitute a material breach of contract under which County may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith. All monies so paid by County shall be repaid by the Operating Agency to County upon demand or County may offset the cost of the premiums against any monies due to the Operating Agency from County.
42. INDEMNIFICATION. Except as otherwise set forth below, the Operating Agency agrees to indemnify, defend and hold harmless the County, the Commission, the Housing Authority of the County of Los Angeles ("Housing Authority"), and each of their elected and appointed officers, officials, representatives, employees, and agents (hereinafter collectively referred to as "Public Agencies") from and against any and all liability, demands, damages, claims, causes of action, fees, (including reasonable attorneys' fees, expert witness' fees, defense costs), and expenses, including, but not limited to, claims for bodily injury, property damage, and death (hereinafter collectively referred to as "Liabilities"), arising from, related to, or connected with the Operating Agency's acts, errors, or omissions. Operating Agency shall not be required to indemnify, defend, and hold harmless the Public Agencies from any Liabilities that arise from the sole negligence or willful misconduct of Public Agencies.

In the event that Operating Agency provides construction services in relation to the construction of a project related in any way to this Contract, with respect to those construction services, Operating Agency agrees to indemnify, defend, and hold harmless Public Agencies from and against any and all Liabilities that arise out of, pertain to, or relate to such project or the construction services of Operating Agency. Operating Agency shall not be required to indemnify, defend, and hold harmless Public Agencies from any Liabilities that arise from the active negligence, sole negligence or willful misconduct of Public Agencies, Public Agencies' agents, servants, or independent contractors who are directly responsible to Public Agencies.

In the event that Operating Agency contracts with another entity (hereinafter "Construction Entity") for construction services to be provided in relation to the construction of a project (hereinafter "Operating Agency-Construction Entity Contract"), Operating Agency agrees that language substantially equivalent to the following shall be incorporated in its contract with Construction Entity in favor of Public Agencies: Construction Entity agrees to indemnify, defend, and hold harmless Public Agencies from and against any and all liabilities demands, damages, claims, causes of action, fees (including reasonable attorney's fees and costs and expert witness fees), and expenses, including, but not limited to, claims for bodily injury, property damage, and death (hereinafter collectively referred to as "Liabilities"), that arise out of, pertain to, or relate to the project or the construction services of Construction Entity, its employees, representatives, consultants, subcontractors, agents, or any other entity for which Construction Entity is responsible. Construction Entity shall not be required to indemnify, defend, and hold harmless Public Agencies from any Liabilities that arise from the active negligence, sole negligence or willful misconduct of Public Agencies, Public Agencies' agents, servants, or independent contractors who are directly responsible to Public Agencies. This indemnification clause shall remain in full force and effect following the expiration and/or termination of the Operating Agency-Construction Entity Contract.

In the event that Operating Agency provides design professional services in relation to a project related in any way to this Contract, Operating Agency agrees to indemnify, defend, and hold harmless Public Agencies from and against any and all Liabilities that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Operating Agency.

In the event that Operating Agency contracts with another entity (hereinafter "Design Professional Entity") for design professional services to be provided in relation to a project related in any way to this Contract (hereinafter "Operating Agency-Design Professional Contract"), Operating Agency agrees that language substantially equivalent to the following shall be incorporated in the Operating Agency-Design Professional Contract in favor of Public Agencies, if such contract is entered into subsequent to the execution date of this Contract: Design Professional Entity agrees to indemnify, defend, and hold harmless Public Agencies from and against any and all liability, demands, damages, claims, causes of action, fees

(including reasonable attorney's fees and costs and expert witness fees), and expenses, including, but not limited to, claims for bodily injury, property damage, and death (hereinafter collectively referred to as "Liabilities"), that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Design Professional Entity, its employees, representatives, consultants, subcontractors, agents, or any other entity for which Design Professional Entity is responsible. This indemnification clause shall remain in full force and effect following the expiration and/or termination of the Operating Agency-Design Professional Contract.

Operating Agency further agrees to indemnify, defend, and hold harmless the Public Agencies from and against any and all Liabilities relating to the Operating Agency's acts or omissions, whether civil or criminal, intentional or unintentional, including, without limitation, allegations or acts of physical abuse, mental abuse, psychological abuse, senior abuse, sexual abuse, molestation, maltreatment, or mistreatment, related in any way to this Contract or the services or work to be provided hereunder.

The above mentioned indemnification provisions shall remain in full force and effect and survive the cancellation, termination and/or expiration of this Contract. Operating Agency further agrees to require any entities with which it contracts to agree to and abide by the above mentioned indemnification requirements in favor of the Public Agencies, as applicable to each of them.

43. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT. Operating Agency shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.
44. TERMINATION FOR CAUSE. This Contract may be terminated by the County upon written notice to the Operating Agency for just cause (failure to perform satisfactorily) with no penalties incurred by the County upon termination or upon the occurrence of any of the following events in a, b or c:
 - a. Should the Operating Agency fail to perform all or any portion of the work required to be performed hereunder in a timely manner or properly carry out the provisions of the Contract in their true intent and meaning, then in such case, notice thereof in writing will be served upon the Operating Agency, and should the Operating Agency neglect or refuse to provide a means for satisfactory compliance with this Contract and with the direction of the County within the time specified in such notice, the County shall have the power to suspend or terminate the operations of the Operating Agency in whole or in part.
 - b. Should the Operating Agency fail within five days to perform in a satisfactory manner, in accordance with the provisions of the Contract, or if the work to be

done under said Contract is abandoned for more than three days by the Operating Agency; then notice of deficiency thereof in writing will be served upon the Operating Agency.

Should the Operating Agency fail to comply with the terms of said Contract within five days, upon receipt of said written notice of deficiency, the Executive Director of Commission shall have the power to suspend or terminate the operations of the Operating Agency in whole or in part.

c. In the event that a petition of bankruptcy shall be filed by or against the Operating Agency.

45. TERMINATION FOR CONVENIENCE. The County reserves the right to cancel this Contract for any reason at all upon 30 days' prior written notice to Operating Agency. In the event of such termination, Operating Agency shall be entitled to a prorated portion paid for all satisfactory work unless such termination is made for cause, in which event, compensation if any, shall be adjusted in such termination.
46. CONFLICT OF INTEREST. The Operating Agency, its agents and employees shall comply with all applicable Federal, State and County laws and regulations governing conflict of interest including, but not limited to, 24 CFR Part 570.611 and 24 CFR Part 85, Section 85.36(b). To this end, the Operating Agency will make available to its agents and employees copies of all applicable Federal, State and County laws and regulations governing conflict of interest.
47. FINANCIAL CLOSE OUT PERIOD. The Operating Agency agrees to complete all necessary financial close out procedures required by the County, within a period of not more than sixty (60) calendar days from the expiration date of this Contract. This time period will be referred to as the financial close out period. The County is not liable to provide reimbursement for any expenses or costs associated with this Contract after the expiration of the financial close out period. After the expiration of the financial close out period, those funds not paid to the Operating Agency under this Contract, if any, may be immediately reprogrammed by the Operating Agency into other eligible activities. The Commission, through its Executive Director, or his designee, may request a final financial audit for activities performed under this Contract at the expiration of the financial close out period.
48. NONEXPENDABLE PROPERTY. Nonexpendable property means leased or purchased tangible personal property, included, but not limited to a vehicle, office equipment, etc. having a useful life of more than one (1) year and an acquisition cost of \$5,000 or more per unit. Nonexpendable property shall also include, but not limited to real property, and any interest in real property (including any mortgage or other encumbrance of real property).

Any utilization of funds derived from the sale or disposition of nonexpendable property must have prior approval of the County and otherwise comply with all

applicable laws and regulations. In the event the Contract is terminated, the County reserves the right to determine the final disposition of said nonexpendable property acquired for this project with CDBG-R funds, including funds derived there from. Said disposition may include taking possession of said nonexpendable property.

The Operating Agency shall maintain up-to-date property records, listing all non-expendable property with an acquisition cost of \$5,000 or more that it has leased or purchased during the term of this Contract. The following items should be included in the list: description of property, serial or ID number, source of funds that purchased the item (including the award number), owner of property, date of purchase, cost, percentage of cost paid with Federal monies, location, condition and use of property, date of disposal, and sale price or method used to determine the current market value. The Operating Agency shall conduct a physical inventory of the nonexpendable property at least once a year, reconcile the inventory with its property records and maintain these records for five years (5) after the termination or expiration of this Contract.

In the event there is a change of use or disposition of the property during the term of this Contract, except in the case of real property in excess of \$25,000, if the market value of the property is over \$5,000, the Operating Agency shall immediately pay to the County a pro-rata share of the current market value of the property, or proceeds from the sale. The pro-rata share shall be calculated by multiplying the current market value by the percentage of the purchase price paid with CDBG-R funds or program income.

If there is a residual inventory of unused supplies, upon termination or completion of the project or termination or expiration of this Contract, with a current aggregate market value exceeding \$5,000 and if the supplies are not needed for any other federally sponsored program(s) or project(s), the Operating Agency shall immediately pay the County for its pro rata share of the current aggregate market value or proceeds from the sale calculated at the percentage of the purchase price paid with CDBG-R funds. The Operating Agency shall obtain prior approval of the County and otherwise comply with all applicable laws and regulations prior to utilizing the supplies for any other federally sponsored program(s) or project(s).

49. PURCHASE OR LEASE OF NONEXPENDABLE PROPERTY. Operating Agency shall obtain three (3) documented bids prior to purchasing or leasing any nonexpendable personal property as approved in Exhibit A, Project Description and Activity Budget. The Operating Agency must purchase or lease from the lowest, responsive and responsible bidder. Operating Agency shall properly identify and inventory all nonexpendable property purchased or leased for \$5,000 or more, pursuant to the Contract. Operating Agency shall provide said inventory to the County upon request.
50. USE OF RECYCLED-CONTENT PAPER PRODUCTS. Consistent with the County Board of Supervisors' policy to reduce the amount of solid waste deposited at the

County landfills, the Operating Agency agrees to use recycled-content paper to the maximum extent possible.

51. ARCHITECTURAL BARRIERS ACT AND THE AMERICANS WITH DISABILITIES ACT. The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of residential structure as defined in 24 CFR Section 40.2 or the definition of building as defined in 41 CFR Part 101, is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (Appendix A to 24 CFR Part 40 for residential structures and Appendix A to 41 CFR Parts 101-19 for general type buildings). The Americans with Disabilities Act (42 U.S.C. Section 12131; 47 U.S.C. Sections 155.201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy after January 26, 1993 that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable--that is, easily accomplishable and able to be carried out without much difficulty or expense.
52. CONSTRUCTION\REHABILITATION PROJECTS. The Operating Agency shall submit a request to the County, to conduct a Contract and Labor Compliance File Review at least 30 calendar days prior to the anticipated completion of construction/rehabilitation activities, but in no event later than April 1st of the current fiscal year.
53. CONTRACTOR RESPONSIBILITY AND DEBARMENT. A responsible contractor is a contractor, consultant, vendor or operating agency who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Contract. It is the policy of the Commission, Housing Authority, and County to conduct business only with responsible contractors.
 - a. The Contractor is hereby notified that if the County acquires information concerning the performance of a Contractor on any CDBG contract, which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Contract, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County, Commission, and/or Housing Authority contracts for a specified period of time, which generally will not to exceed five years, but may exceed five years or be permanent if warranted by circumstances, and terminate any or all existing

contracts the Contractor may have with the County, Commission, and/or Housing Authority.

- b. The County may debar a contractor, consultant, or vendor if the Board of Commissioners finds, in its discretion, that the contractor, consultant, or vendor has done any of the following: (1) violated any term of a contract with the Commission, Housing Authority, or County, or a nonprofit corporation created by the Commission, Housing Authority, or County (2) committed any act or omission which negatively reflects on the its quality, fitness or capacity to perform a contract with the Commission, Housing Authority, or County or any other public entity, or a nonprofit corporation created by the Commission, Housing Authority, or County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the Commission, Housing Authority, County, or any other public entity.
- c. If there is evidence that a Contractor may be subject to debarment, the County will notify the Contractor in writing of the evidence, which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
- d. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the County shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Commissioners.
- e. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision and any other recommendation of the Contract Hearing Board shall be presented to the Board of Commissioners. The Board of Commissioners shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board.
- f. If a Contractor has been debarred for a period longer than five years, that Contractor may, after the debarment has been in effect for at least five years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after

debarment was imposed; or (4) any other reason that is in the best interests of the County.

- g. The Contractor Hearing Board will consider a request for review of the debarment determination only where (1) the Contractor has been debarred for a period longer than five years; (2) the debarment has been in effect for at least five years; and (3) the request is in writing, states one or more of the ground for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment Hearing.
- h. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Commissioners. The Board of Commissioners shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.
- i. These terms shall also apply to subcontractors and sub consultants of County, Commission, or Housing Authority contractors, consultants, vendors and operating agencies.

54. OPERATING AGENCY'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM. Operating Agency acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from County through contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Operating Agency's duty under this Contract to comply with all applicable provisions of law, Operating Agency warrants that it is now in compliance and shall during the term of this Contract maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or District Attorney Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

55. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM. Failure of Operating Agency to maintain compliance with the requirements set forth in Section 54, Operating Agency's Warranty of Adherence to County's Child Support Compliance Program shall constitute a default by Operating Agency under this Contract. Without limiting the rights and remedies available to County under any other provision of this Contract, failure to cure such default within ninety (90) days of notice by the Los Angeles County Child Support Services Department (CSSD) shall be grounds upon which the Executive Director or his designee may terminate this Contract pursuant to Section 44, Termination for Cause.
56. POST MOST WANTED DELINQUENT PARENTS LIST. The Operating Agency acknowledges that the County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. The Operating Agency understands that it is County's policy to voluntarily post a list entitled L.A's Most Wanted: Delinquent Parents poster in a prominent position at Operating Agency's place of business. The CSSD will supply the Operating Agency with the poster to be used.
57. EMPLOYEES OF OPERATING AGENCY. *Workers' Compensation:* Operating Agency understands and agrees that all persons furnishing services to the County pursuant to this Contract are, for the purposes of Workers' Compensation liability, employees solely of the Operating Agency. Operating Agency shall bear sole responsibility and liability for providing Workers' Compensation benefits to any person for injuries arising from an accident connected with services provided to the County under this Contract.

Professional Conduct: The County does not and will not condone any acts, gestures, comments or conduct from the Operating Agency's employees, agents or subcontractors which may be construed as sexual harassment or any other type of activities or behavior that might be construed as harassment. The County will properly investigate all charges of harassment by residents, employees or agents of the County against any and all Operating Agency's employees, agents or subcontractors providing services for the County. The Operating Agency assumes all liability for the actions of the Operating Agency's employees, agents or subcontractors and is responsible for taking appropriate action after reports of harassment are received by the Operating Agency.

58. NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW. The Operating Agency shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is available on the Internet at www.babysafela.org under the public information link for printing purposes.

59. OPERATING AGENCY'S ACKNOWLEDGMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW. The Operating Agency acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Operating Agency understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Operating Agency's place of business. The Operating Agency will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The poster is available at www.babysafela.org/docs/poster_e.pdf.
60. PHOTOGRAPHS, FOOTAGE, AND OTHER MEDIA MATERIALS. Operating Agency represents and warrants that all photographs, videos, DVD's, footage, magazines, and other media materials provided to the County are either public record or have been legally procured without invading the copyright, ownership, or privacy rights of any individual. Operating Agency further agrees to defend, hold harmless, and indemnify the County from any and all liability, as described in Section 42, Indemnification, arising from or related to County's use of said photographs, videos, DVD's, footage, magazines, and other media materials.
61. ENTIRE CONTRACT. This Contract with attachments and any and all CDBG and CDBG-R Bulletins, which the County may issue from time to time following the date of execution, constitute the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Contract to be subscribed by the Executive Director of the Community Development Commission, and the Operating Agency has subscribed the same through its authorized officers, on the day, month and year first above written.

COUNTY OF LOS ANGELES

City of Beverly Hills

BY:



SEAN ROGAN,
Executive Director
Community Development Commission
of the County of Los Angeles

BY/TITLE:

Rod Wood

Digitally signed by Rod Wood
DN: cn=Rod Wood, o=US, ou=City of Beverly
Hills, ou=City Manager,
email=rodwood@beverlyhills.org
Reason: I am approving this document
Date: 2009.09.24 11:18:29 -0700

APPROVED AS TO FORM:

APPROVED AS TO PROGRAM:

ROBERT E. KALUNIAN
Acting County Counsel

SEAN ROGAN,
Executive Director
Community Development Commission
of the County of Los Angeles

BY:



Deputy

BY:



Director, CDBG

EXHIBIT B

INSURANCE REQUIREMENTS FOR OPERATING AGENCY

City of Beverly Hills
455 N. Rexford Dr.
Beverly Hills, CA 90210-4857

In order for the Operating Agency to meet its obligations to the community and insure its continuance, the Community Development Commission of the County of Los Angeles ("CDC"), the Housing Authority of the County of Los Angeles ("HA"), and the County of Los Angeles ("County") require that prior to the execution of this contract, the Operating Agency must provide evidence that all insurance requirements have been met. Without limiting Operating Agency's indemnifications as set in the attached contract, Operating Agency shall procure and maintain, at Operating Agency's sole expense, for the duration of this contract, the insurance policies described herein. Such insurance shall be secured from carriers admitted in California, or authorized to do business in California. Carriers shall be in good standing with the California Secretary of State's Office and the California Department of Insurance. Such carriers must be approved by the California Department of Insurance and must be included on the California Department of Insurance List of Eligible Surplus Line Suppliers (hereinafter "LESLI"). Carriers must have a minimum rating of or equivalent to A: VIII in Best's Insurance Guide. Operating Agency shall, prior to the execution of this contract, deliver to the CDC **Certificates of Insurance** with original endorsements evidencing the insurance coverage required by this agreement. The certificates and endorsements shall be signed by a person authorized by the insurers to bind coverage on its behalf. The CDC reserves the right to require complete certified copies of all policies at any time. Said insurance shall be in a form acceptable to the CDC and may provide for such deductibles as may be acceptable to the CDC.

Any self-insurance program and self-insured retention must be separately approved by the CDC. In the event such insurance does provide for deductibles or self-insurance, Operating Agency agrees that it will defend, indemnify and hold harmless the CDC, County, and HA, and each of their elected and appointed officers, officials, representatives, employees, and agents in the same manner as they would have been defended, indemnified and held harmless if full coverage under any applicable policy had been in effect. Each such certificate shall stipulate that the CDC be given at least thirty (30) days' written notice in advance of any cancellation or any reduction in limit(s) for any policy of insurance required herein. Operating Agency shall give the CDC immediate notice of any insurance claim or loss which may be covered by insurance. Operating Agency represents and warrants that the insurance coverage required herein will also be provided by any entities with which Operating Agency contracts, as detailed below. All **Certificates of Insurance** and additional insured endorsements shall carry the following information, as identified in the top portion of this document: *Agency Name and Address*

The insurance policies set forth herein shall be primary insurance with respect to the CDC. The insurance policies shall contain a waiver of subrogation for the benefit of the CDC. Failure on the part of Operating Agency, and/or any entities with which Operating Agency contracts, to procure or maintain the insurance coverage required herein may, upon the CDC's sole discretion,

constitute a material breach of this contract pursuant to which the CDC may immediately terminate this contract and exercise all other rights and remedies set forth herein, at its sole and absolute discretion, and without waiving such default or limiting the rights or remedies of the CDC, procure or renew such insurance and pay any and all premiums in connection therewith and all monies so paid by the CDC shall be immediately repaid by the Operating Agency to the CDC upon demand including interest thereon at the default rate. In the event of such a breach, the CDC shall have the right, at its sole election, to participate in and control any insurance claim, adjustment, or dispute with the insurance carrier. Operating Agency's failure to assert or delay in asserting any claim shall not diminish or impair the CDC's rights against the Operating Agency or the insurance carrier.

When Operating Agency is naming the CDC as an additional insured on any of the insurance policies set forth herein, then the additional insured endorsement shall contain language similar to the language contained in ISO form CG 20 10 10 01. In the event the CG 20 10 10 01 is provided, then the CG 2037 10 01 must also be provided to cover any Completed Operations exposure. When any entity with which Operating Agency is contracting, is naming the CDC as an additional insured on any of the insurance policies set forth herein, then the additional insured endorsement shall contain language similar to the language contained in ISO form CG 20 10 11 85.

Any failure to maintain the insurance required herein, may be deemed, at the sole discretion of CDC, a material breach of this contract. No funds will be advanced, reimbursed, or disbursed until all of the above mentioned insurance requirements have been met. There absolutely will be no reimbursement of costs for the default and cure periods.

Exceptions to the insurance requirements as set forth herein, will be granted only on a case by case basis. Prior to the Operating Agency receiving funds, the CDC or the HA will review the activities of the Operating Agency. Those Operating Agencies whose activities present no meaningful exposure to the CDC, the HA and/or the County (as determined solely by the CDC Risk Management Administrator) may have certain insurance coverages waived by the CDC Risk Management Administrator upon the written request of the Operating Agency and CDC Risk Management Administrator's approval of such.

The following insurance policies shall be obtained and maintained by Operating Agency for the duration of this contact, unless set forth otherwise herein:

A. GENERAL LIABILITY INSURANCE (written on ISO policy form CG 20 10 11 85 or it's equivalent) including coverage for personal injury, death, property damage and contractual liability with limits of not less than the following:

General Aggregate	\$2,000,000
Products/ Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000

The CDC, HA, and County, and each of their elected and appointed officers, officials, representatives, employees, and agents (hereinafter collectively referred to as the "Covered

Entities”), shall be covered as additional insureds on such policy. In addition, the Operating Agency must provide evidence of or a separate Additional Insured Endorsement form identifying the Covered Entities as additional insureds for the General Liability insurance policy. If the services provided in relation to this Agreement relate in any way to minors, then this policy shall also include an endorsement for abuse and sexual molestation.

B. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY insurance providing workers' compensation benefits, as required by the Labor Code of the State of California. In all cases, the above insurance shall include Employer's Liability coverage with limits of not less than the following:

Each Accident	\$1,000,000
Disease-Policy Limit	\$1,000,000
Disease-Each Employee	\$1,000,000

C. CRIME COVERAGE FOR EMPLOYEE THEFT; FIDELITY BOND: If the aggregate budgeted amount for the current fiscal year allotted for the Operating Agency is less than fifty thousand dollars (\$50,000), the Operating Agency shall not be required to comply with this section C. If the aggregate budgeted amount for the current fiscal year allotted for the Operating Agency is greater than or equal to fifty thousand dollars (\$50,000), then Operating Agency shall be required to comply with the following requirements in this section C:

Operating Agency shall procure and maintain, at its sole cost and expense, a fidelity bond covering each employee of Operating Agency, whether or not they are compensated. The fidelity bond may be either a primary commercial blanket bond or a blanket position bond written by an insurer licensed by the California Insurance Commissioner. Borrower shall provide thirty (30) days notice to the CDC prior to cancellation of the fidelity bond. The fidelity bond shall provide a minimum coverage equivalent to the lesser of one million dollars (\$1,000,000) or 50% of the aggregate budgeted amount for the current fiscal year for the Operating Agency, as set forth in the cumulative Exhibit A budgets. If the Operating Agency experiences an increase in funding during the fiscal year, the crime coverage requirement will be re-assessed and additional coverage may be required in the sole and absolute discretion of the CDC. The Operating Agency shall maintain the fidelity bond for the duration of this contract. The fidelity bond may contain a provision for a deductible amount from any loss which, except for such deductible provision, would be recoverable from the insurer. A deductible provision shall not be in excess of ten percent (10%) of the required minimum bond coverage. Any deviation from this fidelity bond section shall require specific written approval by the CDC. The CDC reserves the right, at its sole and absolute discretion to amend at anytime the requirements contained in this section C.

D. AUTOMOBILE LIABILITY INSURANCE (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than one million dollars (\$1,000,000) for each incident. Such insurance shall include coverage of all “owned”, “hired”, and “non-owned” vehicles, or coverage for “any auto.” The Covered Entities shall be covered as additional insureds on such policy.

E. PROFESSIONAL LIABILITY INSURANCE including coverage for personal injury, death, property damage, and contractual liability in an amount not less than One Million Dollars (\$1,000,000) for each occurrence, (Two Million Dollars (\$2,000,000) general aggregate). Said insurance shall be maintained for the statutory period during which the professional maybe exposed to liability. The purpose of this insurance is to cover all claims for professional services being provided by Operating Agency, which includes, but is not limited to, services provided by the following professionals: physicians, physician's assistants, nurses, psychiatrists, psychologists, pharmacists, social workers, architects, engineers, and financial counselors. If Operating Agency is not providing professional services, then it is the responsibility of Operating Agency to obtain separate written approval from CDC to eliminate this professional liability insurance requirement. Operating Agency shall require that the aforementioned professional liability insurance coverage language be incorporated into its contract with any other entity with which it contracts for professional services.

Operating Agency agrees it will require that, at a minimum, all of the above mentioned insurance requirements, with the exception of the Crime Coverage, are incorporated in its contract with any entity with which it contracts in relation to this contract, or in relation to the property or project that is the subject of this contract.

The CDC reserves the right, at its sole and absolute discretion, to amend at anytime the provisions of this Exhibit B.



AGENDA REPORT

Meeting Date: June 16, 2009
Item Number: F-4
To: Honorable Mayor & City Council
From: David Lightner, Deputy City Manager *DL*
Subject: RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING USE OF COMMUNITY DEVELOPMENT BLOCK GRANT RECOVERY (CDBG-R) PROGRAM FUNDS TO CONSTRUCT AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANT CURB RAMPS

Attachments:

1. Resolution
2. Public Notice

RECOMMENDATION

Staff respectfully recommends the City Council adopt the attached Resolution approving use of the Community Development Block Grant Recovery (CDBG-R) program funds to construct Americans with Disabilities Act (ADA) Compliant Curb Ramps with \$77,836 of CDBG-R Funds.

INTRODUCTION

Additional Community Development Block Grant Recovery (CDBG-R) funds have recently been approved for allocation to cities under the American Recovery and Reinvestment Act (ARRA) of 2009. Funding has been allocated under the Recovery Act as CDBG-R Funds to stimulate the economy. CDBG-R Funds are targeted for economic development, housing, infrastructure and other public facilities activities that will quickly spur further economic investment, increased energy efficiency, and job creation or job retention. The Los Angeles County Community Development Commission (LACDC) has notified the City that \$77,836 in federal CDBG-R Funds will be available, as part of the 2008-2009 CDBG program, to the City of Beverly Hills for eligible activities. City staff has identified an eligible public facilities improvements project to be funded with CDBG-R Funds. Many street crossings citywide are already required to be improved with ADA Compliant Curb Ramps. Curb ramps will provide an accessible route that people with disabilities can use to safely transition from a roadway to a curbed sidewalk and vice versa. The ADA Standards require that curb ramps include features called "detectable warnings." Detectable warnings consist of a series of small domes that contrast in color with the surrounding sidewalk or street. They must be

Meeting Date: June 16, 2009
Item Number:

integrated into the walking surface, and there are specific measurements for the size and spacing of the domes. The \$77,836 available in CDBG-R funds should allow for the installation of approximately twenty-five (25) curb ramps.

DISCUSSION

Staff recommends funding for the ADA Compliant Curb Ramps project to be funded with CDBG-R Funds. This public facilities improvement project is eligible under the CDBG-R Funding program and meets the intent of the program to quickly spur economic investment.

PUBLIC NOTICE AND COMMENTS

The CDBG requirements for citizen participation in the application process were met by publishing announcements in the *Beverly Hills Weekly* on June 11, 2009 and the *Beverly Hills Courier* on June 12, 2009, and posting a notice in public buildings on June 8, 2009 for the June 16, 2009 City Council meeting informing the public of the proposed funding for this project (see Attachment). Any comments received at the City Council meeting or other written comments will be forwarded to the Community Development Commission (CDC) along with the application for funding through the Los Angeles Urban County CDBG Program.

FISCAL IMPACT

The City will receive \$77,836 of CDBG-R Funds for fiscal year 2008-09 to cover the cost of ADA Compliant Curb Ramps. Costs associated with this proposed project will be reimbursed to the City by the end of the 2009-10 fiscal year using CDBG funds. There will be no fiscal impact to the City's General Fund.



Scott Miller
Finance Approval

David Lightner 
Approved By

Attachment 1

Resolution

RESOLUTION NO. 09-R - 12685

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING USE OF COMMUNITY DEVELOPMENT BLOCK GRANT RECOVERY (CDBG-R) PROGRAM FUNDS TO CONSTRUCT AMERICANS WITH DISABILITIES (ADA) COMPLIANT CURB RAMPS

WHEREAS, on August 22, 1974 the President of the United States signed into law the Housing and Community Development Act of 1974; and

WHEREAS, the primary goals of Title I of the Act are the development of viable urban communities by providing decent housing and a suitable living environment, and expanding economic opportunities, principally for persons of low and moderate income; and

WHEREAS, additional Community Development Block Grant (CDBG) funds have recently been approved for allocation to cities under the American Recovery and Reinvestment Act (ARRA) of 2009; and

WHEREAS, funding has been allocated under the Recovery Act as CDBG-R funds to stimulate the economy; and

WHEREAS, the City of Beverly Hills has received notification of the availability of \$77,836 in federal Community Development Block Grant Recovery (CDBG-R) funds targeted for economic development, housing, infrastructure and other public facilities activities that will quickly spur further economic investment, increased energy efficiency, and job creation or job retention; and

WHEREAS, the City has identified a public facilities improvement project that is eligible under the CDBG-R Funding program and meets the intent of the program to quickly spur economic investment; and

WHEREAS, the project and project administration will be funded with CDBG-R funds in the amount of \$77,836; and

WHEREAS, the City has published a public notice regarding this eligible activity in accordance with the CDBG-R regulations, and has invited citizen comments.

Now, therefore, the Council of the City of Beverly Hills does hereby resolve as follows:

Section 1. The City of Beverly Hills allocates its available funding for the following purposes:

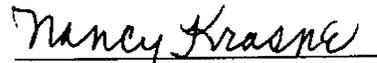
ADA Compliant Curb Ramps Project \$77,836

Section 2. The City Manager is authorized to direct staff to submit the City's application package for Fiscal Year 2008-2009 CDBG-R Funding to the County of Los Angeles, reflecting the funding allocation set forth herein.

Section 3. The City Manager is authorized to execute the agreements necessary to implement the CDBG-R Project outlined in Section 1.

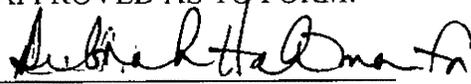
Section 4. This Resolution shall take effect from and after the date of its passage and adoption.

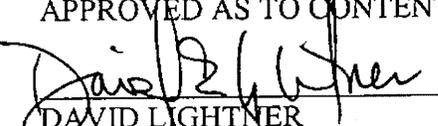
Adopted: June 16, 2009

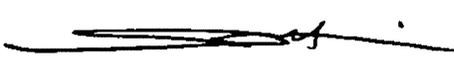

NANCY KRASNE
Mayor of the City of
Beverly Hills, California

ATTESTS

 (SEAL)
BRYON POPE
City Clerk

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

DAVID LIGHTNER
Deputy City Manager


SCOTT G. MILLER
Director of Administrative Services/
Chief Financial Officer

Attachment 2

Public Notice



CITY OF BEVERLY HILLS

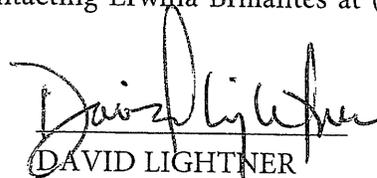
*PUBLIC ANNOUNCEMENT
FOR THE*

*COMMUNITY DEVELOPMENT BLOCK GRANT RECOVERY (CDBG-R) FUNDING
2008-2009 CDBG PROGRAM AMENDMENT*

NOTICE IS HEREBY GIVEN that the City of Beverly Hills will be amending its 2008-2009 CDBG Program to include CDBG-R Funding. Community Development Block Grant funds have recently been approved for allocation to cities under the American Recovery and Reinvestment Act (ARRA) of 2009. Funding has been allocated under the Recovery Act as CDBG-R funds to stimulate the economy. CDBG-R funds are targeted for economic development, housing, infrastructure and other public facilities activities that will quickly spur further economic investment, increased energy efficiency, and job creation or job retention.

The City of Beverly Hills City Council will be considering for approval the use of CDBG-R Funds in the amount of \$77,836 for the installation of Americans with Disabilities Act (ADA) Compliant Curb Ramps citywide. This public facilities improvement project is eligible under the CDBG-R Funding program and meets the intent of the program to quickly spur economic investment. The City Council will be considering this project for approval at the City Council meeting to be held June 16, 2009 in the City Council Chambers at 455 North Rexford Drive, Beverly Hills, California, 90210 at 7:00 pm.

The City is inviting comments through June 16, 2009 on the proposed CDBG 2008-2009 program amendment to provide CDBG-R Funding for the ADA Compliant Curb Ramps project. Comments can be submitted to Erwina Brillantes, Management Analyst, City of Beverly Hills Community Development Department, First Floor, 455 North Rexford Drive, Beverly Hills, California, 90210, or by contacting Erwina Brillantes at (310) 285-1179, or ebrillantes@beverlyhills.org.


DAVID LIGHTNER
Deputy City Manager



CITY OF BEVERLY HILLS
 COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION
 455 North Rexford Drive
 Beverly Hills, CA 90210-4817
 (310) 285-1123
 FAX: (310) 858-5966

BeverlyHills.org

Categorical Exemption

Name of Project: CDGB-ADA Curb Ramps

Location: Olympic Blvd, between Doheny Dr and Linden Dr.

Type of Business (if commercial) _____

Project Description: Construction of 18 new ADA-compliant curb ramps and upgrade 28 existing curb ramps to ADA-complaint

Applicant's Name: City of Beverly Hills PW Phone: 310-285-2521

Applicant's Address: 345 Foothill Rd

City: Beverly Hills, CA Zip: 90210

If different, provide:

Agent's Name _____ Phone _____

Agent's Address _____

City _____ Zip _____

The undersigned, having received this project for processing, has reviewed it for environmental impact and concluded that the project qualifies for a categorical exemption under the procedures adopted by the City of Beverly Hills and no further environmental assessment is necessary.

Applicable Exemption: Class 2 – Replacement or Reconstruction and Class 3 New Construction

Comments Class 2 for replacement or reconstruction of existing structures and facilities where the new will be located on the same site and serve the same purpose as the replaced structure. Class 3 for new, small facilities/structures.

Reviewed by *John Reine* Date 3/29/10