

# REQUEST FOR PROPOSALS

for

## **City Facilities Emergency Power Backup Feasibility Study** **E11502346**



### **CITY OF PETALUMA** PUBLIC WORKS & UTILITIES DEPARTMENT

**Issued: March 15, 2024**

**Proposal Deadline: 4:00 PM, April 12, 2024**

**Paul Geoghegan**, Project Manager  
[pgeoghegan@cityofpetaluma.org](mailto:pgeoghegan@cityofpetaluma.org)

# CITY OF PETALUMA REQUEST FOR PROPOSALS

## Table of Contents

1. PROJECT BACKGROUND AND INTENT	3
2. OVERVIEW OF SERVICES	
A SUMMARY OF SERVICES	4
B FORM OF AGREEMENT	4
C SCOPE OF SERVICES	4
3. REQUEST FOR PROPOSAL PROCEDURES	
A REQUESTS FOR INFORMATION	4
B PRE-SUBMITTAL MEETING	4
C SUBMITTAL INSTRUCTIONS	4
D PLANNED RFP SCHEDULE	5
E ADDENDA	5
4. PROPOSAL REQUIREMENTS	
A COVER LETTER	5
B GENERAL QUALIFICATIONS	6
C EXPERIENCE	6
D PROJECT TEAM	6
E PROPOSED SCOPE OF WORK & APPROACH	7
F SCHEDULE	7
G COST PROPOSAL	7
5. EVALUATION	8
6. SELECTION AND AWARD	
A REVIEW	8
B AWARD	8
C PROTEST PROCEDURES	8
7. MISCELLANEOUS	
A DISCLAIMERS AND RESERVATION OF RIGHTS	9
B CONFLICT OF INTEREST	9
C PUBLIC RECORDS	9

### Attachments:

Attachment A: Scope of Services

Attachment B: Insurance Requirements

Attachment C: Professional Services Agreement with Prevailing Wage Information

Attachment D: Living Wage Acknowledgement and Certification

Attachment E: CDBG Terms and Conditions

## **CITY OF PETALUMA REQUEST FOR PROPOSALS**

The City of Petaluma (the “**City**”) requests proposals from firms (individually, the “**Respondent**” and collectively, the “**Respondents**”) to provide analysis and feasibility services for the City Facilities Emergency Power Backup Feasibility Study Project in Petaluma, CA.

### **1. PROJECT BACKGROUND AND INTENT**

The City of Petaluma is a Subrecipient of U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant–Disaster Recovery (CDBG-DR) funding. Funding is administered through the California Department of Housing and Community Development (HCD). Accordingly, Respondents are obligated to comply with applicable federal and state laws and regulations set forth in Attachment E (CDBG-Mitigation Terms and Conditions). Additionally, Respondents are obligated to comply with all applicable codes, ordinances, and regulations. Procurement shall only be conducted with responsible vendors who have the technical and financial competence to perform as well as an exemplary record of integrity. Before selecting a vendor, the City of Petaluma intends to review the federal and state lists of vendors excluded from procurement. Contracts shall not be awarded to debarred, suspended, or ineligible vendors.

The City of Petaluma intends to utilize the grant funding to conduct a Feasibility Study for emergency backup power through renewable energy, battery sources, and other emerging technologies. The study will also identify any impediments toward transitioning to renewable energy backup at critical facilities. Generator use for the city minimizes the effects of power outages due to earthquakes, extreme heat, severe storms, wildfires, and high wind events by keeping a facility operational during an outage. City facilities also need backup power during planned Public Safety Power Shutoff (PSPS) events. While the Local Hazard Mitigation Plan originally envisioned replacing existing diesel generators with new diesel generators, the City has since adopted a Climate Emergency Framework which prioritizes switching from fossil fuel infrastructure to renewable resources.

This project will include site-specific studies of energy use, current and future electrical capacity of existing feeders, distribution equipment and circuits, available transmission capacity from PG&E, interior upgrades that may be necessary or preferable to maximize building utilization in a microgrid environment, and determination of the most suitable technology and equipment to provide renewable, emission-free backup power during power shutoffs.

Studying the feasibility of providing renewable backup power will not result in the purchase and installation of the equipment; this project will only develop a study for options and a plan for implementation.

The City of Petaluma is a ‘full service’ city with its own Fire Department, Police Department,

Airport, Marina, and Transit service. City staff are mandated emergency support staff and have been called to service multiple times due to the regional wildfires. All city facilities play a role in supporting, serving, and sheltering the community during an emergency.

## 2. OVERVIEW OF SERVICES

### A. SUMMARY:

The City is seeking services from qualified and experienced firms with a combination of expertise and experience in renewable energy, energy storage, microgrid, facility back-up power generation, electrical engineering, power management and investigation and analysis of existing facilities electrical infrastructure.

### B. FORM OF AGREEMENT:

A copy of the City's standard Professional Services Agreement (the "Agreement") is attached hereto as **Attachment C** and incorporated herein. By submitting a proposal, the Respondent agrees to enter into the Agreement using the attached form with no exceptions to the form of the Agreement.

### C. SCOPE OF SERVICES:

By submitting a proposal, the Respondent represents that it is fully qualified and available to provide the Services as set forth in the Scope of Services, and unless otherwise agreed upon, agrees to provide those Services as specified if it is awarded the Agreement.

## 3. REQUEST FOR PROPOSAL PROCEDURES

### A. REQUESTS FOR INFORMATION:

Questions or objections relating to the Request for Proposals (the "RFP"), the attachments hereto, the RFP procedures, or the required Services may only be submitted via email to **Paul Geoghegan** at [pgeoghegan@cityofpetaluma.org](mailto:pgeoghegan@cityofpetaluma.org) by **4:00 PM, April 1st, 2024** (the "**Request for Information Deadline**"). Any questions or objections that are not submitted in the manner specified and by the Request for Information Deadline will be deemed waived. City will not be bound by the oral representations of any City officials, employees, or representatives.

### B. PRE-SUBMITTAL MEETING:

A Pre-submittal meeting will not be held. However, all prospective firms are encouraged to drive by the City facilities identified in the Scope of Work.

### C. SUBMITTAL INSTRUCTIONS:

Proposals must be received by the City by or before 4:00 PM, April 12, 2024 (the "Proposal Deadline"). The Respondent must submit one (1) electronic copy of the Proposal via email, with subject line "Proposal for City Facilities Emergency Power Backup Feasibility Study Project." The email must include the Respondent's name, address and phone number and attach one electronic copy of the Proposal. Email Proposal to:

**Paul Geoghegan**, Project Manager at [pgeoghegan@cityofpetaluma.org](mailto:pgeoghegan@cityofpetaluma.org)

Note that the maximum receivable email size to the City servers is approximately 20 MB. Proposals exceeding the maximum size shall be emailed via a downloadable link.

The Respondent shall be responsible for ensuring that the City has received the Proposal no later than the Proposal Deadline.

**D. PLANNED RFP SCHEDULE:**

The following schedule is provided for planning purposes based on current information. However, all dates are subject to revision, including the PROPOSAL Deadline, and may be amended by addenda to this RFP:

ACTIVITY	PLANNED DATES/TIME
RFP Issued	March 15, 2024
Pre-Submittal Meeting	N/A
Request for Information Deadline	April 1, 2024, 4:00 PM
PROPOSAL Deadline	April 12, 2024, 4:00 PM
Interviews (if requested by City)	April 15th – 29th, 2024
Notice of Selection	April 30, 2024
Notice to Proceed	May, 2024
Consultant Services	June 2024 – February 2025

**E. ADDENDA:**

City reserves the right to issue addenda to modify the terms and conditions of this Proposal, including modifications to the Proposal Deadline or to the Attachments to this Proposal. Addenda will be posted on the City's website at <https://cityofpetaluma.org/bid-opportunities-2/>. Each Respondent is responsible for checking the City's website for addenda, and for reviewing all addenda before submitting its Proposal.

**4. PROPOSAL REQUIREMENTS**

Each Proposal must be submitted in compliance with the requirements of this RFP. Each Proposal must respond to the items listed below. Clarity and brevity are preferable to volume. Do not attach brochures or promotional materials to the Proposal. Proposal should not exceed twenty (20) single-sided pages, excluding any tabs or dividers. However, resumes may be included in an appendix and not counted in the total page count. By submitting a Proposal, the Respondent agrees that the pricing and proposed approach to providing the Services, including staffing, constitutes a firm offer to enter into the Agreement with the City, and that the offer will remain open for 90 days following the Proposal Deadline.

**A. COVER LETTER:**

Provide a brief cover letter that includes all the following information:

- (1) Respondent's name, address, phone number, and website address.
- (2) Type of organization (e.g., corporation, partnership, etc.).
- (3) A summary of general information about Respondent and the types of services it provides in relation to the Services required by the City.
- (4) Contact information, including name, title, address, phone number, and email, of Respondent's primary representative for purposes of this RFP; and
- (5) Acknowledgment that the Respondent has read and understood the insurance requirements outlined in **Attachment B**, and hereby affirms (1) the cost of providing such insurance has been incorporated in the Respondent's Proposal, and (2) Respondent will be able to obtain the required insurance coverage if awarded the contract.

The cover letter must be signed by a representative that is authorized to bind Respondent by contract and must state his or her name, title, and email address.

**B. GENERAL QUALIFICATIONS:**

Provide a brief description of the Respondent's business, including the number of years in business under the current name. Describe the size of the business, including the total number of employees and offices, and identify the local office that will provide the Services if awarded the Agreement. Describe how and why Respondent is qualified to provide the Services.

Additionally, this section shall include a listing of any lawsuit and the result of that action resulting from (a) any public project undertaken by the Firm where litigation is still pending or has occurred within the last five years or (b) any type of project where claims or settlements were paid by the Firm or its insurers within the last five years.

**C. EXPERIENCE:**

Provide three (3) examples of work comparable to the services requested by this RFP, particularly with respect to services provided to other cities or public agencies. For each example provide (1) a brief description of the services provided, (2) the total project cost, (3) time period in which the services were provided, and (4) a brief statement of the Respondent's adherence to the schedule and budget for each project, and (5) the name and address of the contracting agency, including contact information for a reference check (name, title, phone number, and email address).

Additional consideration will be given to firms who demonstrate depth of experience designing and / or installing backup power systems and a breadth of power backup technology options ranging from conventional fueled internal combustion engine technology to emerging technologies using readily available renewable energy sources.

**D. PROJECT TEAM:**

Identify proposed team members and work they have completed on similar projects; include an organizational chart. List all applicable license numbers for

any license required to perform the Services.

List all subconsultants including contact information and areas of expertise. Briefly describe the roles of the prime consultant and subconsultants.

Identify by name, address, and website, each subconsultant or subcontractor, if any, that will be involved with providing the services, including the proposed role for each such subconsultant or subcontractor.

Identify by name and title Respondent's Key Personnel, including the proposed principal-in-charge and project manager(s) who will be assigned to provide the services. Include a resume for each key personnel identified, with his or her education, training, and experience.

**E. PROPOSED SCOPE OF WORK AND APPROACH:**

A scope of work shall be provided responding to and expanding on the general scope of services provided in the SCOPE OF SERVICES ATTACHMENT including a narrative description for each task identified in the scope of work. A description of the subtasks, which must be performed to complete the task, shall be included. All descriptions shall be of sufficient length to clearly convey that the proposer fully understands the scope of the work and conveys how they intend to approach the work.

**F. SCHEDULE:**

Provide an estimated schedule for delivery of each project element including milestones and deliverables. The schedule will include at a minimum the following with start and completion dates:

- Kickoff Meeting
- Utility and Facility Field Analysis Completion
- Preliminary Findings Assessment
- Development and Comparison of Applicable Technologies
- Draft Feasibility Study Presentation
- Final Feasibility Study Presentation

**G. COST PROPOSAL:**

The Respondent will perform the services stated in the contract based on the final negotiated scope of work. For this RFP, provide a Lump Sum cost proposal consistent with the Scope of Services, including any additional tasks or subtasks the Respondent deems important and appropriate to include.

The cost proposal shall include:

- A 2024-2025 rate table for its firm as well as the subconsultants.
- A listing of tasks required to accomplish the proposed scope of services.
- Labor hours for each position classification and task.
- All other reimbursable fees and expenses (noting that the City does not pay for lodging, vehicles and travel time).
- Assumptions upon which the estimate is based.

- Mark-up on other direct costs (ODC), not to exceed five (5) percent;
- The total proposed lump sum fee to complete the feasibility in its entirety.

## 5. EVALUATION

The factors that the City will consider in evaluating the Proposals are as follows:

Lump Sum Cost Proposal	1-20 points
Responsiveness to RFP, completeness and understanding of scope of work to be done	1-20 points
Experience of the firm and key personnel designated on team providing similar services to other public agencies and municipalities	1-20 points
Quality of proposed staff for work to be done	1-20 points
Proposed Approach	1-20 points
Interview (If requested)	1-100 points

## 6. SELECTION AND AWARD

### A. REVIEW:

Proposals will be reviewed for responsiveness and evaluated and ranked based on the factors listed in Section 5, above. When the evaluation is complete, the Proposals will be ranked based on total scores to identify the Proposal that is the most advantageous to the City. Acting in its sole discretion, the City may elect to conduct interviews, either in person or remotely, with shortlisted Respondents.

### B. AWARD:

The City will award the Agreement, if at all, to the Respondent(s) that are determined by the City, acting in its sole discretion, to offer the most advantageous Proposal to the City based on the City's review, as outlined above. City staff will submit its recommendation to the City Council or the awarding officer, as applicable, for award of the Agreement to the Respondents that it determines to offer the most advantageous Proposal. The Respondents will be notified of staff's intended recommendation by a Notice of Selection which will be posted on the City's website at <https://cityofpetaluma.org/bid-opportunities-2/> and which may also be emailed to each Respondent that submits a Proposal.

### C. PROTEST PROCEDURES:

Any protest challenging the City's intended selection, or the selection process must be submitted no later than 5:00 p.m., on the fifth business day following the date of the Notice of Selection. The protest must be submitted in writing via email to Paul Geoghegan at [pgeoghegan@cityofpetaluma.org](mailto:pgeoghegan@cityofpetaluma.org) and must clearly specify the basis for the protest. The protest will be reviewed by the Public Works Director in consultation with the City Attorney's Office, and their determination on the protest is final. No public hearing will be held on the protest. Time being of the



essence, the City reserves the right to proceed with award of the Agreement and commencement of the Services notwithstanding any pending protest or legal challenge.

## 7. MISCELLANEOUS

### A. DISCLAIMERS AND RESERVATION OF RIGHTS:

Upon receipt, each Proposal becomes the sole property of City and will not be returned to the Respondent. Each Respondent is solely responsible for the costs it incurs to prepare and submit its Proposal. The City reserves, in its sole discretion, the right to reject all Proposals, including the right to cancel or postpone the RFP or the Services at any time, or to decline to award the Agreement to any of the Respondents. The City reserves the right to waive any immaterial irregularities in a Proposal or submission of a Proposal. The City reserves the right to reject any Proposal that is determined to contain false or misleading information, or material omissions.

### B. CONFLICT OF INTEREST:

Respondents must disclose to the City any actual, apparent, direct, or indirect, or potential conflicts of interest that may exist with respect to Respondent, any employees of Respondent, or any other person relative to the Services to be provided pursuant to this RFP. This RFP process will be conducted in compliance with all laws regarding political contributions, conflicts of interest, or unlawful activities. City employees are prohibited from participating in the selection process for this RFP if they have any financial or business relationship with any Respondent.

### C. PUBLIC RECORDS:

The City is subject to the provisions of the California Public Records Act (Govt. Code § 6250 et seq.) (the “Act”), and each PROPOSAL submitted to the City is subject to disclosure as a public record, unless the PROPOSAL or any portion thereof is exempt under the Act. If a Respondent believes that any portion of its PROPOSAL is exempt from disclosure under the Act, it must clearly identify the portion(s) it believes to be exempt and identify the basis for the exemption. Each Respondent bears the burden of proving any claimed exemption under the Act, and by submitting a PROPOSAL, a Respondent agrees to indemnify, defend, and hold harmless the City against any third-party claim seeking disclosure of the PROPOSAL or any portions thereof.

## ATTACHMENT A

### SCOPE OF SERVICES

#### I. PROJECT GOAL AND DESCRIPTION

The City of Petaluma is seeking to hire a consultant to conduct a feasibility study on implementing emergency backup power using renewable energy sources at city facilities. Additionally, the consultant will assess the current state of emergency power preparedness at these city facilities and provide recommendations for necessary upgrades including associated implementation plans.

As the City lacks the required technical expertise to thoroughly evaluate and develop optimal solutions for these matters independently, the selected consultant will be responsible for devising an effective plan to provide the feasibility study and evaluate the existing emergency power preparedness. This will allow the City to gain a clearer understanding of options for improving resilience through renewable energy sources, as well as any gaps in current emergency power capacities.

#### II. BACKGROUND INFORMATION

The following is a list of the facilities to be included in the feasibility study. Each facility indicates whether there is an existing generator and / or automatic transfer switch, and its critical need during a power outage. The selected consultant will need to verify this information by conducting site visits.

City Facility	Address	Generator Present	Transfer Switch Present	Facilities Critical Use
City Hall	11 English St.	Y	Y	Administration, electric vehicles
Police Department	969 Petaluma Blvd N.	Y	Y	Emergency Operations Center; radio tower; electric vehicles charge
Water Field Office	202 N McDowell Blvd.	Y	Y	Emergency response equipment, electric vehicle charge
Fire Station #1	198 E D St.	Y	Y	Firetrucks have attached generators; portable generators for emergency services
Fire Station #2	1001 N McDowell Blvd.	Y	Y	Firetrucks have attached generators; portable generators for emergency services
Fire Station #3	831 S	Y	Y	Firetrucks have

	McDowell Blvd.			attached generators; portable generators for emergency services
Corp Yard	840 Hopper St.	Y	N	Emergency response equipment, electric vehicles
Airport	601 Sky Ranch Dr.	Y; rent	Y	Communications tower; Equipment staging
Senior Center	211 Novak Dr.	N	N	Evacuee shelter; runs Meals on Wheels program
Teen Center	150 Fairgrounds Dr.	N	N	Supply distribution, volunteer center
Community Center	320 N McDowell Blvd.	N	Y	Evacuee shelter
Transit Center	555 N McDowell Blvd.	N	Y; manual	Charge electric buses; evacuee transportation
Street Signal & Bridge Operations	95 E D St.	N	N	Bridge operation
Cavanaugh Center	426 8 <sup>th</sup> St.	N	N	Evacuee shelter
Stormwater Pump System				Highest priority sites: Victoria, McNear, Country Club

### III. SCOPE OF SERVICES

The following list includes a brief description of the tasks to be performed by the consultant. **This list is not intended to be all-inclusive or limiting.** Per the RFP Section 4, Proposal Requirements, Item E. Proposed Scope of Work and Approach, Proposers shall provide a scope of work submittal that expands upon the RFP Scope of Services outlined below and provides additional scope detail with identified deliverables to demonstrate their understanding of the project requirements, including identifying any supplemental tasks necessary, and to recommend any alternative approaches, which may enhance the project or reduce costs. The technical approach must include the planned means to incorporate staff review and comment, and regulatory agency early consultation into the feasibility study process.

#### **The Consultant shall perform the following tasks:**

##### **A. Project Management**

Provide project management services for quality control and administration of the work to include agenda and minutes for progress meetings, monthly invoices, progress reports and budget tracking. The Consultant shall manage its team and overall project activities consistent with the direction from the City in order to meet the project schedule and budget. The Consultant shall manage sub-consultants, maintain schedule and budget,

anticipate and mitigate potential issues and delays and coordinate and update the City on the overall progress of the Project. Project Management tasks will include at a minimum:

1. Organize and attend in person and/or virtual project progress meetings/presentations with the City to discuss project progress, decisions, and direction and to coordinate activities and a bi-weekly basis. Additional meetings shall be held at key project milestones and shall include, but are not limited to:
  - a. Kick-off Meeting
  - b. Preliminary Findings Presentation
  - c. Final report Submittal Presentation
  - d. City Council Meeting / Presentation
2. Coordinate with CIP staff, facility managers, Building and Planning Departments and other affected parties as required throughout the duration of the project as well as the Quality Assurance/Quality Control (QA/QC) activities for project deliverables.

**B. Site and Utility Analysis**

Schedule an on-site review of each facility included in this project to observe existing conditions, existing generator type/capacity and electrical systems, collect site user data and operational expectations during power outages. Review and analyze facility energy usage data to support back-up power generation selection.

**C. City Staff / Facility Manager Engagement**

Consultant shall conduct staff interviews to understand current facility operations and health, and facility role during emergency response. The City has a Superintendent of Parks and Facilities overseeing the operational requirements and routine maintenance activities of all of the city-owned facilities. Each city facility has on-site manager(s) invested in the use and on-going health of their facility. The Superintendent and on-site managers will provide facility history, context and operational requirements during a power outage. Each facility plays a critical role in emergency response.

**D. Review Renewable Back-Up Power Sources**

Provide a recommendation of what renewable back-up power source(s) could be applicable.

Support the reasoning for the recommended selection and discuss possible alternate renewable technologies that could also be options.

Provide a scaled diagram of where the back-up power source(s) would be placed at the facilities and what site improvements would be necessary to integrate them.

**E. Facility Upgrades for Power Source Integration**

Discuss what facility upgrades or improvements would be needed at the site, electrical system, building management system or other building aspects to allow integration of the selected back-up power technology.

**F. Draft and Final Feasibility Study**

Document recommended back-up power technology for each facility and any appropriate optional technology. Support selection with facility needs, continuity of services, Discuss placement, integration, facility upgrades, environmental and permit requirements, and any other regulatory agency integration. Provide rough order of magnitude cost for implementation of recommendation at each facility location.

Present draft and review with staff; receive comments and discuss desired report updates. Integrate all comments received and produce final report for staff review.

**G. Project Permitting and Environmental Services**

The Consultant shall conduct outreach to regulatory agencies with jurisdiction to approve permits and provide discussion of each entity’s purview and permit processing timeframe.

The consultant shall map out the environmental permit requirement for each proposed technology.

IV. SCHEDULE

Time is of the essence for this project. The City intends to contract with the consultant in **the spring of 2024**. The consultant shall begin the work as soon as the Agreement with the City is executed.

**Estimated Project Schedule:**

<b>Milestone/Deliverable</b>	<b>Due Date</b>
Contracting	May 2024
Project Kick-Off Meeting	June 2024
Facility and Utility Analysis Completed	September 2024
Identification of Back-up Power Sources	October 2024
Identification of Environmental and Regulatory Permit Requirements	November 2024
Draft Feasibility Study	December 2024
Final Feasibility Study / Presentation	February 2025
Grant Expiration	June 2025

# ATTACHMENT B

## EXHIBIT B INSURANCE REQUIREMENTS FOR ALL AGREEMENTS

Contractor's performance of the Services under this Agreement shall not commence until Contractor shall have obtained all insurance required under this paragraph and such insurance shall have been approved by the City Attorney as to form and the Risk Manager as to carrier and sufficiency. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

Contractor shall procure and maintain for the duration of the contract all necessary insurance against claims now and in the future for injuries to persons or damages to property which may arise from or in connection with the performance of the Services by the Contractor, the Contractor's agents, representatives, employees and subcontractors.

### A. Required Minimum Scope of Insurance

- ☒ Coverage shall be at least as broad as:  
Insurance Services Office Commercial General Liability coverage:
  - a. Personal injury;
  - b. Contractual liability.
- ☒ Insurance Services Office form covering Automobile Liability (any auto), if no company owned autos, non-owned and hired auto applies.
- ☒ Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- ☒ Professional Liability/Errors and Omissions
- ☐ Crime/Employee Blanket Fidelity Bond
- ☐ Property Insurance against all risks of loss to any tenant improvements or betterments.
- ☐ Pollution Liability Insurance
- ☐ Garage Liability
- ☐ Garagekeepers Insurance
- ☐ Technology Professional Liability Errors and Omissions Insurance (IT Consultant)/Cyber Liability
- ☐ Abuse or Molestation Liability Coverage

### A.1 Required for All Contracts

- ☒ Policy Endorsements or Excerpts from the Policy Pursuant to Section D
- ☒ Copy of the Declarations and Policy Endorsements Page for the CGL Policy

### B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

- ☒ General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate liability is used, either the general aggregate limit shall apply separately to this Agreement or the general aggregate limit shall be twice the required occurrence limit.
- ☐ Products/Completed Operations: \$1,000,000 per occurrence/aggregate.
- ☒ Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- ☒ Employer's Liability: Bodily Injury by Accident - \$1,000,000 each accident.

Bodily Injury by Disease - \$1,000,000 policy limit.

Bodily Injury by Disease - \$1,000,000 each employee.

- ☒ Professional Liability/Errors and Omissions: \$1,000,000 per occurrence or claim. If the policy provides coverage on a claims-made basis, the retroactive date must be shown and must be before the date of the Agreement or the beginning of the contract work.
  - ☐ Crime/Employee Blanket Fidelity Bond - \$1,000,000: Contractor, at its own cost and expense, must maintain a Crime/Employee Blanket Fidelity Bond in the amount of \$1,000,000 per employee covering dishonesty, forgery, alteration, theft, disappearance, destruction (inside or outside).
  - ☐ All Risk Property Insurance: Full replacement cost.
  - ☐ Pollution legal liability with limits no less than \$1,000,000 per occurrence or claim and \$2,000,000 policy aggregate. If the policy provides coverage on a claims-made basis, the retroactive date must be shown and must be before the date of the Agreement or the beginning of the contract work.
  - ☐ Garage Liability: \$1,000,000 per occurrence.
  - ☐ Garagekeepers Insurance: \$1,000,000 per occurrence.
  - ☐ Technology Professional Liability Errors and Omissions Insurance appropriate to the Consultant's profession and work hereunder, with limits not less than \$1,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Vendor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, invasion of privacy violations, information theft, release of private information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.
1. The Policy shall include, or be endorsed to include, **property damage liability coverage** for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City in the care, custody, or control of the Consultant. If not covered under the Consultant's liability policy, such "property" coverage of the City may be endorsed onto the Consultant's Cyber Liability as covered property as follows:
  2. **Cyber Liability coverage** in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City that will be in the care, custody, or control of the Consultant.
  3. The Insurance obligations under this agreement shall be the greater of 1) all the Insurance coverage and limits carried by or available to the Consultant; or 2) the minimum Insurance requirements shown in this Agreement. Any insurance proceeds in excess of the specified limits and coverage required, which are applicable to a given loss, shall be available to the City. No representation is made that the minimum Insurance requirements of this Agreement are sufficient to cover the indemnity or other obligations of the Consultant under this agreement.
- ☐ Abuse or Molestation Liability Coverage: \$1,000,000 per occurrence; \$2,000,000 aggregate.

**C. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured (Contractor) or the City.

City reserves the right to review any and all of the required insurance policies, declaration pages, and/or endorsements, but has no obligation to do so. City's failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or City's failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

**D. Other Insurance Provisions**

The required general liability and automobile policies are to contain, or be endorsed to contain the following provisions:

1. Additional Insured: The City, its officers, officials, employees, agents and volunteers are to be covered as Additional Insureds as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents or volunteers.
2. Primary and Non-Contributory: For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
4. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought except, with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
6. Waiver of Subrogation: Consultant agrees to waive subrogation rights for commercial general liability, automobile liability and worker's compensation against City regardless of the applicability of any insurance proceeds, and to require all contractors, subcontractors or others involved in any way with the Services to do likewise.
7. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirement and/or limits shall be available to the additional insured. Furthermore, the requirement for coverage and limits shall be (1) the minimum coverage and limits specified in this



Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

8. The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Petaluma before the City of Petaluma's own insurance or self-insurance shall be called upon to protect it as a named insured.

**E. Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

**F. Verification of Coverage**

**NOTE: The City of Petaluma is now using an online insurance program, PINS Advantage. Once you have been awarded a contract with the City of Petaluma, you will receive an e-mail from PINS Advantage/City of Petaluma requesting that you forward the e-mail to your insurance agent(s). Consultant shall furnish the City with Certificate of Insurance along with Declarations and Endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before the Services commence.**

**PROFESSIONAL SERVICES AGREEMENT**

(Title of Project)

FY \_\_\_\_\_ Fund # \_\_\_\_\_ Cost Center \_\_\_\_\_ Object Code \_\_\_\_\_ Project # \_\_\_\_\_ Amount \$ \_\_\_\_\_

For multi-year contracts or contracts with multiple accounts:

FY \_\_\_\_\_ Fund # \_\_\_\_\_ Cost Center \_\_\_\_\_ Object Code \_\_\_\_\_ Project # \_\_\_\_\_ Amount \$ \_\_\_\_\_

FY \_\_\_\_\_ Fund # \_\_\_\_\_ Cost Center \_\_\_\_\_ Object Code \_\_\_\_\_ Project # \_\_\_\_\_ Amount \$ \_\_\_\_\_

FY \_\_\_\_\_ Fund # \_\_\_\_\_ Cost Center \_\_\_\_\_ Object Code \_\_\_\_\_ Project # \_\_\_\_\_ Amount \$ \_\_\_\_\_

FY \_\_\_\_\_ Fund # \_\_\_\_\_ Cost Center \_\_\_\_\_ Object Code \_\_\_\_\_ Project # \_\_\_\_\_ Amount \$ \_\_\_\_\_

FY \_\_\_\_\_ Fund # \_\_\_\_\_ Cost Center \_\_\_\_\_ Object Code \_\_\_\_\_ Project # \_\_\_\_\_ Amount \$ \_\_\_\_\_

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into and effective as of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date"), by and between the City of Petaluma, a  
(city use only)

municipal corporation and a charter city ("City") and \_\_\_\_\_, a \_\_\_\_\_ ("Contractor") (collectively, the "Parties").

WHEREAS, the Parties enter into this Agreement for the purpose of Contractor providing professional services to City under the terms and conditions set forth herein.

THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **Services.**

- A. Contractor shall provide the services as described in and in accordance with the schedule set forth in Exhibit "A" attached hereto and incorporated herein ("Services"). Except as otherwise expressly provided in this Agreement, this Agreement does not authorize the Contractor to perform any services in addition to those specified in Exhibit A. The City has no obligation to award any additional Services to the Contractor. Any additional Services awarded to the Contractor pursuant to this Agreement will be in the sole discretion of authorized representatives of the City and shall be added to Exhibit A in accordance with Section 25, Amendment, of this Agreement.
- B. The Services under this Agreement shall not include preparing or assisting the City with any portion of the City's preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the City. The City shall at all times retain responsibility for City contracting, including with respect to any subsequent phase of the Services or this Agreement. The Contractor's participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. The Contractor shall cooperate with the City to ensure that all contractors submitting proposals for a contract for any subsequent phase of the Services or this Agreement have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by the Contractor pursuant to this Agreement.

2. **Compensation; Business Tax Certificate.**

- A. For the full performance of the Services as described herein, City shall compensate Contractor in accordance with the rates specified in Exhibit A.
- B. Contractor shall submit detailed monthly invoices reflecting all services performed during the preceding month and including a revised schedule for performance and additional documentation requested by City, as applicable.
- C. Contractor shall be compensated for services in addition to those described in Exhibit A, only if Contractor and City execute a written amendment to this Agreement describing the additional services to be performed and the compensation to be paid for such services. In no case shall the total compensation under this Agreement exceed \$\_\_\_\_\_ without prior written authorization of the City Manager. Further, no compensation for a section or work program component attached with a specific budget shall be exceeded without prior written authorization of the City Manager.
- D. Notwithstanding any provision herein, Contractor shall not be paid any compensation until such time as Contractor has on file with the City Finance Department a current W-9 form available from the IRS website ([www.irs.gov](http://www.irs.gov)) and has obtained a currently valid Petaluma business tax certificate.
- E. City's obligation to pay compensation to Contractor as provided herein is contingent upon Contractor's performance of the Services pursuant to the terms and conditions of this Agreement and any amendments thereto.

3. **Term.** The term of this Agreement commences on the Effective Date, and terminates on \_\_\_\_\_, unless sooner terminated in accordance with Section 4. Upon termination, any and all of City's documents or materials provided to Contractor and any and all of the documents or materials prepared for City or relating to the performance of the Services, shall be delivered to the City as soon as possible, but not later than fourteen (14) days after termination of the Agreement.

4. **Termination.** City may terminate this Agreement without cause upon ten (10) days' written notice. City may immediately terminate or suspend this Agreement for cause. Cause for immediate termination or suspension shall include, but not be limited to, any breach of this Agreement by Contractor or Contractor's bankruptcy or insolvency. Upon receipt of notice of termination or suspension for cause, Contractor shall immediately stop all work in progress under this Agreement. In the event of early termination of this Agreement by City, Contractor shall be entitled to payment for all Services performed to the date of termination to the extent such Services were performed to the satisfaction of City in accordance with the terms and conditions of this Agreement. If City terminates this Agreement for cause, Contractor shall be liable to City for any excess cost City incurs for completion of the Services.

5. **Contractor's Representation; Independent Contractor.** Contractor represents that Contractor possesses distinct professional skills in performing the Services. City has relied upon said representation as a material inducement to enter into this Agreement. Contractor shall, therefore, provide properly skilled professional and technical personnel to perform all Services under this Agreement. It is expressly understood that Contractor and its agents and employees, shall act in an independent capacity and as an independent contractor and

not as officers, employees or agents of City. This Agreement shall not be construed as an agreement for employment.

6. **Facilities and Equipment.** Contractor shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing Services pursuant to this Agreement. City shall furnish to Contractor no facilities or equipment, unless the City otherwise agrees in writing to provide the same.
7. **Licenses, Permits, Etc.** Contractor shall, at Contractor's sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits or other such approvals which are legally required for performing the Services.
8. **Time.** Contractor shall devote such time to the performance of the Services as may be reasonably necessary for satisfactory performance of Contractor's obligations pursuant to this Agreement.
9. **Inspection.** Contractor shall provide the City every reasonable opportunity to ascertain that the Services are being performed in accordance with the requirements and intentions of this Agreement. All work done and materials furnished, if any, shall be subject to inspection and approval by the City. The inspection of such work shall not relieve Contractor of any of its obligations pursuant to this Agreement.
10. **Progress Reports.** Upon the City's request, Contractor shall provide, in a form acceptable to City, written progress reports of all oral and written observations, opinions, recommendations, analyses, progress and conclusions related to Contractor's performance of the Services.
11. **Confidentiality.** In the course of Contractor's employment, Contractor may have access to trade secrets and confidential information, disclosure of which is protected or limited by law. Contractor shall not directly or indirectly disclose or use any such confidential information, except as required for the performance of the Services.
12. **Conflict of Interest.**
  - A. Contractor represents that it presently has no interest, and covenants that it shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services hereunder. Contractor further covenants that, in the performance of this Agreement, it shall not employ any subcontractor or person having such a conflict of interest. Contractor represents that no one who has or will have any financial interest under the Agreement is an officer or employee of City. If such conflict of interest arises during this Agreement or any extension, Contractor will immediately advise City and City may, at its sole discretion, immediately terminate this Agreement. Certain Contractors are subject to the requirements, including the disclosure and reporting requirements, of the City's Conflict of Interest Code adopted pursuant to the Political Reform Act. Such Contractors subject to the City's Conflict of Interest Code include those whose work may involve: making government decisions regarding approval or adoption of rates, rules, or regulations, action on permits or other applications, authorization to enter into or modify contracts, or approval of plans, designs, reports, or studies. Contractor

agrees to comply fully with all such requirements to the extent they apply to Contractor's performance of the Services.

- B. Certain contractors, in addition to being subject to the City's Conflict of Interest Code, may be subject to other conflict of interest prohibitions, including those in the Political Reform Act, Government Code Section 81000 and following, and Section 1090 and following of the Government Code. The Political Reform Act prohibits public officials, employees and certain contractors from participating in making governmental decisions that the official, employee or consultant knows or has reason to know will result in a material financial effect on their economic interests. Government Code Section 1090 and following prohibits government officials, employees, and certain contractors from participating in making government contracts in which the official, employee or contractor has a financial interest. As a result of the financial interest City contractors have in their City contracts, the Section 1090 prohibition regarding City contractors focuses on whether a contractor is or would be "making a government contract" in a quasi-governmental capacity for purposes of Section 1090. Section 1090 prohibits City contractors from using their role as a contractor to influence how the City spends the public's funds in a way that benefits the contractor. As a result, Section 1090 may in certain circumstances prohibit the Contractor from responding to solicitations for, or being awarded, subsequent contracts that result from or relate to the Services performed pursuant to this Agreement. . Penalties for violating Section 1090 are severe, and may include felony criminal penalties, permanent disqualification from holding public office in California, disgorgement of any benefit received by the financially interested contractor, civil and administrative penalties, and voiding of the prohibited contract.
13. **Contractor No Agent.** Except as the City may otherwise expressly specify in writing, the Contractor shall have no authority, express or implied, to act or transact on behalf of City in any capacity whatsoever, including advising or representing the City concerning City public contracts as an agent of the City. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.
14. **Standard of Performance.** Contractor shall perform all the Services in a manner consistent with the standards of Contractor's profession. All instruments of service of whatsoever nature, which Contractor delivers to City pursuant to this Agreement, shall be prepared in a substantial, workmanlike manner and conform to the standards of Contractor's profession. All such instruments of service shall become the sole and exclusive property of City upon delivery of the same.
15. **Assignment/Transfer.** No assignment or transfer in whole or in part of this Agreement shall be made without the prior written consent of City.
16. **Subcontractors.** Contractor shall directly perform all Services, and shall not subcontract any portion of performance of the Services without the prior written consent of City. Any such subcontractors shall be required to comply, to the full extent applicable, with the terms and conditions of this Agreement, including but not limited to, procuring and maintaining insurance coverage as required herein and which shall name City as an additional insured.
17. **Compliance With All Laws.** Contractor shall fully comply with all applicable local, state and federal rules, laws, regulations and ordinances pertaining to the performance of the

Services required hereunder, including but not limited to, the California Building Standards Code as in effect in the City, the Americans with Disabilities Act, and any laws and regulations related to any copyright, patent, trademark or other intellectual property right involved in performance of the Services. Contractor's failure to comply with any law(s) or regulation(s) applicable to the performance of the Services hereunder shall constitute a material breach of this Agreement. To the extent that any other government agency or entity provides compensation for any Services, Contractor shall comply with all rules and regulations applicable to such fiscal assistance.

18. **Prevailing Wages.** This Agreement is subject to the requirements of the California Prevailing Wage Law, California Labor Code Section 1720 et seq., and the Services as described in Exhibit A will be performed in accordance with all applicable requirements of the California Prevailing Wage Law, including, but not limited to, all applicable requirements contained in Exhibit \_\_\_\_\_, which is attached to and made a part of this Agreement.
19. **Living Wage Ordinance.** Without limiting the foregoing Section 17, Contractor shall comply fully with all applicable requirements of Petaluma Municipal Code, Chapter 8.36, Living Wage (the "Living Wage Ordinance"), as the same may be amended from time to time. Upon the City's request Contractor shall promptly provide to the City documents and information verifying Contractor's compliance with the requirements of the Living Wage Ordinance, and shall within fifteen (15) calendar days of the Effective Date of this Agreement, notify each of its affected employees as to the amount of wages and time off that are required to be provided to them pursuant to the Living Wage Ordinance. The Acknowledgement and Certification Pursuant to City of Petaluma Living Wage Ordinance, attached to this Agreement at Exhibit \_\_\_\_\_, shall be a part of this Agreement for all purposes, and Contractors that are subject to Living Wage Ordinance requirements, as determined by the City, must provide a properly completed Exhibit \_\_\_\_\_ in accordance with the requirements of the Living Wage Ordinance. Contractor's noncompliance with the applicable requirements of the Living Wage Ordinance shall constitute cause for City's termination of this Agreement pursuant to Section 4 hereof.
20. **Discrimination.** During the performance of this Agreement, Contractor shall not discriminate against any employee or applicant for employment because of race, religion, creed, color, national origin, ancestry, gender, sexual orientation, age or physical or mental disability in violation of any applicable law.
21. **Notice.** Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other Party in accordance with this Section. All such notices shall be sent by:
  - (i) personal delivery, in which case notice is effective upon delivery;
  - (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;
  - (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service; or

- (iv) facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a nonbusiness day.

City: City Clerk  
City of Petaluma  
Post Office Box 61  
Petaluma, California 94953  
Phone: (707) 778-4360  
Fax: (707) 778-4554  
Email: cityclerk@ci.petaluma.ca.us

And:

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

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Contractor:

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

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

22. **Ownership of Documents.** All original papers, documents or computer material on disk or microfilm, and copies thereof, produced as a result of this Agreement, shall be the property of City and may not be used by Contractor without the written consent of City. Copies of such documents or papers shall not be disclosed to others without the written consent of the City Manager or his or her designated representative. Notwithstanding this provision or any other provision in this Agreement to the contrary, the City and the Contractor shall each own all right, title and interest in and to any intellectual property authored by or on behalf of the City or the Contractor related to the Services. The City shall have an irrevocable, royalty-free, world-wide, fully-paid-up, non-exclusive license to use and authorize others to use any intellectual property of the Contractor included in the work products produced as part of the performance of the Services pursuant to this Agreement.
23. **Indemnification.** A. With respect to commercial general liability, to the maximum extent permitted by law, Contractor shall, at its own expense, indemnify, defend with counsel acceptable to the City, (which acceptance will not be unreasonably withheld), and hold harmless City and its officers, officials, employees, agents and volunteers ("Indemnitees") from and against any and all liability, loss, damage, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, civil penalties and fines,

expenses and costs (including, without limitation, claims expenses, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature, whether actual, alleged or threatened, arising out of or in connection with the Contractor's performance of the Services or Contractor's failure to comply with any of the terms of this Agreement, regardless of any fault or alleged fault of the Indemnitees.

B. With respect to professional liability, notwithstanding the foregoing or any other provision in this Agreement, to the maximum extent permitted by law, Contractor shall indemnify defend and hold harmless the Indemnitees from Liability arising out of or in connection with the negligence, recklessness, or willful misconduct of Contractor.

C. The Contractor must respond within 30 calendar days to any tender of defense and indemnity by the City unless the time for responding has been extended by an authorized representative of the City in writing. If the Contractor fails to accept tender of defense and indemnity within 30 calendar days regarding a matter subject to tender pursuant to this Agreement, in addition any other remedies authorized by law, so much of the money due or that may become due the Contractor under this Agreement as shall reasonably be considered necessary by the City may be retained by the City until disposition has been made of the matter subject to tender, or until the Contractor accepts the tender, whichever occurs first. In the event that the City must file responsive documents in a matter tendered to Contractor prior to Contractor's acceptance of tender, where such matter is subject to tender pursuant to this Agreement, Contractor agrees to fully reimburse all costs, including but not limited to attorney's fees and costs and fees of litigation, incurred by the City in filing such responsive documents.

D. Notwithstanding the foregoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2783, as may be amended from time to time, Contractor's duty to indemnify under this provision shall not apply when to do so would be prohibited by California Civil Code Section 2782, as may be amended from time to time.

E. Notwithstanding the foregoing, to the extent that the Services include design professional services subject to California Civil Code Section 2782.8, as may be amended from time to time, Contractor's duty to indemnify shall only be to the maximum extent permitted by California Civil Code Section 2782.8.

24. **Insurance.** Contractor shall comply with the "Insurance Requirements for Contractors" in Exhibit B, attached hereto and incorporated herein by reference.

City reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. City's failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or City's failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

25. **Amendment.** This Agreement may be amended only by a written instrument executed by both Parties.



26. **Litigation.** If litigation ensues which pertains to the subject matter of Contractor's services hereunder, Contractor, upon request from City, agrees to testify therein at a reasonable and customary fee.
27. **Construction.** This Agreement is the product of negotiation and compromise on the part of both Parties and that the Parties agree that, notwithstanding Civil Code section 1654, any uncertainty in the Agreement shall not be construed against the drafter of the Agreement.
28. **Governing Law; Venue.** This Agreement shall be enforced and interpreted under the laws of the State of California and the City of Petaluma. Any action arising from or brought in connection with this Agreement shall be venued in a court of competent jurisdiction in the County of Sonoma, State of California.
29. **Non-Waiver.** The City's failure to enforce any provision of this Agreement or the waiver thereof in a particular instance shall not be construed as a general waiver of any part of such provision. The provision shall remain in full force and effect.
30. **Severability.** If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.
31. **No Third Party Beneficiaries.** The Parties do not intend to create, and nothing in this Agreement shall be construed to create any benefit or right in any third party.
32. **Mediation.** The Parties agree to make a good faith attempt to resolve any dispute arising out of this Agreement through mediation prior to commencing litigation. The Parties shall mutually agree upon the mediator and shall divide the costs of mediation equally.
33. **Contractor's Books and Records.**
- A. Contractor shall maintain any and all ledgers, books of accounts, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to the City for a minimum period of three (3) years or for any longer period required by law, from the date of final payment to Contractor pursuant to this Agreement.
  - B. Contractor shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years or for any longer period required by law, from the date of termination or completion of this Agreement.
  - C. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Manager, City Attorney, City Finance Director, or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at Petaluma City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Contractor's address indicated for receipt of notices in this Agreement.

D. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Contractor's business, City may, by written request by any of the above-named officers, require that custody of the records be given to the City and that the records and documents be maintained in Petaluma City Hall. Access to such records and documents shall be granted to any party authorized by Contractor, Contractor's representatives, or Contractor's successor in interest.

34. **Headings.** The headings used in this Agreement are for convenience only and are not intended to affect the interpretation or construction of any provisions herein.
35. **Survival.** All obligations arising prior to the termination or expiration of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination or expiration of this Agreement.
36. **Entire Agreement.** This Agreement, including the exhibits attached hereto and incorporated herein, constitutes the entire agreement between the Parties with respect to the Services, and supersedes all prior agreements or understandings, oral or written, between the Parties in this regard.

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

CITY OF PETALUMA

CONTRACTOR

\_\_\_\_\_  
City Manager

By \_\_\_\_\_  
Name

ATTEST:

\_\_\_\_\_  
Title

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Address

APPROVED AS TO FORM:

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Taxpayer I.D. Number

\_\_\_\_\_  
Petaluma Business Tax Certificate Number

## **ATTACHMENT D**

### **ACKNOWLEDGEMENT AND CERTIFICATION PURSUANT TO CITY OF PETALUMA LIVING WAGE ORDINANCE PETALUMA MUNICIPAL CODE CHAPTER 8.36**

The City of Petaluma Living Wage Ordinance (“Ordinance”), Petaluma Municipal Code Chapter 8.36, applies to certain service contracts, leases, franchises and other agreements or funding mechanisms providing financial assistance (referred to hereafter as an “Agreement”) between the City of Petaluma (“City”) and/or the Petaluma Community Development Commission (“PCDC”) and contractors, lessees, franchisees, and/or recipients of City and/or PCDC funding or financial benefits (“covered entities”).

Pursuant to Petaluma Municipal Code Section 8.36.120, as part of any bid, application or proposal for any Agreement subject to the Ordinance, the covered entity shall:

- Acknowledge that the covered entity is aware of the Ordinance and intends to comply with its provisions.
- Complete the Report of Charges, Complaints, Citations and/or Findings contained in this Acknowledgement and Certification by providing information, including the date, subject matter and manner of resolution, if any, of all wage, hour, collective bargaining, workplace safety, environmental or consumer protection charges, complaints, citations, and/or findings of violation of law or regulation by any regulatory agency or court including but not limited to the California Department of Fair Employment and Housing, Division of Occupational Safety and Health (OSHA), California Department of Industrial Relations (Labor Commissioner), Environmental Protection Agency and/or National Labor Relations Board, which have been filed or presented to the covered entity within the ten years immediately prior to the bid, proposal, submission or request.

Pursuant to Petaluma Municipal Code Section 8.36.120, before the beginning of the term of any covered Agreement, or prior to the execution of said Agreement by the City or the PCDC, each covered entity shall certify that its employees are paid a living wage that is consistent with Petaluma Municipal Code Chapter 8.36.

By executing this Acknowledgement and Certification, the covered entity (i) acknowledges that it is aware of the Ordinance and intends to comply with its provisions, (ii) attests to the accuracy and completeness of information provided in the Report of Charges, Complaints, Citations and/or Findings contained herein, (iii) certifies that it pays its covered employees a Living Wage as defined in Petaluma Municipal Code Chapter 8.36 and (iv) attests that the person executing this Acknowledgement and Certification is authorized to bind the covered entity as to the matters covered in this Acknowledgment and Certification.

SO ACKNOWLEDGED and CERTIFIED:

Project or Contract I.D: \_\_\_\_\_

\_\_\_\_\_  
(Print Name of Covered Entity/Business Capacity)      Date: \_\_\_\_\_

By \_\_\_\_\_  
(Print Name)

/s/ \_\_\_\_\_  
(Signature)

Its \_\_\_\_\_  
(Title /Capacity of Authorized Signer)

**REPORT OF CHARGES, COMPLAINTS, CITATIONS AND/OR FINDINGS  
PURSUANT TO PETALUMA MUNICIPAL CODE SECTION 8.36.120**

FOR EACH WAGE, HOUR, COLLECTIVE BARGAINING, WORKPLACE SAFETY, ENVIRONMENTAL OR CONSUMER PROTECTION CHARGE, COMPLAINT, CITATION, AND/OR FINDING OF VIOLATION OF LAW OR REGULATION BY ANY REGULATORY AGENCY OR COURT, INCLUDING BUT NOT LIMITED TO THE CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING, DIVISION OF OCCUPATIONAL SAFETY AND HEALTH (OSHA), CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (LABOR COMMISSIONER), ENVIRONMENTAL PROTECTION AGENCY AND/OR NATIONAL LABOR RELATIONS BOARD, WHICH:

- AFFECTS YOU AS A PROSPECTIVE CONTRACTOR, SUBCONTRACTOR, LESSEE, FRANCHISEE AND/OR PARTY TO ANY CITY OF PETALUMA AND/OR PETALUMA COMMUNITY DEVELOPMENT COMMISSION-FUNDED AGREEMENT OR BENEFIT SUBJECT TO PETALUMA MUNICIPAL CODE CHAPTER 8.36 (LIVING WAGE ORDINANCE), AND
- HAS BEEN FILED OR PRESENTED TO YOU WITHIN THE TEN YEARS IMMEDIATELY PRIOR TO THE BID, PROPOSAL, SUBMISSION OR REQUEST FOR WHICH THIS ACKNOWLEDGEMENT AND CERTIFICATION IS MADE.

PLEASE PROVIDE THE DATE, THE REGULATORY AGENCY OR COURT MAKING THE CHARGE COMPLAINT, CITATION OR FINDING, THE SUBJECT MATTER AND THE MANNER OF RESOLUTION, IF ANY, FOR EACH SUCH CHARGE COMPLAINT, CITATION OR FINDING.

IF NONE, PLEASE STATE "NONE": \_\_\_\_\_

ATTACH ADDITIONAL PAGES IF NEEDED.

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

Regulatory Agency or Court: \_\_\_\_\_

Subject Matter: \_\_\_\_\_

\_\_\_\_\_

Resolution, if any: \_\_\_\_\_

\_\_\_\_\_

Expected resolution, if known: \_\_\_\_\_

\_\_\_\_\_

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

PURCHASING AUTHORITY NUMBER (If Applicable)

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

CONTRACTING AGENCY NAME

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CONTRACTOR NAME

City of Petaluma

2. The term of this Agreement is:

START DATE

Upon HCD Approval

THROUGH END DATE

6/25/2025

3. The maximum amount of this Agreement is:

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Authority, Purpose, and Scope of Work	5
Exhibit B	Budget Detail and Payment Provisions	5
Exhibit C *	State of California General Terms and Conditions	GTC 4/17
Exhibit D	CDBG - Mitigation Terms and Conditions	26
Exhibit E	Special Terms and Conditions	2
Exhibit F	Program Application and Additional Provisions	23
Exhibit G	Subrecipient Profile	2

Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

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

**CONTRACTOR**

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

City of Petaluma

CONTRACTOR BUSINESS ADDRESS

11 English Street

CITY

Petaluma

STATE

CA

ZIP

94952

PRINTED NAME OF PERSON SIGNING

PEGGY FLYNN

TITLE

City Manager

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

9/14/2022

DocuSigned by:  
  
03D99C70B34748C...

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES  
**STANDARD AGREEMENT**  
STD 213 (Rev. 04/2020)

AGREEMENT NUMBER [REDACTED]	PURCHASING AUTHORITY NUMBER (If Applicable)
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STATE OF CALIFORNIA

CONTRACTING AGENCY NAME Department of Housing and Community Development			
CONTRACTING AGENCY ADDRESS 2020 W. El Camino Ave.	CITY Sacramento	STATE CA	ZIP 95833
PRINTED NAME OF PERSON SIGNING Rebecca Taylor	TITLE Contract Office Manager, Business & Contract Services Branch		
CONTRACTING AGENCY AUTHORIZED SIGNATURE <i>Rebecca Taylor</i>	DATE SIGNED 09/16/2022		
CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL	EXEMPTION (If Applicable) California Department of General Services Exempt per; SCM Vol. 1, 4.04.A.3 (DGS memo dated 6/12/1981)		

## **EXHIBIT A**

### **AUTHORITY, PURPOSE AND SCOPE OF WORK**

#### **1. Authority & Purpose**

The California Department of Housing and Community Development (hereinafter "Department") is the lead and responsible entity for administering the Community Development Block Grant – Mitigation (hereinafter "CDBG-MIT") funds appropriated under Public Law 115-123 and allocated to the State of California by the U.S. Department of Housing and Urban Development (hereinafter "HUD"). CDBG-MIT supports the State of California to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses in areas impacted by the Federal Emergency Management Agency's Major Disaster Declaration DR-4344 in October 2017 and DR-4353 in December 2017/January 2018. CDBG-MIT Planning and Public Services Program (hereinafter "MIT-PPS") projects are funded by CDBG-MIT funds to address risks to, or across, community lifelines that support human health and safety and provide mitigation for individual and community-based systems.

#### **2. Scope of Agreement**

##### **A. Grant Funds**

Subject to the terms and conditions of this Standard Agreement (hereinafter "Agreement"), the Department has allocated and agrees to provide grant funds in the maximum amount identified below to the subrecipient identified as "Contractor" on page 1, Section 1 of the STD 213 form (hereinafter "Subrecipient") for all Work (defined below) identified in this Agreement (hereinafter "Subrecipient Award"). All payments made to the Subrecipient will adhere to the provisions described in Exhibit B, Section 4 (Method of Payment) herein. In no instance shall the Department be liable for any costs in excess of this amount, nor for any unauthorized or ineligible costs or expenses. The Subrecipient Award is and shall not exceed \$500,000 per project and \$2,500,000 per subrecipient.

This Agreement governs the Subrecipient Award and each individual Project thereafter proposed by the Subrecipient and approved by the Department (each an "Approved Project", and collectively the "Approved Projects"), the budget for each of which is to constitute some portion of the Subrecipient Award. The cumulative total amount of all Approved Projects shall not exceed the total amount of the Subrecipient Award.

##### **B. Implementation of Agreement**

By entering into this Agreement and thereby accepting the Award of grant funds, the Subrecipient agrees to comply with and implement this Agreement in a manner satisfactory to the Department and HUD and consistent with all



## EXHIBIT A

applicable laws, regulations, policies and procedures that may be required from time to time as a condition of the Department providing the grant funds, including but not limited to, all applicable CDBG-MIT Program Administration and Compliance requirements set forth by this Agreement, and in accordance with the Application documentation previously provided by the Subrecipient and made a part hereof. The Department's providing of grant funds under this Agreement is specifically conditioned on Subrecipient's compliance with this provision and all terms and conditions of this Agreement, the most recently published version of the Department's CDBG- MIT Action Plan for 2017 disasters (<https://www.hcd.ca.gov/community-development/disaster-recovery-programs/cdbg-dr/cdbg-mit-2017/index.shtml>) and any amendments thereto, related Federal Register notices, and the requirements of the authorities cited above, as the same may be amended from time to time.

This Agreement is subject to written modification and termination as necessary by the Department in accordance with requirements contained in any future state or federal legislation and/or state or federal regulations. All other modifications must be in written form and approved by both parties.

### 3. **Subrecipient Scope of Work**

The Subrecipient scope of work (hereinafter "Work") for this Agreement shall consist of the following:

The Subrecipient shall perform the funded activities described in the Work, as detailed in Exhibit F. All written materials or alterations submitted as addenda to the original Application and which are approved in writing by the Department are hereby incorporated as part of the Application. The Department reserves the right to require the Subrecipient to modify any or all parts of the Application in order to comply with CDBG-MIT program requirements. The Department reserves the right to monitor all Work to be performed by the Subrecipient, its contractors, and subgrantees in relation to this Agreement. Any proposed revision to the Work must be submitted in writing for review and approval by the Department and may require an amendment to this Agreement. Approval shall not be presumed unless such approval is made by the Department in writing.

- A. For the purposes of performing the Work, the Department agrees to provide the amount(s) identified in Exhibit B Budget as detailed in Exhibit F, Additional Provisions. Unless amended, the Department shall not be liable for any costs in excess of the total approved budget. The Department shall not, under any conditions, be liable for any unauthorized or ineligible costs.
- B. Planning activity(ies), as defined in the MIT-PPS Policies and

## **EXHIBIT A**

Procedures, do not have to meet a CDBG-Mitigation National Objective. Public Service activity(ies), as defined in the MIT-PPS Policies and Procedures, shall meet one of the two CDBG-Mitigation National Objectives:

1. Benefit to Low/Moderate Income Persons; or
  2. Urgent Need Mitigation
- C. Subrecipient shall collect data and submit reports to the Department in accordance with the reporting requirements detailed in Section 24 of Exhibit D herein.
- D. The Subrecipient shall monitor all Approved Projects in accordance with the requirements of Section 1.9 of the MIT-PPS Policies and Procedures.

### **4. Effective Date and Commencement of Work**

- A. This Agreement is effective upon approval by the Department representative's signature on page one of the fully executed Standard Agreement, STD 213 (the "Effective Date").
- B. Subrecipient agrees that no Work toward the implementation of the project activity or program activity, as identified in Exhibit F, shall commence without prior written authorization from the Department prior to the execution of this Agreement by the Department.

### **5. Term of Agreement and Performance Milestones**

- A. Term of Agreement: With the exception of the grant closeout procedures set forth in Exhibit B, Section 7, the Subrecipient shall complete the Approved Project(s) activities on or before the expenditure deadline identified on the STD 213 of this Agreement and identified below. Time is of the essence in order to ensure complete and compliant Projects before grant closeout.

All grant funds must be expended by: **06/25/2025, unless expressly extended by the department in writing**

This Agreement will expire on: **06/25/2025**

- B. Performance Milestones: Subrecipient shall adhere to the performance milestones below. Time is of the essence with respect to all such milestones.

## **EXHIBIT A**

1. Subrecipient must submit monthly report data in accordance with the requirement of Section 1.24 of the MIT-PPS Policy and Procedure to HCD during the term of this Agreement.
2. Subrecipient must fully expend all MIT-PPS activity funds within three years of execution of this Agreement. If Subrecipient fails to fully expend MIT-PPS activity funds within three years of execution of this Agreement, the Department reserves the right to disencumber the Subrecipient's Award amount in this Agreement by the amount then unspent.

Failure to meet performance milestones:

If any performance milestones listed above are not met, the Department reserves the right to withhold further payments to Subrecipient until such time as satisfactory progress is made toward meeting the performance measures. Subrecipient shall diligently work with MIT-PPS staff to submit: (a) a written mitigation plan specifying the reason for the delay; (b) the actions to be taken to complete the task that is the subject of the missed measure deadline; and, (c) the date by which the completion of said task will occur.

The Department reserves the right to reallocate unobligated grant funds within the MIT-PPS program, in its sole and absolute discretion if the Department determines the Subrecipient is unable to meet the performance milestones in a timely manner following the failure to meet said milestones. The Department reserves all rights and remedies available to it in case of a default by Subrecipient of its responsibilities and obligations under the terms of this Agreement. All remedies available to the Department are cumulative and not exclusive.

- C. The Subrecipient and its Contractors, as applicable, shall adhere to all performance and Project milestones as established above.

### **8. MIT-PPS Program Contract Management**

- A. Department Contract Manager: The Department Contract Manager for this Agreement is the MIT-PPS Program Manager or the Program Manager's designee. Written communication regarding this Agreement shall be directed to the Department Contract Manager at the following address:

CA Department of Housing and Community Development  
Division of Financial Assistance – MIT-PPS  
P.O. Box 952054

## **EXHIBIT A**

Sacramento, CA 94252-2054

- B. Contract Management: Day-to-day administration of this Agreement shall take place via Grants Network, including but not limited to:
1. Financial Reports (Funds Requests)
  2. Activity Reports
  3. Other Reports, as required
  4. Submittal of any and all requested supporting documentation
  5. Standard Agreement Issuance and Amendments
- C. Subrecipient Contract Administrator: The Subrecipient Contract Administrator (must be a Subrecipient employee) is identified in Exhibit G, Profile. Unless otherwise directed by the Department, any notice, report, or other communication required by this Agreement shall be directed via Grants Network or written to the Subrecipient's Contract Administrator at the contact information identified in Exhibit G, Profile.

## **EXHIBIT B**

### **BUDGET DETAILS AND PAYMENT PROVISIONS**

1. **Budget**



2. **Availability of Funds**

- A. The Department's provision of funding to Subrecipient pursuant to this Agreement is contingent on the availability of CDBG-MIT funds, and subject to the requirements to spend 50% of program funds to benefit the MID, and 70% of grant-wide funds for LMI benefit, and continued federal and state authorization for CDBG- MIT activities and is subject to amendment or termination due to lack of funds or authorization.
- B. The Department shall be relieved of any obligation for making payments to the Subrecipient if funds allocated to the State by HUD cease to be available for any reason or there is any limitation on, or withdrawal of, the Department's authority to administer the CDBG-MIT program or any portion thereof.

3. **Expenditure of Funds**

**A. Project and Activity Costs**

No Project or Activity costs may be incurred or funds reimbursed until and unless Subrecipient provides documented compliance with the National Environmental Protection Act (NEPA) requirements established in 24 CFR 50, 24 CFR 58, and 42 USC 4321, et seq. and California Environmental Quality Act (CEQA); California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000 – 15387 as referenced in Exhibit D, section 14

Activity Delivery Costs may be incurred prior to documented NEPA and CEQA compliance. See Section 4(A)(3) below for reimbursement requirements of Activity Delivery costs.

**B. Priority of Funds**

The Grantee agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

**C. Withholding Funds**

The Department reserves the right to withhold payments pending timely delivery of program and project reports or documents as may be required under this Agreement, and for defaults by the Subrecipient, as noted in Exhibit D.

## **EXHIBIT B**

### **D. Disencumbering Funds**

Disencumbering Funds: The Grantee agrees that funds determined by the Department to be surplus upon completion of the activity, or that have not been spent prior to the Expenditure Deadline, will be subject to disencumbrance by the Department.

### **E. Indirect Costs**

The Department will only consider reimbursement of indirect cost expenditures from Subrecipients that have an approved Indirect Cost Rate Proposal from the Department, HUD or other cognizant federal agency. If Subrecipient does not have an approved Indirect Cost Rate Proposal, Subrecipient shall develop a proposal for determining the appropriate CDBG-MIT share of indirect costs and shall submit it to the Department for approval prior to submission of Financial Reports for reimbursement of indirect cost expenditures.

### **F. Compliance with the OMB Uniform Guidance Audit Requirements**

Grant funds will not be disbursed to any Subrecipients identified by the State Controller's Office (SCO) as non-compliant with the Federal Single Audit Act, as described in the OMB Uniform Guidance and 2 CFR Part 200 Sub-Part F. No funds may be disbursed until compliance with the Uniform Guidance is demonstrated to the satisfaction of the Department.

### **G. Grant Administration**

The Subrecipient agrees to administer this Agreement in accordance with the provisions of Section 7097 through and including Section 7126 of Title 25 of the California Code of Regulations.

## **4. Method of Payment**

Payments will be made directly to Subrecipients as reimbursements based on the documented and satisfactory completion of agreed upon performance milestones detailed in Subrecipient Work as indicated in Exhibit A, and confirmation of Subrecipient's compliance with the terms of this Agreement.

Financial Reports shall be submitted electronically through Grants Network. The Department shall not authorize payments or reimbursements unless it has determined the activities indicated in the Financial Report have been performed in compliance with the terms of this Agreement and any other agreements executed by the parties in connection herewith. Financial Reports shall be submitted by the Subrecipient to the Department at least once per month.

## **EXHIBIT B**

### **A. Reimbursements for Costs Incurred**

1. The Subrecipient may use grant funds for reimbursement by the Department for Eligible Expenses as defined herein, applied to Activities approved by the Department through the application processes described in Exhibit A. Eligible Expenses include but are not limited to, costs associated with Subrecipient program implementation, including staff time and development of policies and procedures for Approved Activities, as determined by the MIT-PPS Program Policies and Procedures.
2. Activity Delivery Costs expenditures shall be paid only after such costs are expended for Work satisfactorily completed, provided the Department determines that the Program Performance Milestones in this Agreement and/or Approved Project Performance Milestones are on track. Subrecipient may expend up to the indicated Activity Delivery amount identified in Exhibit A.
3. To receive reimbursement for Projects and Activities, the Subrecipient shall timely submit all required Department forms via Grants Network. Financial Reports must include the level of documentation specified by the Department in the Department's Grant Administration Manual located on the Department's website, in order to be reviewed and processed.

### **B. Final Financial Reports**

1. The final Financial Report for the Subrecipient Award must be submitted to the Department before the expenditure deadline of this Agreement.
2. If the final Financial Report for costs expended during the term of this Agreement has not been received by the Department before the expenditure deadline in Exhibit A, the Department may disencumber any funds remaining in which case grant funds will no longer be available to the Subrecipient.

## **5. Recapture of Funds**

A Subrecipient may be required to repay all or a portion of the funds received from the Department, including Activity Delivery, pursuant to this Agreement if the Subrecipient, among other things, does not fulfill its obligations under this Agreement or fails to meet applicable federal requirements. The reasons for a recapture of funds by the Department include, but are not limited to, the following:

- A. The Subrecipient does not comply with the terms of this Agreement or any agreement executed by the Subrecipient and the Department in connection here with;

## **EXHIBIT B**

- B. The Subrecipient withdraws from the Program prior to completion of the Project(s) or Activity(ies);
- C. The Subrecipient fails to meet a National Objective.

The potential recapture of funds pursuant to this provision is in addition to, and not in lieu of, any other rights and remedies of the Department under this Agreement.

### **6. Project Budget Revisions and Amendments**

Budget line item adjustments may be made in accordance with the following:

- A. Budget Revisions: Adjustments to the Budget that do not require an increase or reduction of total activity budget, a change in National Objective, or a change in the type or a reduction in number of beneficiaries assisted may be completed as a Budget Revision. Budget Revisions shall include but not be limited to:
  - 1. Adjustments that reallocate funds between budget line items
  - 2. Adjustments that increase or decrease the detail included in the submitted lined item budgets, including adding and removing budget line items, without increasing or decreasing the scope of work and without changing the overall budget.

Budget Revisions must be approved by the Department prior to implementation. Approval shall be provided either through the online grant management system, or in writing, as appropriate. If approved, Budget Revisions shall automatically be deemed a part of, and incorporated into, this Agreement. Project budget revisions must be submitted through Grants Network and subsequently approved by the Department prior to implementation. Approval shall be provided through Grants Network.

- B. Agreement Budget Revisions: Adjustments to the Subrecipient Award that result in an increased or a reduced total award amount shall require an Agreement amendment. Agreement amendments must be fully executed by both the Subrecipient and the Department prior to implementation.

### **7. Project and Activity Closeout Procedures**

The Subrecipient must submit the following to the Department at the completion of each Project and Activity.

- 1. A Final Activity Report (Project Completion Report) that includes all required reporting data for the Activity including but not limited to eligible



## **EXHIBIT B**

activities, costs, beneficiaries, and National Objective;

2. If applicable, a copy of the produced plan
3. If applicable, Final Labor Standards Report as described in Exhibit D(14)(A)(2) herein.
4. Evidence, satisfactory to the Department, of compliance with any other Special Conditions of this Agreement; and,
5. A resolution from the governing body acknowledging the accomplishments of the Approved Project and confirming that the Approved Activity is complete and that all Financial Reports have been processed and reimbursed.

Upon receipt of the above documentation, the Department will close the Activity and finalize the activity in DRGR for final reporting to HUD.

### **8. Document Retention Policy**

Subrecipient shall retain all books, records, accounts, documentation, and all other materials relevant to this Agreement for a minimum period of five (5) years after the Department notifies the Subrecipient that the grant agreement between HUD and the State of California has been closed.

## EXHIBIT D

### **CDBG-MITIGATION TERMS AND CONDITIONS**

#### **1. Definitions**

Activity Funds – means any reasonable and necessary costs that are directly related to labor and/or direct construction and/or direct Project implementation costs which will meet a national objective as defined in 42 U.S.C. 5304(b)(3), as amended and 24 CFR 570.483.

Activity Delivery Funds - means any reasonable and necessary costs for the implementation, management or oversight of a Project.

Activity Reports – Reports submitted by the Subrecipient that describe Project and Activity progress and/or beneficiaries served during a given reporting period.

Approved Activity – An Activity that has been submitted to the Department through the Notice of Funding Availability and reviewed and approved to fund with the Subrecipient Award by the Department.

Area Median Income (AMI) - means the median family income for specific geographic areas, adjusted for household size, as calculated by HUD, and published annually by the Department at <https://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.

California Environmental Quality Act (CEQA) - is a state statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible.

Department – means the California Department of Housing and Community Development.

Disaster Recovery Grant Reporting System (DRGR) – The electronic system primarily used by the Department to access grant funds from HUD and report performance accomplishments for grant-funded activities to HUD. The DRGR system is used by HUD to review grant-funded activities, prepare reports to Congress and other interested parties, and monitor program compliance.

Duplication of Benefits (DOB) - Financial assistance received from another source that is provided for the same purpose as the CDBG Mitigation-MIT funds, in accordance with Federal Register Notices 84 FR 28836 and 84 FR 28848.

Eligible Expenses – Those necessary and reasonable costs under 2 CFR 200.400 through 475, and applicable notices and waivers, and as identified in Section 1.13 of the

## EXHIBIT D

MIT-PPS Policies and Procedures Manual, and as approved by the Department. Eligible Expenses do not include any costs which are disallowed or otherwise deemed ineligible by the State of California and/or HUD.

Financial Reports (Funds Requests) - the forms and processes required for a Subrecipient to request the drawdown of grant funds.

Grant Funds – The CDBG-MIT funds allocated to the Subrecipient for the implementation of the MIT-PPS program and eligible Approved Projects. Grant funds include Activity Funds and Activity Delivery Funds.

Household - One or more persons occupying a housing unit.

HUD – The United States Department of Housing and Urban Development.

Indirect Costs - means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs. Indirect cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

Indirect Cost Rate Proposal - means the documentation prepared by a governmental unit or subdivision thereof to substantiate its request for the establishment of an indirect cost rate as further defined in 2 CFR 200.56 and 2 CFR 200.57.

Low- to Moderate- Income (LMI) – Low to moderate income people are those having incomes not more than the “moderate-income” level (80% Area Median Family Income) set by the federal government for the HUD-assisted housing programs. This income standard changes from year to year and varies by Household size, county and the metropolitan statistical area.

Standard Agreement (“Agreement”) – The contractual arrangement between the Department and the Subrecipient which sets forth the terms and conditions by which CDBG-MIT funds must be utilized with regards to Approved Projects.

National Environmental Policy Act (NEPA) – The federal law and associated regulations which establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government consider the environment prior to undertaking any major federal action that could significantly affect the environment.

Subrecipient – A ‘Subrecipient’ is a non-State or Federal entity receiving a direct award of grant funds from the Department for the purpose of funding Approved Projects to carry out activities that produce a plan or meet a National Objective.

## EXHIBIT D

Subrecipient Award – The amount of grant funds allocated to the Subrecipient for Approved Activities.

### 2. **National Objectives**

In accordance with 24 CFR 570.208, Section 104(b)(3) of the Housing and Community Development Act of 1974, and as further outlined within the waivers and alternative requirements at Federal Register Notice 84 FR 45838, all CDBG-MIT funded activities, with the exception of Planning activities, must satisfy either the Low-to Moderate Income (LMI) or the Urgent Need Mitigation (UNM) national objective. HUD created a new National Objective - Urgent Need Mitigation (UNM) – for CDBG-MIT programs. This National Objective provides a better fit for CDBG-MIT activities that aim to address risks that do not tie back to the disaster events of the 2017 CDBG-DR funding or subsequent disasters. Projects using the UNM national objective must provide documentation that demonstrates a measurable and verifiable impact on reducing risks at the completion of the activity.

- Address the current and future risks as identified in the Mitigation Needs Assessment of the most impacted and distressed areas; and
- Result in a measurable and verifiable reduction in the risk of loss of life and property.

Planning activities do not require a national objective be established. HUD's Federal Register Notice (84 FR 45838) governing the MIT allocation describes planning efforts as addressing the national objectives without the limitation of any circumstances. All Public Services activities must meet one national objective criterion, LMI or UNM, related to its specific mitigation impact and defined direct benefits or service area.

Upon completion of the Approved Project(s) funded under this Agreement and prior to the funding expiration date of this Agreement, the Subrecipient must document that the Approved Project(s) met the LMH National Objective. The Department shall review the actual National Objective achievements of the Subrecipient. If the Subrecipient does not or cannot satisfactorily document the National Objective achievement of an Approved Project, the Approved Project may be deemed ineligible and repayment of funds may be required of the Subrecipient.

### 3. **Duplication of Benefits**

A Duplication of Benefits (DOB) occurs when a program beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. The amount of the duplication is the amount of assistance provided in excess of the total need for the same purpose. It is the Department's responsibility to ensure that MIT-PPS provides assistance only to the extent that the disaster recovery need has not been fully met by funds that have already been paid, or will be paid, from another source.

## EXHIBIT D

The Subrecipient must report all funds obtained for the activity from any source from the date of the disaster until the Project is completed.

The Subrecipient agrees to repay to the Department immediately upon demand any assistance later received for the same purpose as the CDBG–MIT funds and that exceeds the total need for the particular recovery purpose.

### 4. **Remedies and Termination for Noncompliance**

A. Remedies for Noncompliance: In addition to any other rights and remedies the Department may have under this Agreement, at law, or in equity, the Department may initiate remedies for noncompliance as identified in 2 CFR 200.339 at any time it has been determined that the Subrecipient is no longer meeting the terms and conditions of this Agreement. Remedies for noncompliance may be required in addition to, in lieu of, or prior to termination. Such remedies for noncompliance with a federal statute or regulation, a state statute or regulation, an assurance, in a State plan or application, or elsewhere may include, as appropriate:

1. Temporarily withhold cash payments pending correction of the deficiency by the Subrecipient.
2. Disallow all or part of the cost of the action not in compliance.
3. Wholly or partly suspend or terminate the Subrecipient's grant funds.
4. Withhold further and/or future awards for CDBG-MIT funds and/or any other funds administered by the Department.
5. Request that the Federal Awarding Agency initiate suspension or debarment proceedings.
6. Take other remedies that may be legally available, such as:

In the case of costs incurred without meeting a National Objective, require repayment of all funds reimbursed and/or paid to the Subrecipient, including Activity Delivery, as appropriate.

In the case of Duplication of Benefits, require repayment of all CDBG-MIT funds reimbursed and/or paid to the Subrecipient where other financial assistance was received for the same purpose or in excess of the need.

In taking an action to remedy noncompliance, the Department will provide the Subrecipient an opportunity for such hearing, appeal, or other administrative proceeding to which the Subrecipient is entitled under any statute or regulation

## EXHIBIT D

applicable to the action involved as per 2 CFR 200.342. Such appeal shall be governed by, and conducted in accordance with, the appeal processes and procedures set forth in section 5 herein.

Effects of Suspension and Termination. Subrecipient costs resulting from obligations incurred by the Subrecipient or any of the Subrecipient's Contractors during a suspension or after termination of an Agreement are not allowable unless otherwise authorized by the Department in a written notice or as allowable in 2 CFR 200.343. The enforcement remedies identified in this Section do not preclude a Subrecipient or any of the Subrecipient's Contractors from being subject to 2 CFR Part 2424. CDBG-MIT funds may not be provided to excluded or disqualified persons pursuant to 24 CFR 570.489(I) and 2 CFR 200.339.

The remedies available to the Department under this Agreement are cumulative and not exclusive.

- B. Termination for Noncompliance: Grant funds provided by this Agreement may be terminated in whole or in part as per federal regulation at 2 CFR 200.340 by HUD or by HCD if Subrecipient fails to comply with the terms and conditions of the Agreement that include the terms and conditions of the federal award. All terminations shall include written notification setting forth the reason(s) for such termination, the effective date, and the portion to be terminated in the case of partial terminations and will follow termination notification requirements identified in 2 CFR 200.341.
- C. Termination Without Cause: This Agreement may be terminated by the Department in whole or in part at any time without cause only with the consent of the Subrecipient. In the case of a termination of the whole Agreement, the parties shall agree upon termination conditions, including the effective date. In the case of a partial termination, the parties shall agree upon termination conditions, including the portion to be terminated and the effective date.
- D. Termination With Cause: This Agreement may be terminated by the Department in whole or in part at any time for cause by giving at least 14 days' prior written notice to the Subrecipient. Termination with cause includes termination prior to the end of the period of performance for failure to comply with the terms and conditions of this Agreement, and pursuant to 2 CFR 200.340(c), such termination shall be reported to the appropriate federal program integrity and performance system accessible through the System for Award Management. Termination with cause also includes, without limitation, a failure by Subrecipient to comply with the Project Schedule, Project and Activity Performance Milestones, Reporting Requirements, and/or Special Conditions issued for a Project to use CDBG-MIT funds.

## EXHIBIT D

5. **Appeals Process for Finding of Noncompliance:** If Subrecipient disagrees with a finding of noncompliance and/or any accompanying remedy and/or termination that are associated with such finding, the Subrecipient may appeal the disputed decision to the Department in writing via U.S. Mail no later than thirty (30) calendar days from the date of HCD's issuance of the disputed decision. In the event the 30th day falls on a weekend or a recognized state or federal holiday, the Subrecipient's written request for appeal shall be due by 5:00 pm Pacific Time the following business day.

There are two levels of appeal available to aggrieved subrecipients:

- Level I Request for Reconsideration, and
- Level II Request for Official Review

A Subrecipient must first submit a written Level I Request for Reconsideration to the Program Manager within thirty (30) calendar days from HCD's issuance of the underlying decision as described above. If the written request is timely submitted, the Program Manager then has ten (10) calendar days of receipt of such request within which to issue any stay requested by the Subrecipient, in full or in part, and thirty (30) calendar days within which to issue a written reconsideration decision. Submitting a timely Level I Request for Reconsideration (and receiving a subsequent reconsideration decision from the Program Manager) is a necessary predicate to the Subrecipient having a right to initiate a Level II Request for Official Review.

A Subrecipient who disagrees with a Reconsideration decision may submit a Level II Request for Official Review to the Disaster Recovery Section Chief or Designee within thirty (30) calendar days from the issuance of the underlying reconsideration decision, as described above. The Section Chief or Designee will conduct an independent review and has thirty (30) calendar days within which to issue a written Official Review decision, which shall be final and binding and not subject to further appeal.

Time is of the essence with regards to the Subrecipient's obligation to timely file appeals or requests to the Department within the time periods set forth in this Appeals Process. As such, any appeal by Subrecipient that is not timely made in strict accordance herewith shall be void and not considered, and the initial decision or finding shall automatically remain as originally issued.

## 6. **Severability**

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity may not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force

## EXHIBIT D

and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.

- B. The Subrecipient shall notify the Department immediately of any claim or action undertaken by or against it which affects or may affect this Agreement or the Department and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.

### 7. **Waivers**

No waiver or any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce, at any time, the provisions of this Agreement or to require, at any time, performance by the Subrecipient of these provisions shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions. All waivers by the Department must be in writing in order to be valid.

### 8. **Uniform Administrative Requirements**

The Subrecipient, its agencies or instrumentalities, shall comply with the policies, guidelines and Administrative Requirements of 2 CFR Part 200, et seq., as applicable, as they relate to the cost principles, audit requirements, acceptance and use of federal funds under this part.

- A. Single Audit Compliance: Funds will not be disbursed to any Subrecipient identified by the State Controller's Office (SCO) as non-compliant with the Federal Single Audit Act, as described in the Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards at 2 CFR 200 Sub-Part F. No funds may be disbursed until compliance with the Uniform Guidance is demonstrated to the satisfaction of the Department.
- B. Accounting Standards: The Subrecipient agrees to comply with, and administer the activity in conformance with, 2 CFR Part 200.300, et seq., and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls and maintain necessary source documentation for all costs incurred.
- C. Suspension and Debarment: By executing this Agreement, Subrecipient verifies and affirms that it has not been suspended or debarred from participating in or receiving federal government contracts, subcontracts, loans, grants, or other assistance programs. Subrecipient further agrees to verify that its Developers and Contractors have not been suspended or debarred from participating or receiving federal government contracts, subcontracts, loans, grants, or other assistance programs.



## EXHIBIT D

### 9. **Compliance with State and Federal Laws and Regulations**

- A. The Subrecipient, its agencies or instrumentalities, Contractors shall comply with all local, state, and federal laws, statutes, and regulations, as well as policies and procedures established by the Department for the administration of MIT-PPS, as the same may be amended from time to time.
- B. The Subrecipient shall comply with the requirements of 24 CFR 570, the HUD regulations concerning Community Development Block Grants, 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance, adopted by HUD at 2 CFR 2400, and all federal regulations, rules, and policies issued pursuant to these regulations. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

### 10. **Authority to Impose Additional Special Conditions**

In accordance with 2 CFR 200.208, Department reserves the right and authority to impose additional specific conditions issued under this Standard Agreement under any of the following circumstances:

- A. When, in HCD's sole discretion, HCD finds that Subrecipient has a history of failure to comply with the general or specific terms and conditions applicable to the CDBG-MIT funds allocated under this agreement or to other awards of federally-funded grant or loan assistance passed through the Department.
- B. When Subrecipient fails to meet expected performance goals under this agreement.
- C. When Subrecipient poses an increased risk for noncompliance based on factors including, but not limited to, financial stability, quality of management systems, history of performance under Federal awards, history of timeliness under Federal awards, history of conformance with terms and conditions of previous federal awards, and reports and findings from audits.
- D. When, in the Department's sole discretion, such conditions are necessary to ensure timely and compliant performance under the federal award.

Such specific conditions, or special conditions, may include, withholding of authority to proceed to the next phase of an Approved Project until receipt of evidence of acceptable performance within a given period of performance, requiring additional detailed financial reports, requiring additional project monitoring, requiring the Subrecipient to obtain technical or management assistance, establishing additional prior

## EXHIBIT D

approvals, or any other condition HCD deems reasonable and necessary to safeguard Federal funds.

### 11. **Equal Opportunity Requirements and Responsibilities**

The obligations undertaken by Subrecipient include, but are not limited to, the obligation to comply with all federal laws and regulations described in Subpart K of 24 CFR Part 570 and specifically with each of the following, among other things, as the same may be amended from time to time:

- A. **Title VI of the Civil Rights Act of 1964:** This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving federal financial assistance.
- B. **Title VII of the Civil Rights Act of 1968 (The Fair Housing Act):** This act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing.
- C. **Restoration Act of 1987:** This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability or age in a program or activity which does not directly benefit from such assistance.
- D. **Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309]:** This section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.
- E. **The Fair Housing Amendment Act of 1988:** This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.
- F. **The Age Discrimination Act of 1975:** This act provides that no person shall be excluded from participation, denied program benefits, or subject to

## EXHIBIT D

- discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic.
- G. **Section 504 of the Rehabilitation Act of 1973:** It is unlawful to discriminate based on disability in federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance.
- H. **The Americans with Disabilities Act of 1990 (ADA):** This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.
- I. **Executive Order 11063:** This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government.
- J. **Executive Order 12259:** This executive order provides that the administration of all federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.
- K. **The Equal Employment Opportunity Act:** This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings federal, state, and local governments under the Civil Rights Act of 1964.
- L. **The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978:** This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of federal laws prohibiting discriminatory

## EXHIBIT D

employment.

- M. **The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002):** This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.
- N. **Executive Order 11246:** This executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race.

### 12. **Relocation, Displacement, and Acquisition**

The Subrecipient shall comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and regulations adopted to implement the Act in 24 CFR Part 42, 49 CFR Part 24, and Section 104(d) of the Housing and Community Development Act of 1974 as they apply to the performance of this Agreement.

### 13. **The Training, Employment, and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance (Section 3):**

- A. The Subrecipient and the Subrecipient's Contractors and Developers shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulation at 24 CFR, Part 75. The responsibilities outlined in 24 CFR Part 75.19 include:
- Implementing procedures designed to notify Section 3 residents within the neighborhood service area of the project about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.
  - Notifying potential Contractors for Section 3 covered projects of the requirements of Part 75, Subpart C and incorporating the Section 3 clause set forth below in all solicitations and contracts in excess of \$100,000 as required at 24 CFR 75.27.

#### **Section 3 Clause**

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

## **EXHIBIT D**

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.

The parties to this contract agree to comply with HUD's regulations in 24 CFR. Part 75, 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 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and subrecipients 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; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75 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 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

The contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

## EXHIBIT D

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

The contractor agrees to submit, and shall require its subcontractors to submit to them, annual reports detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers, and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 workers and Targeted Section 3 workers.

Facilitating the training and employment of Section 3 workers and the award of contracts to Section 3 business concerns by undertaking activities such as described in Section 75.25(b), as appropriate, to reach the goals set forth in Section 75.23 and in Federal Register Vol. 85, No. 189, page 60909, until superseded by HUD in a subsequent publication. As of September 29, 2020, the minimum Section 3 benchmark is twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.

Documenting actions taken to comply with the foregoing requirements, the results of those actions taken and impediments, if any.

### 14. **Environmental Compliance**

- A. The Subrecipient shall comply with the California Environmental Quality Act (CEQA) requirements as they apply to this Project(s).
- B. The Subrecipient shall comply with the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 of the Clean Air Act and Section 308 of the Clean Water Act, and all regulations and guidelines issued thereunder.
- C. The Subrecipient shall comply with the requirements of the Clean Air Act, 42 U.S.C. 1857, *et seq.*, as amended.
- D. The Subrecipient shall comply with Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Parts 15 and 50, as amended.
- E. The Subrecipient shall comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001). The Subrecipient shall assure that for

## EXHIBIT D

- activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, that flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).
- F. The Subrecipient shall comply with the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and Section 401(b) of the Lead-Based Paint Poisoning Prevention Act of 1971. The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be required.
- G. The Subrecipient shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), the Archaeological and Historical Preservation Act of 1974 (Public Law 93-291), and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. The Subrecipient shall also comply with Executive Order 11593 on the protection and enhancement of the cultural environment. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.
- H. Subrecipient shall comply with all National Environmental Policy Act (NEPA) requirements as applicable to the performance of this Agreement as found in 24 CFR Part 50, 24 CFR Part 58, as applicable, and 40 CFR 1500 – 1508. Subrecipient shall not receive authority to incur activity costs until they have successfully documented compliance with the applicable NEPA requirements, including public noticing and publishing.

The subrecipient understands and agrees that this Agreement does not constitute a commitment of funds or site approval, and the commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the Department of an approval of the request for release of funds and certification from HUD or the Department under 24 CFR Part 58. The

## EXHIBIT D

provision of any funds to the project is expressly conditioned on the Department's determination to proceed with, modify or cancel the project based on the results of the environmental review.

### 15. **Procurement**

The Subrecipient shall comply with the procurement provisions in 2 CFR Part 200.318 – 200.326, Procurement Standards as well as all other Administrative Requirements for Subrecipient and Cooperative Agreements to State, local and federally recognized Indian tribal governments as set forth in 2 CFR 200, et seq., as applicable. All procurements must be conducted in a fair, open, and competitive manner in compliance with both the spirit and the letter of applicable federal and state procurement laws.

### 16. **Procurement of Recovered Materials**

In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

This clause shall apply to items purchased under this Agreement where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

### 17. **Construction Standards**

The Subrecipient and Developer shall ensure that all Approved Projects comply with the following requirements:

The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157)

The Architectural Barriers Act (ABA) stands as the first measure by Congress to ensure access to the built environment for people with disabilities. The law requires that buildings or facilities that were designed, built, or altered with federal dollars or leased



## EXHIBIT D

by federal agencies after August 12, 1968 be accessible.

### California Green Buildings Standards Code (CALGreen) (Title 24, Part 11 of the California Code of Regulations)

All new construction of residential buildings or reconstruction of substantially damaged buildings must incorporate California Green Buildings Standards Code (CALGreen).

### Sustainability Requirements

All rehabilitation, reconstruction, and new construction must be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of future disasters. Wherever feasible, the Subrecipient, Subrecipient's and Contractors must follow best practices, such as those provided by the U.S. Department of Energy.

### National Floodplain Elevation Standards

Subrecipients and Contractors must comply with the national floodplain elevation standards for new construction, repair of substantially damaged structures, or substantial improvements to residential structures in flood hazard areas. All structures designed for residential use within a 100-year (or one percent annual chance) floodplain will be elevated with the lowest floor at least two feet above the base flood elevation level and comply with the requirements of 83 FR 5850 and 83 FR 5861.

### Wildland-Urban Interface Building Codes (WUI Codes)

All Approved Projects under this program that are located in a CAL FIRE high fire zone must comply with applicable WUI codes, found in Title 24, Chapter 7a of the California Building Code, which offer specific material, design and construction standards to maximize ignition- resistance.

## **18. Federal Labor Standards Provisions**

The Subrecipient and the Developer shall at all times comply, and cause all Project contractors to comply, with applicable federal labor standards, including without limitation, the following:

- A. Davis-Bacon Act (40 U.S.C. §§ 3141-3148), which requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Federal Department of Labor and are issued in the form of federal wage decisions for each classification of work. The

## EXHIBIT D

law applies to most construction, alteration, or repair contracts over \$2,000.

- B. "Anti-Kickback Act of 1986" (41 U.S.C. §§ 51-58), which prohibits attempted as well as completed "kickbacks," which include any money, fees, commission, credit, gift, gratuity, thing of value, or compensation of any kind. The act also provides that the inclusion of kickback amounts in contract prices is prohibited conduct in itself. This act requires that the purpose of the kickback was for improperly obtaining or rewarding favorable treatment. It is intended to embrace the full range of government contracting.
- C. Contract Work Hours and Safety Standards Act - CWHSSA (40 U.S.C. § 3702), which requires that workers receive "overtime" compensation at a rate of one and one-half (1-1/2) times their regular hourly wage after they have worked forty (40) hours in one week.
- D. Title 29, Code of Federal Regulations CFR, Subtitle A, Parts 1, 3 and 5, which are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Department for review upon request. Subrecipient shall be responsible for monitoring Developer, contractors, and subcontractors, as applicable, for compliance with these provisions.

### 19. State Prevailing Wages

- A. The Subrecipient shall ensure that the requirements of California Labor Code (LC), Chapter 1, commencing with Section 1720, Part 7 [LC Section 1720-1743] pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations are met.
- B. For the purposes of this requirement "construction work" includes, but is not limited to rehabilitation, alteration, demolition, installation, or repair done under contract and paid for, in whole or in part, through this Agreement. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "Construction Contract"). Where the Construction Contract will be between the Subrecipient and a licensed building contractor, the Subrecipient shall serve as the "awarding body" as that term is defined in the LC. Where the Subrecipient will provide funds to a third party that will enter into the Construction Contract with a licensed building contractor, the third party shall serve as the "awarding body." Prior to any disbursement of funds, including but not limited to release of any final retention payment, the Department may require a certification from the awarding body that prevailing wages have been or will be paid.

## EXHIBIT D

- C. The applicable wage rate determination on construction work will be the more restrictive of the rate prescribed in LC Section 1770-1784 or the Davis-Bacon Wage Determination.

### 20. **Agreements with Contractors**

- A. The Subrecipient shall not enter into any agreement, written or oral, with any Contractor or other party without the prior determination that the Contractor or other party is eligible to receive federal funds and is not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors.

The terms "other party" is defined as public or private nonprofit agencies or organizations and certain (limited) private for-profit entities who receive grant funds from a Subrecipient to undertake Approved Projects.

- B. An agreement between the Subrecipient and any Contractor or other party shall require:
- 1) Compliance with all State and federal requirements described in this Agreement including without limitation those that pertain to labor standards, nondiscrimination, Americans with Disabilities Act, Equal Employment Opportunity and Drug Free Workplace, and prevailing wages. In addition to these requirements, all contractors and subcontractors shall comply with the applicable provisions of the California Labor Code.
  - 2) Maintenance of at least the minimum State required Workers' Compensation Insurance for those employees who will perform the Approved Project activities.
  - 3) Maintenance, as required by law, of unemployment insurance, disability insurance and liability insurance, which is reasonable to compensate any person, firm, or corporation, who may be injured or damaged by the contractor, or any subcontractor in performing the Approved Project activities.
  - 4) Compliance with the applicable Equal Opportunity Requirements described in Section 10 of this Exhibit.
- C. Contractors shall:
- 1) Perform the Approved Project activities in accordance with federal, state and local regulations, as are applicable.

## EXHIBIT D

### D. Contractors and Subcontractors: Drug-Free Workplace Act of 1988

- 1) Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.
- 2) Establish a drug-free awareness program to make employees aware of a) the dangers of drug abuse in the workplace; b) the policy of maintaining a drug-free workplace; c) any available drug counseling, rehabilitation, and employee assistance programs; and d) the penalties that may be imposed upon employees for drug abuse violations.
- 3) Notify employees that as a condition of employment on a federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within 5 calendar days, if he or she is convicted of a criminal drug violation in the workplace.
- 4) Notify the contracting or granting agency within 10 days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.
- 5) Impose a penalty on or require satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a reportable workplace drug conviction.
- 6) Make an ongoing, good faith effort to maintain a drug-free workplace by meeting the requirements of the act.

### 21. Rights to Inventions Made Under a Contract or Agreement

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

### 22. Special Conditions Pertaining to Hazards, Safety Standards and Accident Prevention

- A. Use of Explosives: When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, state and federal laws in purchasing and handling explosives. The Contractor shall take all necessary

## EXHIBIT D

precaution to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced, and the material shall be covered with suitable timber, steel or rope mats.

The Contractor shall notify all owners of public utility property of intention to use explosives at least 8 hours before blasting is done close to such property. Any supervision or direction of use of explosives by the engineer does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

- B. Danger Signals and Safety Devices: The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. The Contractor shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public.
- C. Protection of Lives and Health: The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the worksite, which occur as a result of prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971, Title 29 - LABOR, shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the Developer may determine to be reasonably necessary.

### 23. Prohibition Against Payments of Bonus or Commission

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

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

### 24. Reporting Requirements

- A. Subrecipient must timely submit the reports prescribed below. The Department

## EXHIBIT D

reserves the right to request additional detail and support for any report made. Reports must be made according to the dates identified, in the formats provided by the Department, and via the Department's Grants Network unless otherwise specified at the discretion of the Department. The Subrecipient's performance under this Agreement will be assessed based in part on whether it has submitted the reports on a timely basis.

- 1) Monthly Activity Report: Subrecipient must submit a Monthly Activity Report that addresses the following, at a minimum: (1) a description of the current status of the Collective Work; (2) a description of activities to be undertaken in the next reporting period; (3) a description of problems or delays encountered in Collective Work and course of action taken to address them; (4) a description of actions taken to achieve Collective Work expenditure deadlines; and (5) a summary of Collective Work fiscal status, including award amount, funds drawn, and remaining balance. Unless otherwise waived in writing by the Department, Monthly Activity Reports must begin on the 10<sup>th</sup> calendar day of the second month following execution of this Agreement and must continue through the receipt and approval by the Department of the Project Completion Report, detailed below.
- 2) Semi-Annual Labor Standards Report: During the term of construction for each Approved Project, each April 1<sup>st</sup> and October 1<sup>st</sup>, the Subrecipient must submit the Labor Standards Cover Memo, the HUD Form 4710 and the Davis Bacon Labor Standards Report 5.7 (if applicable). These forms are located on the Department's website and are also available upon request.
- 3) Activity Completion Report: At the completion of construction and once an Approved Project is placed in service, the Subrecipient must submit a Project Completion Report. The performance metrics will be identified in Exhibit A.

## 25. Fiscal Controls

The Subrecipient shall be responsible for the internal control and monitoring of fiscal and programmatic/operational goals and procedures. The Subrecipient shall establish and maintain such fiscal controls and fund accounting procedures as required by Federal regulations, or as may be deemed necessary by the Department to ensure the proper disbursement of, and accounting for, funds paid to the Subrecipient under this Agreement.

- A. Deposit of Funds: Subrecipient shall maintain separate accounts within established bookkeeping systems for the deposit of CDBG-MIT funds and Program Income. Deposits in minority banks are encouraged.

## EXHIBIT D

- B. **Fiscal Liability:** Subrecipients shall be liable for all amounts which are determined to be due by the Department, including but not limited to, disallowed or ineligible costs which are the result of Subrecipient's or its Contractor's conduct under this Agreement. Subrecipients shall also be liable for the repayment of any and all amounts it has received under this Agreement and which HUD is seeking reimbursement for from the Department. Subrecipient's obligation to repay the foregoing amounts to the Department shall survive indefinitely the expiration or earlier termination of this Agreement. Subrecipient shall be notified in writing and shall be permitted to respond regarding any controversy or proceeding between the Department and HUD arising from this Agreement.
- C. **Fiscal Records:** All financial transactions must be supported by complete and verifiable source documents. Records shall provide a clear audit trail and shall be maintained as specified in Section 7 herein.

### 26. **Monitoring Requirements**

The Department monitors its Subrecipients based upon an assessment of risk posed by the Subrecipient and according to specific monitoring criteria per 2 CFR 200.332. During the term of this Agreement, the Department shall perform program and/or fiscal monitoring of the Subrecipient and Approved Projects to ensure compliance with federal and state requirements and timely project completion. The Subrecipient shall be required to resolve any monitoring findings to the Department's satisfaction by the deadlines set by the Department. In the event Subrecipient disagrees with a finding and/or any accompanying corrective actions or sanction(s) that are associated with such finding, Subrecipient shall follow an appeals process provided by the Department.

### 27. **Audit/Retention and Inspection of Records**

- A. The Subrecipient must have intact, auditable fiscal and program records at all times. If the Subrecipient is found to have missing audit reports from the California State Controller's Office (SCO) during the term of this Agreement, the Subrecipient will be required to submit a plan to the State for submitting the audit to the SCO. If the deadlines are not met, the Department may initiate remedies for noncompliance in accordance with Section 4 herein. The Subrecipient's audit completion plan is subject to prior review and approval by the Department.
- B. The Subrecipient agrees that the Department or its designee will have the right to review, obtain, and copy all records pertaining to performance of this Agreement. The Subrecipient agrees to provide the Department or its designee with any relevant information requested and shall permit the Department or its designee access to its premises, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records,

## EXHIBIT D

accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with California Public Contract Code (PCC) Section 10115 et seq., Government Code (GC) Section 8546.7 and 2 CCR 1896.60, et seq., and other requirements of this Agreement. The Subrecipient further agrees to maintain such records for a minimum period of five (5) years after the Department notifies Subrecipient that the HUD/the Department contract has been closed according to the record retention requirements at 2 CFR 200.334. The Subrecipient shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code section 10115.10.

- C. An expenditure which is not authorized by this Agreement or which cannot be adequately documented shall be disallowed and must be reimbursed to the Department or its designee by the Subrecipient.
- D. Absent fraud or material error on the part of the Department, the determination by the Department of the allowability or validity of any expenditure shall be final and conclusive.
- E. For the purposes of annual audits, Subrecipient shall comply with 2 CFR Part 200 Subpart F for the State MIT-PPS Program. Pursuant to 2 CFR Part 200 Subpart F, the Subrecipient shall perform an annual audit at the close of each fiscal year in which this Agreement is in effect. The costs of the MIT-PPS related portion of the audit may be charged to the program in accordance with Public Law 98-502, 2 CFR Part 200 Subpart F, and Title 25 CCR Section 7122.
  - 1) The audit shall be performed by a qualified State, department, local or independent auditor. The agreement/contract for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
  - 2) If there are audit findings, the Subrecipient must submit a detailed response to the Department for each audit finding. The Department will review the response and, if it agrees with the response, the audit process ends, and the Department will notify the Subrecipient in writing. If the Department is not in agreement, the Subrecipient will be contacted in writing and informed what corrective actions must be taken. This action may include the repayment of disallowed costs or other remediation.
  - 3) The Department shall not approve reimbursement for any expenditures for the audit, prior to receiving an acceptable audit report.
  - 4) If so, directed by the Department upon termination of this Agreement, the Subrecipient shall cause all records, accounts, documentation and all other materials relevant to the grant activity(ies) to be delivered to the



## EXHIBIT D

Department as depository.

- F. Notwithstanding the foregoing, the Department will not reimburse the Subrecipient for any audit cost incurred after the expenditure deadline of this Agreement.

### 28. **Signs**

If the Subrecipient places signs stating that the Approved Activity is funded with private or public dollars and the Department is also providing financing, it shall indicate in a typeface and size commensurate with the Department's funding portion of the Approved Activity that the Department is a source of financing through the MIT-PPS Program.

### 29. **Insurance**

The Subrecipient shall have and maintain in full force and effect during the term of this Agreement such forms of insurance, at such levels as may be determined by the Subrecipient and the Department to be necessary for specific components of the grant activity(ies) described in Exhibit A.

### 30. **Anti-Lobbying Certification**

The Subrecipient shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with the Approved Project(s) and shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.

Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and no more than \$100,000 for such failure.

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

## EXHIBIT D

LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

### 31. **Conflict of Interest**

Pursuant to 24 CFR 570.489(h), no member, officer, or employee of the Subrecipient, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise or have exercised any functions or responsibilities with respect to MIT-PPS activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, including members and delegates to the Congress of the United States, may obtain a financial interest or benefit from a MIT-PPS assisted activity, or have a financial interest in any contract, subcontract or agreement with respect to a MIT-PPS assisted activity or its proceeds, either for themselves or those with whom they have business or immediate family ties, during their tenure, or for 1 year thereafter. The Subrecipient shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section.

### 32. **Obligations of Subrecipient with Respect to Certain Third-Party Relationships**

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

### 33. **Energy Policy and Conservation Act**

This Agreement is subject to mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the federal Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

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

- A. All contracts, except for State construction projects that are funded in whole or in part by the Federal government, must contain a 30-day cancellation clause and

## EXHIBIT D

the following provisions:

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

## EXHIBIT E

### **SPECIAL TERMS AND CONDITIONS**

#### **1. Application Review**

Subrecipient has provided the Department with information about the Subrecipient's experience, processes, policies, and procedures related to the management of federal funding in the Subrecipient's jurisdiction. These submissions, in addition to discussions with the Subrecipient, have been used to inform this Agreement and are being materially relied upon by the Department in agreeing to enter into this Agreement.

Should there be substantive changes to the organization, key personnel, methods, capacity, policies, or processes of the Subrecipient that impact the implementation of this Agreement, the Subrecipient shall promptly notify the Department of said changes.

#### **2. Risk Assessment**

During the term of this Agreement, Subrecipient agrees to timely provide documents and information to facilitate the Department's Subrecipient monitoring risk assessment process. Subrecipient further agrees to comply with the requirements, requests, and results of the Department's risk assessment, including participation in Subrecipient monitoring events.

#### **3. Special Conditions**

Pursuant to the Department's initial Risk Assessment, Subrecipient agrees to adhere to the following Special Conditions:

##### **A. Procurement**

Subrecipient will develop and implement procurement policies and procedures that demonstrate conformity with 2 CFR Part 200.318-327 and applicable Federal Register Notices, in conjunction with technical assistance from the Department. The Subrecipient will submit the procurement policies and procedures to the Department for a review of sufficiency. Procurement policies and procedures must be determined to be sufficient by the Department in order to clear the grant condition. The condition must be cleared in advance of any procurement work performed by the Subrecipient and prior to reimbursement/drawdown of any MIT-PPS funds.

##### **B. NEPA**

Subrecipient will develop and implement federal environmental review policies and procedures demonstrating conformity to the rules and regulations outlined in 24 CFR Part 58, in conjunction with technical assistance from the Department. The

## **EXHIBIT E**

Subrecipient will submit the federal environmental review policies and procedures to the Department for a review of sufficiency. Federal environmental review policies and procedures must be determined to be sufficient by the Department in order to clear the grant condition. The condition must be cleared in advance of any work performed by the Subrecipient and prior to reimbursement/drawdown of any MIT-PPS funds.

### **C. Anti-Lobbying**

Subrecipient will complete Anti-Lobbying (24 CFR Part 87) certification. The Subrecipient will submit the Anti-Lobbying certification to the Department for a review of sufficiency. Anti-Lobbying certification must be determined to be sufficient by the Department in order to clear the grant condition. The condition must be cleared in advance of any work performed by the Subrecipient and prior to reimbursement/drawdown of any MIT-PPS funds.

### **D. Financial Management**

Subrecipient will develop and implement policies and procedure that demonstrate conformity with financial management requirements outlined in 2 CFR 200.302 and applicable Federal Register Notices, in conjunction with technical assistance from the Department. The Subrecipient will submit the financial management policies and procedures to the Department for a review of sufficiency. The financial management policies and procedures must be determined to be sufficient by the Department in order to clear the grant condition. The condition must be cleared in advance of any work performed by the Subrecipient and prior to reimbursement/drawdown of any MIT-PPS funds.

## EXHIBIT F

### **ADDITIONAL PROVISIONS**

#### **City of Petaluma - Feasibility Study Establishing a Resiliency Hub at Community Center for Emergency Use**

**1. Project Overview:**

- See attached application below

**2. THE NATIONAL OBJECTIVE TO BE ACHIEVED AS A RESULT OF THIS PROJECT: N/A**

Per 84 FR 45838, Planning activities do not require a national objective be established as they are considered to already address the national objectives without the limitation of any circumstances.

**3. THE NUMBER OF INDIVIDUALS BENEFITTING AS A RESULT OF THIS PROJECT:**

- Total beneficiaries: 58,650
- Total low/mod beneficiaries: 18,095

# Feasibility Study to Replace Aging Generators for Critical City Facilities, including Communications Center—Scope of Work

## City of Petaluma Scope of Work - Feasibility Study to Replace Aging Generators for Critical City Facilities, including Communications Center

### 1. Detailed Activity Description

Generator replacement can minimize the effects of power outages during earthquake, extreme heat, severe storms, wildfire, and high wind hazard events in the City, as they will supply back-up power during a power outage. City facilities will also need backup power during “planned” PSPS. The City will need reliable emergency backup power when Pacific Gas & Electric (PG&E) power lines are affected by natural hazard events. While the Local Hazard Mitigation Plan originally envisioned replacement of diesel generators with new diesel generators, the City has since adopted a Climate Emergency Framework which prioritizes switching from fossil fuel infrastructure to renewable resources. A feasibility study of diesel and battery backup sources and any impediments toward the transition to renewable energy backing up critical facilities would be studied.

This project is directly in-line with the City’s climate emergency goals, which will help mitigate future disasters as one part of the City’s actions to stop contributing to the positive feedback loop of burning fossil fuels, worsening the climate, and needing more fossil fuels to power facilities when the cleaner electric grid is down due to more intense heat waves or fires – climate change exacerbated disasters. By studying how the City’s critical facilities can be powered by clean energy, even during power shutoffs, the City will be able to take the first step to break that cycle. This project will include site-specific studies of electrical capacity on existing circuits, available transmission capacity from PG&E, interior upgrades that may be necessary or preferable to maximize building utilization in a microgrid environment, and determining the best technology and equipment to provide clean backup power during power shutoffs (e.g. lithium ion batteries vs. vanadium flow batteries vs. fuel cell powered by non-fossil fuel produced hydrogen).

Studying the feasibility of providing this clean backup power will not produce the funding necessary to purchase and install the equipment; this project will only develop a scope for implementation.

The City of Petaluma will be responsible for completing a planning project related to generator replacement feasibility study over the period of March 9, 2022, to March 9, 2025, with funding from the Year 2017 CDBG MIT-PPS program of HCD.

### 2. Deliverable Narrative

- **Deliverable 1- Consultant Procurement and Contract**
  - Guidelines
  - Program Forms and Document Templates
  - Planning RFP/RFQ
  - Independent Cost Analysis Procurement Package (and contracts if applicable)
  - Procurement and Contract Management Policy
  - Financial Management Policy

May 2022

## Feasibility Study to Replace Aging Generators for Critical City Facilities, including Communications Center—Scope of Work

- Procurement Package (and contracts if applicable)
- Procurement and Contract Management Policy
- NEPA Clearance

### **Deliverable 2- Professional Services Contract**

- City Standard Professional Services Agreement

### **Deliverable 3- Public Awareness Plan**

- Submit documentation as required in the Monitoring Document

### **Deliverable 4-Monthly Activity Reports**

- Plan Drafts/Data
- Progress Reports
- Timelines with Milestones

### **Deliverable 5- Monthly Financial Reports**

- Financial Reports
- Beneficiary Reports

### **Deliverable 6-Reporting**

- Progress Presentations/Memos
- Semi-Annual and Annual Reports

### **Deliverable 7-Notice of Completion**

- Final Financial Reports
- Final Activity Reports

### **Deliverable 8- Monitoring**

- Complete the applicable monitoring checklist with HCD

## 3. Task Narrative

Develop a feasibility study that considers replacing aging diesel generators with new diesel generators, alternate fuel back-up sources, and battery back-up sources and any impediments toward the transition to renewable energy back up options for critical facilities.

The feasibility study will include the following:

- i. Site-specific studies of electrical capacity on existing circuits,
- ii. Available transmission capacity from PG&E,
- iii. Interior upgrades that may be necessary or preferable to maximize building utilization in a microgrid environment,
- iv. Determination of the best technology and equipment to provide clean backup power during power shutoffs (e.g. lithium ion batteries vs. vanadium flow batteries vs. fuel cell powered by non-fossil fuel produced hydrogen).
- v. Review of initial back-up power inventory of critical facilities
- vi. Assessment and initial recommendations of the following:
  1. Community Center

May 2022



## Feasibility Study to Replace Aging Generators for Critical City Facilities, including Communications Center—Scope of Work

2. Police Department
3. Fire Stations #1, #2, and #3
4. Senior Center
5. Teen Center
6. Cavanaugh Center
7. City Hall
8. Field Office
9. Corps Yard
10. Airport Assessment
11. Transit Center
12. Stormwater pump system
13. Street signal and bridge operations

The major tasks that the City will perform in connection with the provision of the eligible planning project include, but are not limited to, the following:

- Deliverable: Consultant Procurement and Contract
  - Task 1. Prepare Consultant RFP
  - Task 2. Identify Consultant Scope of Work and Deliverables
  - Task 3. Prepare Independent Cost Estimate
  - Task 4. Document Appropriate Procurement Type (Informal small purchase, RFP, RFQ, etc.)
  - Task 5. Solicit Proposals (via email, online posting, job board, etc.)
  - Task 6. Collect questions and share answers via solicitation process
  - Task 7. Review proposals, complete interviews, and Select Consultant
  - Task 8. Share with HCD and receive HCD approval
  - Task 9. Execute Professional Services Agreement
- Deliverable: Draft Report - Data, Site Specific Information, Analysis, Feasibility, Facility Improvements, Recommendation
  - Task 1. Collect utility data from all involved sites
  - Task 2. Conduct research and data to analyze
  - Task 3. Plan analysis and development efforts
  - Task 4. Compile data and research findings
  - Task 5. Review draft report with Consultant and provide comments
  - Task 6. Provide draft plan to HCD
- Deliverable: Final Report
  - Task 1. Review final report for completeness and accuracy and to confirm consultant met all contractual objectives
  - Task 2. Provide final plan with HCD
- Deliverable: Monthly Activity Reports
  - Task 1. Collect report(s) from consultant(s)
  - Task 2. Review report(s)

May 2022

## Feasibility Study to Replace Aging Generators for Critical City Facilities, including Communications Center—Scope of Work

- Task 3. Enter report(s) in Grants Network and submit to HCD
- Deliverable: Monthly Financial Reports
  - Task 1. Collect invoices for reimbursement
  - Task 2. Enter invoice data in Financial Report
  - Task 3. Upload back-up invoices and submit to HCD for payment via Grants Network

### 4. Timeline

The project will take place over 36 months after the Standard Agreement is executed with the California Department of Housing and Community Development. The following is the anticipated tasks and deliverables for the project:

Item No.	Task / Deliverable	Start Date	Completion Date
	Consultant Procurement and Contract		
1	Prepare Consultant RFP	March 2022	May 2022
2	Identify Consultant Scope of Work and Deliverables	March 2022	May 2022
3	Prepare Independent Cost Estimate	March 2022	May 2022
4	Document Appropriate Procurement Type	March 2022	May 2022
5	Solicit Proposals	May 2022	June 2022
6	Collect Questions and Share Answers	June 2022	July 2022
7	Review procurement responses, conduct interviews and complete evaluation	July 2022	August 2022
8	Share with HCD and receive HCD approval	August 2022	September 2022
9	Execute Professional Services Agreement	September 2022	October 2022
10	Draft Report - Data, Site Specific Information, Analysis, Feasibility, Facility Improvements, Recommendation		
11	Collect utility data from all involved sites	November 2022	December 2022
12	Conduct research and data to analyze	January 2023	February 2023
13	Plan analysis and development efforts	March 2023	April 2023
14	Compile data and research findings	April 2023	May 2023
15	Review draft report with Consultant and provide comments	May 2023	June 2023
16	Provide draft plan to HCD	July 2023	August 2023
17	Final Report		
18	Review final report for completeness and accuracy and to confirm consultant met all contractual objectives	September 2023	October 2023
19	Provide final plan to HCD	November 2023	December 2023
20	Monthly Activity Reports		
21	Collect report(s) from consultant(s)	ongoing	ongoing
22	Review report(s)	ongoing	ongoing

May 2022

## Feasibility Study to Replace Aging Generators for Critical City Facilities, including Communications Center—Scope of Work

23	Enter report(s) in Grants Network and submit to HCD	ongoing	ongoing
24	Monthly Financial Reports	ongoing	ongoing
25	Collect invoices for reimbursement	ongoing	ongoing
26	Enter invoice data in Financial Report	ongoing	ongoing
27	Upload back-up invoices and submit to HCD for payment via Grants Network	ongoing	ongoing

May 2022

## Applications: Petaluma, City of - Feasibility Study to Replace Aging Generators for Critical City Facilities, i...

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Mitigation – Planning and Public Services (MIT-PPS)

### Profile

pcarter@cityofpetaluma.org

### What project type are you applying for?

Planning

### Do you commit to having capacity to carry out program activities?

Yes

### If yes, please describe the capacity and staffing in detail.

The City of Petaluma has 371 employees, including 14 in our Finance Department, 16 in our Community Development Department, and 107 in our Public Works and Utilities Department. The City of Petaluma Finance Department manages grants from Federal, State, and regional sources. The Community Development Department manages grant funding through the CDBG program, including \$450,000 in funding resulting from the CARES Act funding. The Planning Department has 14 staff assigned, and will be responsible for developing the City's General Plan, which will address climate risks and the creation of a Climate Action Plan. The Public Works and Utilities Department manages capital improvement projects, feasibility studies, and construction projects on an ongoing basis, with \$52,004,000 of capital project slated for FYs 21-25. Petaluma's staff is well situated to manage and complete the projects submitted through the CDBG Mitigation program in the timeframes submitted.

\*Updated by NX (5/4/21)

Information received by HCD via email from pcarter@cityofpetaluma.org (4/23/21)

See more information in attachment titled "Overall Questions"

Question:

How will your current staff manage all projects if all of the projects submitted to the MIT-PPS Program were awarded?

Answer:

The Petaluma community passed Measure U, a 1 cent sales tax in November 2020. As part of the fiscal and operational sustainability plan presented to the City Council and public in the consideration of that measure, more staff will be hired. A workforce stabilization plan has been presented to the Council which proposed new staff be added in the City Manager's office, Public Works and Utilities (specifically in the Capital Improvement Projects division), Human Resources, City Attorneys' Office, and Community Development. In total, 26 new FTE additions were proposed across the City. These new staff members will reduce the workload of existing staff and improve the City's ability to manage new project. The City is confident that it would be able to manage all projects applied for in the MIT-PPS grant.

\*Updated by NX (5/4/21)

Information received by HCD via email from pcarter@cityofpetaluma.org (4/23/21)

See more information in attachment titled "Feasibility Study to Replace Aging Generators for Critical City Facilities, Including Communication"

Question:

The submitted applications indicated that the projects will be building capacity for MIT-RIP round 2. If the intent of the project is to help build capacity, please identify what capacity is lacking, how the project will improve the capacity and how the project will tie into a future project for MIT-RIP round 2.

Answer:

The world is experiencing a climate crisis, fueled largely from humanity's use of fossil fuels and consumption of resources beyond the planet's long-term ability to sustain. The window for realigning our collective use of resources with what the planet can support without drastic habitability changes is narrowing. The City of Petaluma has declared a climate emergency and has adopted a Climate Emergency Framework with goals of drastically reducing fossil fuel usage by both City facilities and through encouragement of our community members to do the same.

This project is directly in-line with the climate emergency goals, which will help mitigate future disasters as one part of the City's actions to stop contributing to the positive feedback loop of burning fossil fuels, worsening the climate, and needing more fossil

fuels to power facilities when the cleaner electric grid is down due to more intense heat waves or fires – climate change exacerbated disasters. By studying how the City’s critical facilities can be powered by clean energy, even during power shutoffs, the City will be able to take the first step to break that cycle. This project will include site-specific studies of electrical capacity on existing circuits, available transmission capacity from PG&E, interior upgrades that may be necessary or preferable to maximize building utilization in a microgrid environment, and determining the best technology and equipment to provide clean backup power during power shutoffs (e.g. lithium ion batteries vs. vanadium flow batteries vs. fuel cell powered by non-fossil fuel produced hydrogen).

Studying the feasibility of providing this clean backup power will not produce the funding necessary to purchase and install the equipment; this project will only develop a scope for implementation. Capacity is lacking by the City for implementation. If the City were to have access to funding sources such as the MIT-RIP program for implementation, the City will be in a much better position for implementing the project. The City has very high ambitions and motivation to take positive climate action, but we are very constrained on implementation funding.

The City is extremely interested in this grant, as it lays the foundation for future action and providing a huge service to our community members and guests who find themselves seeking shelter in Petaluma during emergencies.

**Are you applying for more than one Planning Activity?**

No

**Planning Activity**

Critical Lifelines

**Is this planning project to build capacity to implement projects under the Resilient Infrastructure Program?**

Yes

**Is the project regional in approach?**

No

**Does the project include collaboration amongst jurisdictional and nonprofit partners?**

No

Eligible Applicants are required to identify which of the 2017 declared disasters the submitted project is related to. The disaster(s) related to the project can be determined by the MID area(s) the project serves or benefits. CDBG-MIT does not require a project tie-back to the 2017 declared disaster.

**What disaster is this project related to?**

DR-4344

**Eligible applicant type**

City

**Is this a project on behalf of another government entity or special district other than the Eligible Applicant?**

No

**Project Title**

Petaluma, City of - Feasibility Study to Replace Aging Generators for Critical City Facilities, including Communications Center

**Org Name**

City of Petaluma

**Provide a snapshot summary of the project.**

Generator replacement can minimize the effects of power outages during earthquake, extreme heat, severe storms, wildfire, and high wind hazard events in the City, as they will supply back-up power during a power outage. City facilities will also need backup power during “planned” PSPS. The City will need reliable emergency backup power when Pacific Gas & Electric (PG&E) power lines are affected by natural hazard events. While the Local Hazard Mitigation Plan originally envisioned replacement of diesel generators with new diesel generators, the City has since adopted a Climate Emergency Framework which prioritizes switching from fossil fuel infrastructure to renewable resources. A feasibility study of diesel and battery backup sources and any impediments toward the transition to renewable energy backing up critical facilities would be studied.

**Upload project description, if available.**

City of Petaluma LHMP\_Nov2020\_Reduced Size PDF.pdf

**Project Location Description**

City of Petaluma, ZIP code 94952

**Does the project fall into one of these zip codes/counties?**

Sonoma County

Public Services projects must select a National Objective. Planning projects do not require a National Objective. The Urgent Need Mitigation (UNM) national objective is for CDBG-MIT activities that aim to address risks that do not tie back to the disaster events of the 2017 CDBG-DR funding, or subsequent disasters. Projects using the UNM national objective must provide documentation that demonstrates a measurable and verifiable impact on reducing risks at the completion of the activity. Projects using the LMI national objective are those that have a benefit to Low to moderate income person, which is defined as persons having incomes not more than the "moderate-income" level (80% Area Median Family Income) set by the federal government for the HUD-assisted Housing Programs.

**Does the project benefit an LMI population or area?**

Yes

**Describe how the project benefits a LMI area (additional material and information may be required)**

The attachment describes the LMI population both within the City of Petaluma (~30% of the population) and the County of Sonoma (~41%). Both residents of Petaluma and County of Sonoma residents would be served by the City's critical emergency infrastructure, depending on the location and severity of the emergency. The City of Petaluma has frequently hosted community members beyond its borders during wildfire events in the past several years, and many of those community members were LMI populations who did not have friends, RVs, or the means to evacuate to hotel rooms during time of emergency, and sought shelter in the City of Petaluma. Preparing the City's facilities to function in the event of an emergency which disables grid power will significantly reduce future risk and provide more comfort to those who seek shelter.

**Upload document of data supporting the LMI population to be benefitted and/or a map of the service area (Optional)**

LMISD By County and City.pdf

**Does the project service area benefit the MID?**

Yes

**Describe how the project benefits a MID area (additional material and information may be required)**

The City of Petaluma, while not within the burn radius of recent wildfires, provided emergency support to its directly affected neighbors through answering mutual aid requests, and by sheltering evacuees. A number of shelters, including City facilities to be examined in this study, were hosted within Petaluma city limits during these recent wildfire emergencies, staffed by a combination of City, County, and non-profit/religious institution volunteers. As Sonoma County's de facto evacuation center, the better Petaluma is prepared for increased wildfire and climate risks and becomes more resilient to those risks, the City will be in a better position to continue to serve its community members and those who come to Petaluma in their time of need.

**Upload documentation that supports how the project benefits a MID area (Optional)**

**What Census Tracts/Block Groups are served by this project?**

The City of Petaluma includes the following Census Tracts: 1506.01, 1506.02, 1506.03, 1506.07, 1506.09, 1506.10, 1506.11, 1506.12, 1507.02, 1507.07, 1508, 1509.01, 1509.02, 1510, 1512.01

**What is the total dollar amount of the project?**

**Anticipated CDBG-MIT funding need (\$ amount)**

**Have you applied for other sources of funds for this project?**

No

**Project Budget broken down by eligible activity and activity costs**

Budget\_Report\_May\_04\_22\_Feasibility Study to Replace Aging Generators for Critical City Facilities, including Communications Center.xlsx

**Basis of Total Project Cost and Amount of CDBG-MIT requested**

**How will this project improve resilience for protected classes, underserved communities, and vulnerable populations?**

City facilities that continue to function in a disaster are by definition resilient. Those facilities' ability to provide resources to underserved populations and those made vulnerable by loss of power would directly receive the benefit of the resources, communication, and shelter provided by those functioning facilities.

\*Updated by NX (5/4/21)

Information received by HCD via email from pcarter@cityofpetaluma.org (4/23/21)

See more information in attachment titled "Feasibility Study to Replace Again Generators for Critical City Facilities, Including Communication"

Question:

Provide additional detail on how this project will improve resilience for protected classes, underserved communities, and vulnerable populations.

Answer:

The City of Petaluma opens its shelters to everyone, regardless of their background or group in which they identify themselves. It has been the City's experience during the frequent emergencies in the past several years that community members of means are able to find shelter with friends and relatives, in hotel/motels, in recreational or personal vehicles, or otherwise through leveraging their personal or financial capital. Low-income communities, the homeless, and other underserved communities have fewer options.

This project will determine the feasibility of keeping clean energy powering critical City facilities, including the City's shelters. To the extent that City facilities are powered when surrounding areas are powered down, the City will be able to continue to offer vital services and communication to our community members and guests. Though this project does not specifically target underserved communities, it is expected that, for the reasons discussed above, that this project will benefit underserved communities.

\*Updated by NX (5/4/21)

Information received by HCD via email from pcarter@cityofpetaluma.org (4/23/21)

See more information in attachment titled "Feasibility Study to Replace Again Generators for Critical City Facilities, Including Communication"

Question:

The application indicates that facilities provide resources to underserved communities during times of power outage. Please provide additional details as to how this project will improve resilience for underserved communities, vulnerable populations, and protected classes through this project and the ability to provide resources.

Answer:

For the reasons discussed in the response above, the City believes this project will benefit underserved communities, especially during times of power outage. Shelters are often the last resort in the spectrum of evacuation options, and it has been the City's experience that community members with means more frequently find alternative accommodations.

**Can this project be replicated in other communities?**

Yes

**If yes, provide a description.**

While the steps taken to measure and assess the electrical needs for resilient facilities may be replicated in other communities, the facility-specific analysis and needs determined will be of limited utility to other communities.

**Will you be able to quantitatively measure the impact the proposed project will have on current and future risk?**

Yes

**Explain how you will quantitatively measure the impact of the proposed project on current and future risk.**

The number of community members served by shelters can be quantified. Knowing that capacity will be available regardless of power loss in surrounding communities is an essential part of disaster planning and future risk mitigation.

**Upload quantitative data showing a project's anticipated impact on current and future risks.**

**Given a 3 year Period of Performance and Assuming Spring 2021 start date, what is your expected period of performance? (anticipated start date and completion date)**

An analysis of all city facilities, their electrical needs, and feasibility of non-fossil fuel alternatives can be completed within one year of a notice to proceed. Staff is confident the work would be complete by the Spring 2024 deadline.

**Proposed Project Timeline**

Feasibility Study to Replace Aging Generators for Critical City Facilities—SOW.pdf

**APPLICABLE LOCAL POLICIES AND PLANS**

**Do you have procurement policies and procedures?**

Yes

**If yes, upload your procurement policies and procedures.**

Procurement Program Guidelines updated OMB FY20.pdf

**If yes, but the policies and procedures are in another previously uploaded document, please name the document.**

**Do you have a current hazard mitigation plan?**

Yes

**If yes, upload your plan**

City of Petaluma LHMP\_Nov2020\_Reduced Size PDF.pdf

**If yes, but the plan is in another previously uploaded document, please name the document.**

In using HUD funds for projects, Subrecipients must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Uniform Relocation Act Amendments of 1987 (URA or Uniform Act).

**Do you have existing policies and procedures to ensure compliance with the Uniform Relocation Act (URA)?**

No

**If no, please provide a status.**

The City has not performed a URA project, but would adopt new policies and procedures required to ensure compliance with the Uniform Relocation Act, if required by the award of this grant, no later than December 31, 2021.

**Do you have policies and procedures for completing National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) environmental reviews?**

Yes

**If yes, upload your policies and procedures.**

Environmental Impact Questionnaire 2.24.2020.pdf

**If yes, but the policies and procedures are in another previously uploaded document, please name the document.**

The City of Petaluma implements the California Environmental Quality Act (CEQA) in its role as lead agency for discretionary projects and conducts environmental assessments in accordance with the National Environmental Policy Act (NEPA) for HUD-assisted projects. The City's Environmental Review Guidelines as well as state and federal statutes are used to inform the City's environmental review process. The City proceeds in a stepwise fashion for environmental review taking into consideration project eligibility for exemptions and exclusions as well as streamlining and tiering opportunities. The City is committed to fully assessing and disclosing environmental impacts and providing opportunities for meaningful public participation. The attached document is the City's CEQA project intake questionnaire.

Section 3 of the Housing and Urban Development Act of 1968 (Section 3), as amended, requires that economic opportunities generated by CDBG-DR funds be targeted toward Section 3 residents. A Section 3 plan must establish standards and procedures to be used to ensure that the objectives of Section 3 are met and records, reports, and other documents or items to demonstrate compliance with Section 3 regulations are maintained.

**Do you have a Section 3 plan?**

No



**If no, please provide a status.**

Section 3 applies typically to public works and construction projects utilizing federal funds. Since the Petaluma annual CDBG is normally not more than \$350,000, there is not enough to fund construction projects. Petaluma has historically funded housing rehabilitation by Rebuilding Together and services by local non-profit life Petaluma Peoples' Services Center for meals on wheels, and COTS. If adoption of a Section 3 Plan is required by this grant award, the City would adopt such a plan no later than December 31, 2021.

**Do you have anti-lobbying policies and procedures?**

Yes

**If yes, upload your anti-lobbying policies and procedures.**

Chapter 3.04 Petaluma Municipal Code.pdf

**If yes, but the policies and procedures are in another previously uploaded document, please name the document.**

**Do you have conflict of interest policies and procedures?**

Yes

**If yes, upload your conflict of interest policies and procedures.**

2020-154\_NCS\_Conflict\_of\_Interest\_Code.pdf

**If yes, but the policies and procedures are in another previously uploaded document, please name the document.**

**Do you have non-discrimination policies and procedures?**

Yes

**If yes, upload your non-discrimination policies and procedures.**

Chapter 3.04 Petaluma Municipal Code.pdf

**If yes, but the policies and procedures are in another previously uploaded document, please name the document.**

**Do you have timekeeping policies and procedures?**

Yes

**If yes, upload your timekeeping policies and procedures.**

Timekeeping\_policy\_and\_procedure.pdf

**If yes, but the policies and procedures are in another previously uploaded document, please name the document.**

**Do you have financial management policies and procedures?**

Yes

**If yes, upload your financial management policies and procedures.**

Financial Management Policies and Procedures from Budget.pdf

**If yes, but the policies and procedures are in another previously uploaded document, please name the document.**

**Do you affirm that your policies and procedures are consistent with 2 CFR part 200?**

Yes

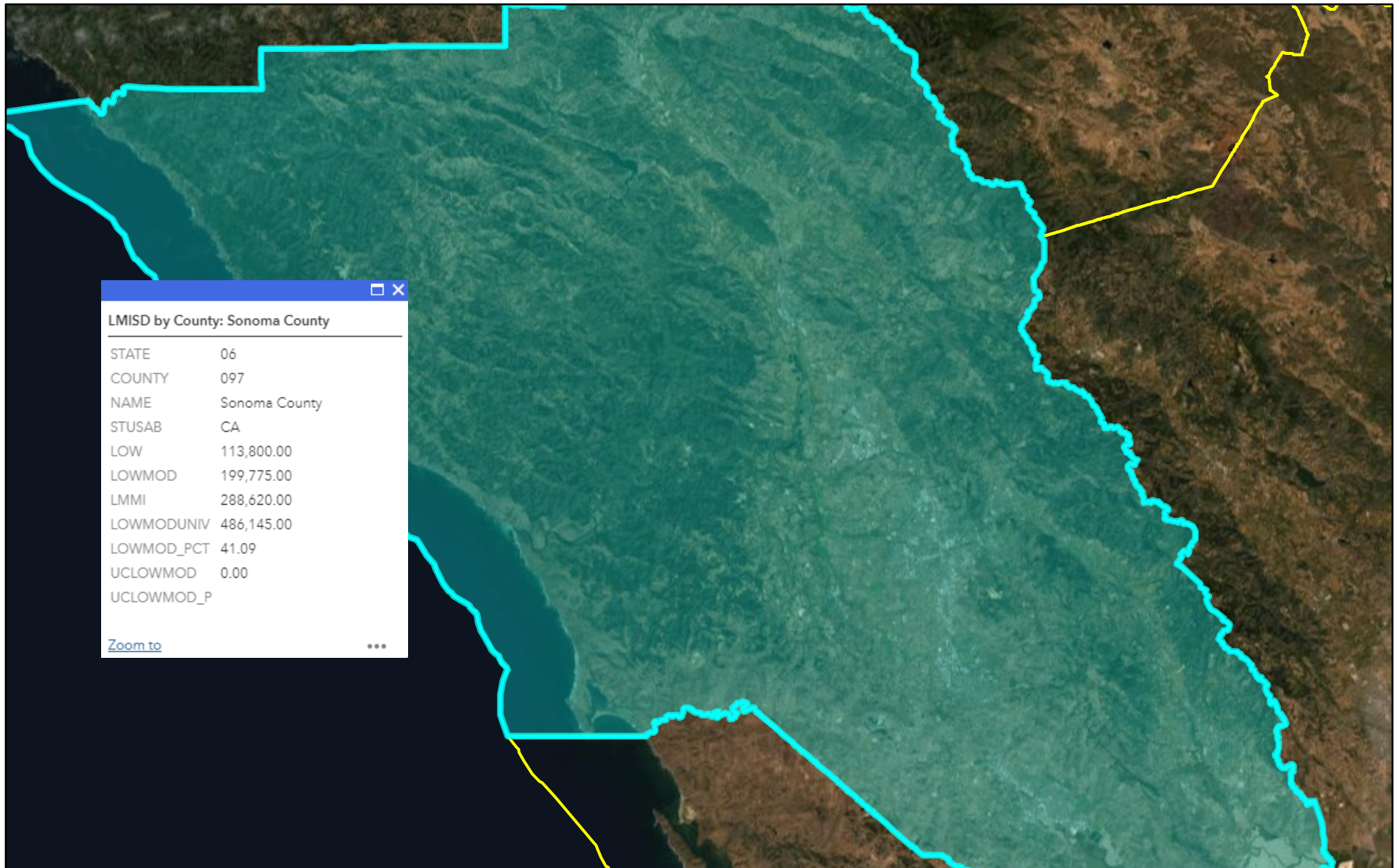
## **ORGANIZATIONAL STRUCTURE, CAPACITY, AND AUTHORITY**

**What is your governing board meeting schedule?**

The Petaluma City Council's schedule for regular meetings is the first and third Mondays of each month.

Documentation for staff experience may include one or both of the following: A narrative description of the experience details of key staff for this project and whether they are new hires or existing staff. A chart of staff by experience in CDBG and/or federal grants management AND experience related to content of the project applied for.

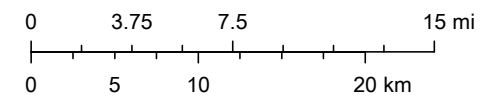
# Low- and Moderate-Income Data, based on 2011-2015 ACS 5-year Estimates



3/4/2021, 12:27:28 PM

 LMISD by County

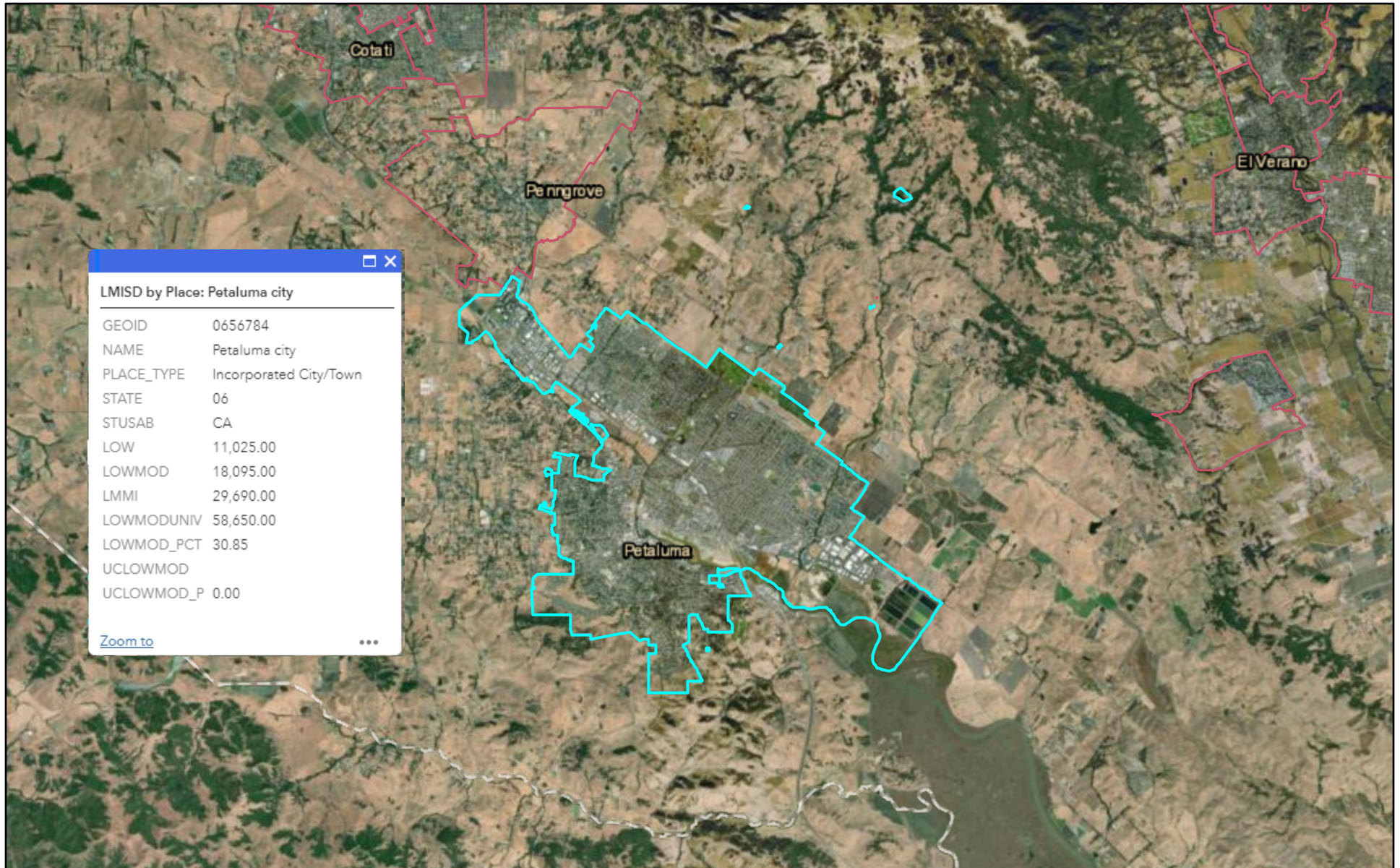
1:577,791




Earthstar Geographics



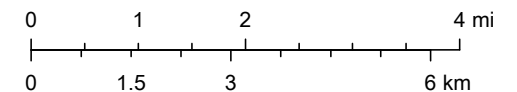
# Low- and Moderate-Income Data, based on 2011-2015 ACS 5-year Estimates



3/4/2021, 12:20:19 PM

 LMISD by Place & Consolidated City

1:144,448



Esri, HERE, Garmin, The County of Napa, Earthstar Geographics

## City of Petaluma Staff

### Grant Experience Summary

**Jason Beatty**, Director, Public Works & Utilities - 10 years' experience executing Federally funded projects.

**Jeff Stutsman**, City Engineer, 4+ years' experience with Federal Highway Administration grant funded projects

**Diane Ramirez**, Project Manager, 2+ years' experience with Federal grants. Included experience with managing FEMA funding through CalOES for development of a Local Hazard Mitigation Plan

**Ken Eichstaedt**, Senior Traffic Engineer, 1+ year experience with FAA grants for airport projects.

**Jared Hall**, Transit Manager, 3+ years managing projects funded with Federal Highway Administration funding.

**Karen Shimizu**, Housing Manager, 30 years' experience administering Federal and State funded projects and programs in the areas of Affordable Housing Management and Development, Public Benefit Assistance, and Disaster Relief.

**James Carney**, Principal Planner, 35 years' experience administering Federal and State funded project and programs in the areas of Affordable Housing, In-Lieu Housing Funding, community projects, HOME, and CDBG.

**Corey Garberolio**, Finance Director, 12 years' experience administering Federal and State grant programs.

**Janine Tedrow**, Finance and Accounting Manager, 6 years' experience administering Federal and State grant programs.

pcarter@cityofpetaluma.org

## Applicant Information :

Tell us about you.

**Linked Applicant :** pcarter@cityofpetaluma.org

**First name :** Patrick

**Last name :** Carter

**Email :** pcarter@cityofpetaluma.org

**Title :** Senior Management Analyst

**Company :** City of Petaluma

**Company Website :** City of Petaluma

**City :** Petaluma

**State :** US-CA

## Organization Information :

Tell us about your organization.

**Organization Name :** City of Petaluma

**Employer Identification Number (EIN) :** 94600039

**DUNS :** 020021978

**Authorized Representative :** Peggy Flynn

**Business/Finance Representative :** Corey Garberolio

## Organization Address :

**Address :** 11 English Street

**City :** Petaluma

**State :** US-CA

**County :** United States

**Congressional District/Region :** 2, Huffman

**Zip :** 94952

**Phone :** 7077784560

Authorized Representative (if different from above)

**Name :** Peggy Flynn

**Title :** City Manager

**Email :** pflynn@cityofpetaluma.org

**Phone :** 707-776-3765

Business/Finance Contact (if required)

**Name :** Corey Garberolio

**Title :** Finance Director

**Email :** cgarberolio@cityofpetaluma.org

**Phone :** 707-778-4357

**Program Year :** PY2020

**Are you applying on behalf of an additional Jurisdiction? :** value2

## 2 Organization Information :

2 Tell us about your organization.

## 2 Organization Address :

2 Authorized Representative (if different from above)2 Business/Finance Contact (if required)

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