Burien Contract # ~~4290~~ 4290

City of Burien, Washington
City Hall Contract Routing Sheet

Name of Contracting Party: King County – Housing and Community Dev. - CDBG

Project Name/Description: 2015 So. 132nd St. Pedestrian Trail Project

Contract Amount: $ 195,000 (CDBG Grant)

Type of Contract: (Includes Agreements, Grants, Interlocals, Leases, MOUs, etc.)

☐ Architectural/Engineering ☐ From MSRC Engineering Roster ☐ RFQ Process Done ☐ Consulting/Services (Non-Engineering) ☐ Human Services/ Arts &Culture	☐ Construction/Public Works ☐ Informal Bidding Process Done-3 bids (less than $35,000) ☐ From MRSC Small Works Roster ($35,000 to $300,000) ☐ Competitive/Advertised Bidding Done (Over $300,000) ☐ Other: Sole Source - Emergency	☒ Grant ☐ Lease ☐ Other: _____ ☐ Contract Amendment to Contract No. _____

Is this contract authorized in the current year's budget? ☒ Yes ☐ No

If budgeted, list Fund/Dept.: Transportation CIP – So. 132nd St. Pedestrian and Bicycle Trail Project

Page # in Budget: 4-35 Budget line item amount: $195,000

BARS Account Number: 318-09-595-10

CONTRACT ROUTING INSTRUCTIONS:

Contract Manager Directions/Review: L Fleming *Date:* 3-17-15
- ☒ Draft contract, get contract file checklist items
- ☒ Prepare Contract Package (Contract Routing Sheet, contract, and checklist items)
- ☐ Obtain *Dept. Director Approval* _____ *Date:* _____

Legal Dept. Directions/Review: Reviewed by Chris Bacha *Date:* 2-20-15
- ~~☐ Review~~ insurance
- ☒ Review of City Attorney (non-routine contracts)

Finance Dept. Directions/Review: CH L Fleming *Date:* 3-17-15
- ☒ Review contract budget/administrative review.

City Manager Review if over $25,000: _____ *Date:* 3/17/15
- ☒ Return Contract Package to Finance Dept.

Contract Manager Directions:
- ☒ Obtain signatures on contract.
- ☐ Provide fully signed copy of contract to other party.
- ☐ Make copy of contract for own files, if desired.
- ☐ Return original Contract Package to Finance Dept.

Finance Dept. Directions:
- ☒ Assign contract number.
- ☒ Provide contract number to Contract Manager.
- ☒ Provide Contract Package to Scanner.

Contract File Checklist:
- ☐ W-9 Taxpayer ID Form N/A
- ☐ Burien Business License #_____
- ☐ Insurance Certificate
- ☐ Bids, if applicable ☐ N/A
- ☒ Contract Fully Signed

King County

Department of Community and Human Services
Community Services Division
Housing and Community Development Section
(206) 263-9105 TTY Relay: 711

Contractor	City of Burien
Project Title	Burien So. 132nd St Pedestrian Trail (C14248)
Contract Amount $	195,000
Contract Start Date:	05/31/2014 Contract End Date 11/15/2015
Termination Date (where applicable):	11/15/2015
DUNS No. (if applicable)	135822690 SAM No. (if applicable) 5K9M5
Federal Taxpayer ID No.	911576144

KING COUNTY HOUSING AND COMMUNITY DEVELOPMENT CONTRACT— 2015

THIS CONTRACT No. 5695173 is entered into by KING COUNTY, a political subdivision of the State of Washington (the "County"), and City of Burien, (the "Contractor"), whose address is 400 SW 152nd Street, Suite 300, Burien, WA 98166. This Contractor is a Municipal corporation of the State of Washington. Use of the term "Contractor" in this Contract is for ease of reference only and in no respect signifies that the party is a "Contractor" as described in 24 CFR §92.504(c)(4).

WHEREAS, the County is an Urban County recipient of Community Development Block Grant Program (CDBG) funds under the Housing and Community Development Act of 1974, Public Law 93-383 as amended (HCD Act); HOME Investment Partnerships Program (HOME) funds under the National Affordable Housing Act of 1990 Public Law 101-625 as amended (the "NAHA"). The County allocates Housing Opportunity Funds (HOF), Regional Affordable Housing Program (RAHP) funds, and Homeless Housing and Services Funds (2163), Homeless Housing Document Recording Fee Surcharge Revenue (2331), Veterans and Human Service Levy funds and Mental Illness and Drug Dependency (MIDD) funds to low-income housing development capital, infrastructure investment, energy efficiency and science, assistance to the unemployed and/or service projects and Current Expense (CX) funds to housing and community development projects in accordance with adopted County ordinances. The County uses CDBG, HOME, HOF, RAHP, Veterans and Human Services Levy funds and/or CX funds for the purpose of carrying out eligible community development and housing activities under the HCD Act, the NAHA, regulations promulgated by the U.S. Department of Housing and Urban Development (HUD) at 24 Code of Federal Regulations (CFR) Part 570, 24 CFR Part 92, 24 CFR Part 576, and adopted County Ordinances. (All CFR references can be found at http://www.access.gpo.gov/nara/cfr/cfr-table-search.html. All King County code references can be found at http://www.kingcounty.gov/council/legislation/kc_code.aspx);

WHEREAS, an Urban County CDBG Consortium has been established by CDBG Interlocal Cooperation Agreements (CDBG ICAs) or joint agreements between the County and certain municipal corporations (Consortium Cities) within the County covering program years 2015-2017. The CDBG ICAs specify allocation of CDBG funds by the County to those participating jurisdictions for use in accordance with the County Consolidated Housing and Community Development Plan (HCD Plan). The HCD Plan has been adopted by the King County Council, accepted by participating jurisdictions and approved by HUD;

WHEREAS, a HOME Consortium has been established by HOME ICAs between the County and certain HOME Consortium Cities covering 2015-2017, the terms of which specify allocation of HOME

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funds by the County for use in accordance with the HCD Plan which has been adopted by the King County Council, accepted by participating jurisdictions, and approved by HUD;

WHEREAS, the County desires to award certain funds to the Contractor for use as described in this Contract and as authorized by County ordinance, for the purpose of implementing eligible activities as applicable under the HCD Act, NAHA, HUD regulations, State laws, and/or adopted County ordinances;

WHEREAS, it is appropriate and mutually desirable that the Contractor be designated by the County to undertake such eligible activities, so long as the requirements of the HCD Act, NAHA, HUD Regulations, State law, and County ordinances are adhered to as provided for herein;

WHEREAS, the purpose of this Contract is to provide for cooperation between the County and the Contractor, as the parties in this Contract, in implementing such eligible activities under the laws and regulations that pertain to the funds awarded in this Contract;

WHEREAS, the parties are authorized and empowered to enter into this Contract by one or more of the following: County ordinance, HCD Act, NAHA, Revised Code of Washington (RCW) Chapter 39.34, RCW Chapter 35.21.730 et seq., the Constitution and the enabling laws of the State of Washington;

NOW, THEREFORE, for and in consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties mutually covenant and agree to abide by the provisions of this Contract.

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	Exhibit Name	Amount	Fund Source
I.	Certificates of Insurance/Endorsements		
II.	Burien South 132nd Street Pedesstrian Path (C14248)	$195,000	CDBG

I. SCOPE OF CONTRACT AND INCORPORATION OF EXHIBITS

A. Scope

The Contract between the parties shall consist of the signature page, each Program/Project Exhibit incorporated into the Contract, all matters and laws incorporated by reference herein, and any written amendments made in accordance with the provisions contained herein. The exhibits attached to this Contract as Exhibits I. through II. are hereby incorporated by this reference. This Contract supersedes any and all former agreements regarding projects described in the attached Project/Program Exhibit(s). If there is a conflict between any of the language contained in this Contract and any of the language contained in any Project/Program Exhibit in this Contract, the language in this Contract shall control, unless the parties affirmatively agree to the contrary in a writing that has been reviewed and approved by the King County Prosecuting Attorney's Office. This Contract shall govern both:

1. Service Projects (human service, planning, program administration and micro-enterprise or supportive services for the homeless); and

2. Capital Projects (acquisition, improvement, and rehabilitation of real property and construction or reconstruction of public infrastructure).

   The two types of activities may be included in one Contract as separate Project/Program Exhibit(s) of Services.

B. Mandatory Certifications

The Contractor certifies that it shall comply with the provisions of Sections XIX. Nondiscrimination and Equal Employment Opportunity, XXII. Conflict of Interest and XXX. Political Activity Prohibited of this Contract. If the Contractor is a municipal corporation (other than King County), or Contractor of the State of Washington, King County Code (KCC) chapters 12.16, 12.17 and 12.18 do not apply to the Contractor, but may apply to any subcontractor of the Contractor.

C. Contact Person

King County and the Contractor shall each designate a contact person for each Project/Program Exhibit incorporated in this Contract. All correspondence, reports and invoices shall be directed to the designated contact person. This provision does not, however, supplant or override Section XXVII. Notices.

D. Federal Funds

The term "federal funds" as used herein means CDBG funds and/or HOME funds. The specific types of funds provided under this Contract are specified in the attached Project/Program Exhibit(s).

E. Environmental Review

This section applies to all projects using federal funds that are not exempt under 24 CFR Part 58. Notwithstanding any provision of this contract, the parties hereto agree and acknowledge that this contract does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt of a release of funds from HUD under 24 CFR Part 58. The parties further agree that the provision of any funds to the project is conditioned upon King County's determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review. The Contractor shall not spend any funds on physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance. Violation of this provision shall result in the denial of any funds under this Contract.

Capital Projects using federal funds shall also comply with subsections F, G, H and I.

F. Environmental Policy Act

The County retains environmental review responsibility for purposes of fulfilling requirements of the National Environmental Policy Act as implemented by HUD Environmental Review Procedures (24 CFR Part 58) and the Federal laws and authorities identified therein. The Contractor shall be solely responsible for the cost of compliance with all such Federal laws and authorities including the cost of preparing plans, studies, reports and the publication of notices that may be required. The Contractor and its subcontractors shall not take any actions inconsistent with 24 CFR Part 58.

G. National Flood Insurance

The use of CDBG and HOME funds for acquisition or construction purposes in identified special flood hazard areas shall be subject to Contractor mandatory purchase of flood insurance as required by Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub L. 93-237).

H. Lead Based Paint

The Contractor shall comply with the Lead-Based Paint Poisoning Prevention Act (42 United States Code (USC) 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 4851-4856), and implementing regulations at 24 CFR Part 35, subparts A, B, J, K, and R. Generally, these laws prohibit the use of lead-based paint (whenever funds under this Contract are used directly or indirectly for construction, rehabilitation or modernization of residential structures); require elimination of immediate lead-based paint hazards in residential structures; and require notification of the hazards of lead-based paint poisoning to purchasers and tenants of residential structures constructed prior to 1978.

I. Environmental Justice

The Contractor shall comply with Presidential Executive Order 12898 requiring identification and mitigation, as appropriate, of disproportionately high and adverse human health or environmental impacts of programs, policies and activities on minority and/or low-income populations.

J. Subrecipient Monitoring

1. First-tier subrecipients shall register in the Central Contractor Registration (CCR), including obtaining a Dun and Bradstreet Data Universal Numbering System (DUNS) number and maintain the currency of that information. A pass through entity shall be responsible for determining that subrecipients have current CCR registrations prior to making subawards and performing periodic checks to ensure that the subrecipients are updating information as necessary.

2. Recipients shall require each subrecipient to;

   a. Document at the time of the subaward and disbursement of funds, the Federal award number, Catalog of Federal Domestic Assistance (CFDA) number; and

   b. Provide similar identification in their Schedule of Expenditures of Federal Awards (SEFA) and Form SF-SAC. Additional information, including presentation requirements for the SEFA and SF-SAC, is provided in Appendix VII of the 2009 Supplement (2 CFR Section 176.210).

II. DURATION OF CONTRACT

The terms of this Contract shall be in effect from the Start Date (as defined in the Project/Program Exhibit(s)) or the date of execution of this Contract, whichever is earlier, and shall terminate on the Termination Date specified in each Project/Program Exhibit, unless extended to a later date or terminated earlier, pursuant to the terms and conditions of the Contract.

III. TERM OF COMPLIANCE FOR CAPITAL PROJECTS

The Contractor shall own and operate the project during the Compliance Period as defined in the Program/Project Exhibit.

IV. FUTURE SUPPORT

The County makes no commitment to support the services contracted for herein and assumes no obligation for future support of the activity contracted herein except as expressly set forth in this Contract.

V. COMPENSATION AND METHOD OF PAYMENT

The County shall reimburse the Contractor only for the approved activities specified in each Project/Program Exhibit and the reimbursement amount shall not exceed the amount specified in each Project/Program Exhibit. Reimbursements will be payable in the following manner.

A. Start Date and End Date

Start Dates and End Dates for individual projects shall be specified in each Project/Program Exhibit. Costs incurred before the Start Date will not be reimbursed. Costs incurred after the End Date will not be reimbursed.

B. Submission of Invoices, Supporting Documentation and Reports

The Contractor shall submit an invoice, supporting documentation for costs claimed in the invoice and all reports as specified in each Project/Program Exhibit or the County may not process the invoice. Supporting documentation for costs claimed in the invoice

includes, but is not limited to, purchase orders and bills. The County shall initiate authorization for payment to the Contractor not more than 30 days following the County's approval of a complete and correct invoice, supporting documentation and reports.

C. Final Invoice for Service Projects

The Contractor shall submit its final invoice for each Project/Program Exhibit providing funding for Service Projects within seven business days after the End Date. The Contractor shall submit all outstanding reports for each Project/Program Exhibit providing funding for Service Projects within 30 business days after the End Date.

If the Contractor's final invoices, supporting documentation, and reports are not submitted by the last date specified in this subsection, the County shall be relieved of all liability for payment to the Contractor of the amounts set forth in said invoice or any subsequent invoice; provided, however, the County may elect to pay any invoice that is not submitted in a timely manner.

D. Final Invoice for Capital Projects

Unless provided otherwise in the Project/Program Exhibit(s), the Contractor shall submit its final invoice, supporting documentation, and all outstanding reports for each Project/Program Exhibit providing funding for Capital Projects before the End Date specified in the Project/Program Exhibit(s).

If the Contractor's final invoices, supporting documentation, and reports are not submitted by the date specified in this subsection, the County shall be relieved of all liability for payment to the Contractor of the amounts set forth in said invoice or any subsequent invoice; provided, however, the County may elect to pay any invoice that is not submitted in a timely manner.

E. Unspent County Funds

1. After the End Date specified in each Project/Program Exhibit, for individual projects covered by this Contract, the County shall recapture any unexpended funds encumbered under this Contract.

2. During the term of the Contract, the County may, upon agreement with the Contractor, recapture any unexpended funds for reallocation to other Project/Program activities.

   Projects using federal funds shall also comply with the following subsections F, G, H and I.

F. Municipal Corporations or State Public Agencies

If the Contractor is a municipal corporation or an agency of the State of Washington, costs for which the Contractor requests reimbursement shall comply with the policies, guidelines, and requirements of 2 CFR Part 225, "Cost Principles For State, Local and Indian Tribal Governments" and the sections of 24 CFR Part 85 "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments" identified at OMB Circular A -102 and 24 CFR § 570.502(a) Applicability of Uniform Administrative Requirements, unless otherwise provided in the Project/Program Exhibit(s).

G. Not-for-profit Corporations

If the Contractor is a not-for-profit corporation, costs for which the Contractor requests reimbursement shall comply with, unless otherwise provided in the Project/Program Exhibit(s), the policies, guidelines and requirements of 2 CFR Part 230, "Cost Principles for Non-Profit Organizations," and the sections of 24 CFR Part 84, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, identified at 2 CFR Part 215 and 24 CFR § 570.502 (b), Applicability of Uniform Administrative Requirements.

H. Excess Federal Funds

CDBG and/or HOME funds on hand shall not exceed $5,000 if retained beyond three days unless written approval is received from the County. Any reimbursement in excess of the amount required shall be promptly returned to the County.

I. Program Income

The Contractor shall report all CDBG and HOME Program Income, as defined in 24 CFR §§ 92.2, 92.503 and 570.504(c) and in the ICAs, generated under this Contract for the purposes specified herein or generated through the project(s) funded under this Contract. Program Income is to be reported to the County. Program income shall be returned to the County unless the County specifies that it may be retained by the Contractor. If the County authorizes the Contractor to retain the Program Income to continue or benefit a project(s), the Contractor shall comply with all provisions of this Contract in expending the funds. This duty to repay the County shall not be diminished or extinguished by the prior termination of the Contract pursuant to Section II. Duration of Contract or Section XV. Termination.

VI. BUDGET

The Contractor shall apply the funds received from the County under this Contract in accordance with each Project/Program Exhibit including a line item budget, if applicable, set forth in each Project/Program Exhibit. The Contractor shall request in writing prior approval from the County to revise the line item budget when the cumulative amount of transfers from a line item in any Project/Program Exhibit is expected to exceed ten percent of that line item. Supporting documents are necessary to fully explain the nature and purpose of the revision, and must accompany each request. All budget revision requests in excess of ten percent of a line item amount shall be reviewed and approved or denied by the County in writing.

VII. EQUIPMENT PURCHASE, MAINTENANCE, AND OWNERSHIP

A. Equipment Purchase

The Contractor agrees that equipment purchased with Contract funds at a cost of $5,000 per item or more and identified in an exhibit as reimbursable, is upon its purchase or receipt, the property of the Contractor, County, and/or federal, and/or state government, as specified in the exhibit.

B. Maintenance of Equipment

The Contractor shall be responsible for all such equipment, including the proper care and maintenance.

C. Equipment Returned

The Contractor shall ensure that all such equipment shall be returned to the appropriate government agency, whether federal, state or county, upon written request of the County.

D. Right of Access

The Contractor shall admit the County's Property Management Officer to the Contractor's premises for the purpose of marking such property with appropriate government property tags.

E. Maintenance of Records

The Contractor shall establish and maintain inventory records and transaction documents (purchase requisitions, packing slips, invoices, receipts) of equipment purchased with Contract identified funds.

F. Disposition of Equipment

Projects using federal funds shall also comply with the following requirement. If the Contractor ceases to use equipment purchased in whole or in part with CDBG funds for the purpose described in this Contract, or if the Contractor wishes to dispose of such equipment, the disposition shall be determined under the provisions of 24 CFR § 570.502(b)(3)(vi), if the Contractor is a nonprofit corporation and 24 CFR § 570.502(a) and 24 CFR § 85.32(e) if the Contractor is a municipal corporation or an agency of the state of Washington. The Contractor agrees that it will contact the County for instructions prior to disposing of, surplusing of, encumbering or transferring ownership, of any equipment purchased in whole or in part with federal funds.

VIII. CONTRACT AMENDMENTS

Either party may request changes or an extension to this Contract. Proposed amendments, which are mutually agreed upon, shall be incorporated by written amendments to this Contract. Budget revisions approved by the County pursuant to Section VI. Budget are not required to be incorporated by written amendment.

IX. INTERNAL CONTROL, ACCOUNTING SYSTEM AND AUDITS

Internal Control and Accounting

The Contractor shall establish and maintain a system of accounting and internal controls that comply with applicable, generally accepted accounting principles and financial and governmental reporting standards as prescribed by the appropriate accounting standards board.

Audits

A. Not-for-Profit Corporations

1. This subsection A applies to any corporation, trust, association, cooperative or other organization that: (i) is operated primarily for scientific, educational, service, charitable or similar purposes in the public interest; (ii) is not organized primarily for profit; and (iii) uses its net process to maintain, improve or expand its operations.

2. The Contractor shall provide the County with a copy of its applicable IRS Form 990 (Return of Organization Exempt from Tax), IRS Form 1065 (Partnership tax return), or equivalent when requested.

3. The Contractor shall comply with the specific requirements for independent financial audits or alternative as follows:

   a. A Contractor receiving $750,000 or more in direct or indirect federal funding from all sources during its fiscal year, including other forms of federal financial assistance shall have a single audit or program-specific audit conducted for that year. Such audit shall be done in accordance with the provisions of the Single Audit Act Amendments of 1996 as required by 2 CFR Part 200.

   b. A Contractor receiving $100,000 or more from County fund sources during its fiscal year that is not otherwise subject to the requirements of 2 CFR Part 200 shall have a financial statement audit conducted for that year. Such audit shall be performed by an independent certified public accountant and conducted in accordance with the American Institute of Certified Public Accountants' (AICPA) generally accepted auditing standards.

   c. A Contractor receiving less than $300,000 from all fund sources during its fiscal year shall be required to complete a limited scope financial statement/internal control review as defined by the AICPA and according to AICPA standards. Any limited scope financial statement/internal control review shall be conducted in accordance with the AICPS' a Statements on Standards for Attestation Engagements and shall be performed by an independent certified public accountant.

4. A Contractor that is not subject to 2 CFR Part 200 may, in extraordinary circumstances, request a waiver of audit requirements and, with the review and upon approval of the County, substitute for the above requirements other forms of financial reporting or fiscal representation certified by the Contractor's Board of Directors.

   a. That financial statement audit and any associated management letter show no reportable conditions or internal control issues; and

   b. There has been no turnover in key staff since the beginning of the period for which the audit was completed.

   If the Contractor does not meet the qualifications in Section IX. 4 a. and b. then the Contractor shall provide a financial statement audit.

5. The Contractor shall provide to the County a copy of the audit report, including any management letter or official correspondence submitted by the auditor, its response and corrective action plan for all findings and reportable conditions contained in its previous audit or any alternative documents required under Section IX. Internal Control, Accounting Systems and Audits Subsection A. 3. of this Contract. These documents shall be submitted no later than nine months subsequent to the end of the Contractor's fiscal year. The documents may be submitted electronically or in hard copy.

6. If additional federal and/or state audit or review requirements are imposed on the County during the term of this Contract, the Contractor agrees this Contract may be amended to require that the Contractor comply with any such additional audit

requirements. Even if this Contract is not amended, the Contractor agrees to comply with any such additional audit requirements.

7. If the Contractor receives a financial audit, including an A-133 audit, due to requirements other than stated herein, such audit shall be provided to the County within the time period identified in Section IX. Internal Control, Accounting Systems and Audits Subsection A. 4. even if not otherwise required under this section.

B. Municipal Corporations

If the Contractor is a municipal corporation in the state of Washington, it shall submit to the County a copy of its annual report of examination/audit, conducted by the Washington State Auditor, within 30 days of receipt, which submittal shall constitute compliance with Section IX. Internal Control, Accounting Systems and Audits.

C. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) number for the CDBG Program is 14.218. The CFDA number for the HOME program is 14.239. Additional federal and/or state audit or review requirements may be imposed on the County, and if the Contractor has CDBG, or HOME funds in the Contract, it shall be required to comply with these requirements.

X. MAINTENANCE OF RECORDS

A. Scope of Records

The Contractor shall maintain accounts and records, including personnel, property, financial, and programmatic records and other such records specified in each Project/Program Exhibit or otherwise deemed necessary by the County to ensure proper accounting for all Contract funds and compliance with this Contract.

B. Time for Retention of Records

Records required to be maintained in subsection A. above shall be maintained for a period of six years after the termination date, unless a different period for records retention is specified in the Project/Program Exhibit.

C. Location of Records/Notice to County

The Contractor shall inform the County in writing of the location, if different from the Contractor address listed on page one of this Contract, of the aforesaid books, records, documents and other evidence within ten working days of any such relocation.

Projects using federal funds shall also comply with subsections D, E, F, G, H, I, J, K, L, and M.

D. Federal Exceptions to Retention Requirements

Exceptions to the six year retention period are as follows: (1) Records that are the subject of audit findings, litigation, or claims shall be retained until such findings, litigation or claims have been resolved; and (2) The retention period for real property and equipment records starts from the date of the disposition, replacement or transfer at the direction of the County.

E. Financial Management Records

Financial records shall identify adequately the source and application of funds for activities within this Contract, in accordance with the provisions of 2 CFR Part 200. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays and income.

F. Tenant Notification and Relocation Records

If the Contractor is acquiring property with existing tenants, Contractor record keeping for tenant notification and relocation must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (The "Uniform Relocation Act"), and regulations at 49 CFR Part 24. Indication of the overall status of the relocation workload and a separate relocation record for each person, business, organization and farm operation displaced or in the relocation workload must be kept.

G. Acquisition Records

If the Contractor is using funds under this Contract for property acquisition, the Contractor must maintain a separate acquisition file for each acquisition process documenting compliance with Uniform Relocation Act regulations at 49 CFR Part 24, including a notice of voluntary sale.

H. Beneficiary Records

The Contractor agrees to maintain racial, ethnic, disability status, single head of household, household income, and gender data showing the extent to which these categories of persons have participated in, or benefited from, the activities carried out under this Contract if required in a Project/Program Exhibit.

I. Labor Standards

If the Contractor is using funds under this Contract for construction work, the Contractor shall maintain records documenting compliance by all construction contractors with the labor standards as required under 24 CFR § 570.603 for CDBG funds and 24 CFR § 92.354 for HOME funds.

J. Other Construction Records

The Contractor and all of its sub contractors shall maintain records and information necessary to document the level of utilization of state certified small, minority, and women-owned businesses, and other businesses as subcontractors and suppliers under this Contract. The Contractor shall also maintain all written quotes, bids, estimates or proposals submitted by the contractor and any and all businesses seeking to participate in this Contract. The Contractor shall make such documents available to the County for inspection and copying upon request.

K. Employment Records

If the Contractor is a municipal corporation or an Agency of the State of Washington, it agrees to maintain the following data for each of the Contractor's operating units funded in whole or in part with CDBG funds provided under this Contract:

1. Employment data with such data maintained in the categories prescribed on the Equal Employment Opportunity Commission's EEO-4 form; and

2. Documentation of any actions undertaken to assure equal employment opportunities to all persons regardless of race, color, national origin, sex or handicap.

L. Records Regarding Remedy of Past Discrimination

The Contractor shall maintain documentation of the affirmative action measures the Contractor has taken to overcome prior discrimination if a court or HUD has found that the Contractor has previously discriminated against persons on the grounds of race, color, national origin or sex in administering a program or activity funded in whole or in part with CDBG funds pursuant to 24 CFR Part 121.

M. Record-Keeping Requirements and Site Visits

The Contractor shall maintain, for at least six years after completion of all work under this Contract, the following:

1. Records of employment, employment advertisements, application forms, and other pertinent data and records related to the Contract for the purpose of monitoring, audit and investigation to determine compliance with any equal opportunity requirements set forth in any federal regulations, statutes or rules included or referenced in the Contract documents; and

2. Records, including written quotes, bids, estimates or proposals submitted to the Contractor by all businesses seeking to participate on this Contract, and any other information necessary to document the actual use of and payments to subcontractors and suppliers in this Contract, including employment records.

The County may visit, at any time, the site of the work and the Contractor's office to review the foregoing records. The Contractor shall provide every assistance requested by the County during such visits. In all other respects, the Contractor shall make the foregoing records available to the County for inspection and copying upon request. If this Contract involves federal funds, the Contractor shall comply with all record keeping requirements set forth in any federal rules, regulations or statutes included or referenced in the contract documents.

XI. EVALUATIONS AND INSPECTIONS

A. Right of Access to Facilities for Inspection of Records

The Contractor shall provide right of access to its facilities, including those of any subcontractor, to the County, the state, and/or federal agencies or officials at all reasonable times in order to monitor and evaluate the activities funded under this Contract. The County shall give advance notice to the Contractor in the case of fiscal audits to be conducted by the County.

B. Time for Inspection and Retention

The records and documents with respect to all matters covered by this Contract shall be subject at all times to inspection, review, or audit by the County and/or federal/state officials so authorized by law during the performance of this Contract and six years after the termination date, unless a different period is specified in the Project/Program Exhibit or a longer retention period is required by law.

C. Agreement to Cooperate

The Contractor agrees to cooperate with the County or its agent in the evaluation of the Contractor's performance under this Contract and to make available all information reasonably required by any such evaluation process. The results and records of said evaluations shall be maintained and disclosed in accordance with RCW Chapter 42.56.

XII. PROPRIETARY RIGHTS

A. The parties to this Contract hereby mutually agree that if any patentable or copyrightable material or article should result from the work described herein, all rights accruing from such material or article shall be the sole property of the Contractor. The Contractor agrees to and does hereby grant to the County, irrevocable, nonexclusive, and royalty-free license to reproduce, publish or otherwise use, and to authorize others to use, according to law, any work material or article and use any method that may be developed as part of the work under this Contract.

B. The foregoing products license shall not apply to existing training materials, consulting aids, checklists, and other materials and documents of the Contractor, which are modified for use in the performance of this Contract.

C. The foregoing provisions of this section shall not apply to existing training materials, consulting aids, checklists, and other materials and documents of the Contractor that are not modified for use in the performance of this Contract.

XIII. CORRECTIVE ACTION

A. Default by Contractor

If the County determines that a breach of contract has occurred because the Contractor failed to comply with any material terms or conditions of this Contract or the Contractor has failed to provide in any manner the work or services agreed to in any Project/Program Exhibit attached hereto, and if the County deems said breach to warrant corrective action, the following sequential procedure shall apply.

1. The County shall notify the Contractor in writing of the nature of the breach.

2. The Contractor shall submit a plan describing the specific steps being taken to correct the specified deficiencies (the "corrective action plan"). The corrective action plan shall be submitted to the County within ten business days from the Contractor's receipt of the County's notice under this section. The corrective action plan shall specify the proposed completion date for bringing the Contract into compliance, which completion date shall not be more than 30 days from the date the County receives the Contractor's corrective action plan, unless the County, in its sole discretion, specifies in writing an extension in the number of days to complete the corrective actions.

3. The County shall notify the Contractor, in writing of the County's determination as to the sufficiency of the Plan. The County shall have sole discretion in determining the sufficiency of the Contractor's corrective action plan.

B. Termination of Contract

In the event that the Contractor does not respond within the appropriate time with a corrective action plan, or the Contractor's corrective action plan is determined by the

County to be insufficient, the County may commence termination of this Contract in whole or in part pursuant to Subsection XV. Termination Subsection B.

C. County Withholding of Payment

In addition, the County may withhold any payment owed the Contractor or prohibit the Contractor from incurring additional obligations of funds until the County is satisfied that corrective action has been taken or completed.

D. No Waiver of Other Remedies

Nothing herein shall be deemed to affect or waive any rights the parties may have pursuant to Section XV. Termination or other remedies authorized by law.

XIV. ASSIGNMENT

The Contractor shall not assign, transfer or subcontract any portion of this Contract or transfer or assign any claim arising pursuant to this Contract without the prior written consent of the County. Additional terms for County consent to such assignment, transfer or subcontract may be described in a Project/Program Exhibit and, where expressly specified in the Project/Program Exhibit, shall supersede the requirements and limitations of this Section XIV. Said consent must be sought in writing by the Contractor not less than 15 business days prior to the date of any proposed assignment, transfer or subcontract. The Contractor shall deliver to the County with its request for consent, such information regarding the proposed assignee, transferee or subcontractee, including its proposed mission, legal status, and financial and management capabilities as is reasonably available to the Contractor. Within 15 days after such request for consent, King County may reasonably request additional available information on the proposed assignee, subcontractee or transferee. If the County shall give its consent, this section shall nevertheless continue in full force and effect. Any assignment, transfer or subcontract without prior County consent shall be void.

XV. TERMINATION

A. Termination for Convenience

1. This Contract may be terminated by the County without cause, in whole or in part, prior to the termination date specified in the Project/Program Exhibit, by providing the Contractor 30 days advance written notice of the termination.

2. In addition to the foregoing, if expected or actual funding is withdrawn, reduced, or limited in any way prior to the termination date set forth in the Project/Program Exhibit, the County may, upon written notification to the Contractor, terminate this Contract in whole or in part.

3. If the Contract is terminated as provided above:

   a. The County shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination; and

   b. The Contractor shall be released from any obligation to provide such further services pursuant to the Contract as are affected by the termination.

B. Termination for Cause

1. The County may terminate this Contract, in whole or in part, upon seven days advance written notice to the Contractor in the event:

   a. The Contractor materially breaches any duty, obligation, or service required pursuant to this Contract and such breach has not been cured by a corrective action plan acceptable to the County; or

   b. The duties, obligations, or services required herein become impossible, illegal or not feasible.

2. If the County terminates the Contract pursuant to this Section XV. Termination, Subsection B. the Contractor shall be liable for damages, including any additional costs of procurement of similar services from another source.

3. If the termination results from acts or omissions of the Contractor, including but not limited to misappropriation, nonperformance of required services, or fiscal mismanagement, the Contractor shall return to the County immediately any funds, misappropriated or unexpended, which have been paid to the Contractor by the County.

4. If County or other expected or actual funding is withdrawn, reduced, or limited in any way prior to the termination date set forth above in Section II. Duration of Contract, the County may, upon written notification to the Contractor, terminate this Contract in whole or in part.

5. If the Contract is terminated as provided in this Subsection:

   a. The County shall be liable only for payment in accordance with the terms of this Contract for services rendered and authorized purchase made prior to the effective date of termination; and

   b. The Contractor shall be released from any obligation to provide such further services pursuant to the Contract as are affected by the termination.

6. Funding or obligation under this Contract is conditional upon appropriation by the County Council of sufficient funds to support the activities described in the Contract. Should such appropriation not be approved, this Contract shall terminate at the close of the current appropriation.

C. Waiver

Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Contract at law or in equity that either party may have in the event that the obligations, terms and conditions set forth in this Contract are breached by the other party.

XVI. ENTIRE CONTRACT/WAIVER OF DEFAULT

The parties agree that this Contract is the complete expression of the terms hereto and any oral or written representations or understandings not incorporated herein are excluded. Both parties recognize that time is of the essence in the performance of the provisions of this Contract. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Contract shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of

the terms of the Contract unless stated to be such through written approval by the County, which shall be attached to the original Contract.

XVII. HOLD HARMLESS AND INDEMNIFICATION

A. Contractor is an Independent Contractor

In providing services under this Contract, the Contractor is an independent contractor and neither it, nor its officers, agents or employees, are employees of the County for any purpose. The Contractor shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law.

The County assumes no responsibility for the payment of any compensation, wages, benefits or taxes by, or on behalf of, the Contractor, its employees, and/or others by reason of this Contract. The Contractor shall protect, indemnify, and hold harmless the County, its officers, agents and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from:

1. The Contractor's failure to pay any such compensation, wages, benefits or taxes; and/or

2. The supplying to the Contractor of work, services, materials or supplies by Contractor employees or other suppliers in connection with or support of the performance of this Contract.

B. Contractor Agreement to Repay

The Contractor further agrees that it is financially responsible for and shall repay the County all indicated amounts following an audit exception that occurs due to the negligence, intentional act, and/or failure, for any reason, to comply with the terms of this Contract by the Contractor, its officers, employees, agents, and/or representatives. This duty to repay the County shall not be diminished or extinguished by the prior termination of the Contract pursuant to the Duration of Contract or the Termination Sections.

C. Contractor Indemnification of County

1. The Contractor shall protect, defend, indemnify and hold harmless the County, its officers, employees and agents from any and all costs, claims, judgments and/or awards of damages, arising out of, or in any way resulting from, the negligent acts or omissions of the Contractor, its officers, employees, contractors, subcontractors and/or agents, in its performance and/or non-performance of its obligations under this Contract. The Contractor agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, the Contractor, by mutual negotiation, hereby waives, as respects to the County only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of RCW, Title 51. In the event the County incurs any judgment, award and/or cost arising there from including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the Contractor. To the extent that a Contractor subcontractor fails to satisfy its obligation to defend and indemnify King County, as detailed in Section XVII. Hold Harmless and Indemnification, the Contractor shall protect, defend, indemnify and

hold harmless King County, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards or damages arising out of, or in any way resulting from the negligent act or omissions of the Contractor's contractor/subcontractor, its officers, employees, and/or agents in connection with or in support of this Contract.

2. Claims shall include, but not be limited to, assertions that use or transfer of software, book, document, report, film, tape, or sound reproduction, or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name and/or otherwise results in unfair trade practice.

3. The Contractor agrees not to perform any acts that include use or transfer of software, book, document, report, film, tape, or sound reproduction, or material of any kind, delivered hereunder, that constitutes an infringement of any copyright, patent, trademark, trade name and/or otherwise results in unfair trade practice. The Contractor agrees to indemnify the County for any harm resulting from unfair trade practices.

4. The provisions in this section shall survive the termination and/or duration of the contract term.

5. Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Contract.

6. The indemnification, protection, defense and hold harmless obligations contained herein shall survive the expiration, abandonment or termination of this Contract.

XVIII. INSURANCE REQUIREMENTS—GENERAL

A. Insurance Required

By the date of execution of this Contract, the Contractor shall procure and maintain for the duration of this Contract, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of work hereunder by the Contractor, its agents, representatives, employees and/or contractor/subcontractors. The Contractor or contractor/subcontractor shall pay the costs of such insurance. The Contractor shall furnish separate certificates of insurance and policy endorsements from each contractor/subcontractor as evidence of compliance with the insurance requirements of this Contract.

The Contractor is responsible for ensuring compliance with all of the insurance requirements stated herein. Failure by the Contractor, its agents, employees, officers, contractor/subcontractors, providers and/or provider subcontractors to comply with the insurance requirements stated herein shall constitute a material breach of this Contract.

Each insurance policy shall be written on an "occurrence" form; except that insurance on a "claims made" form may be acceptable with prior County approval. If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of Contract termination, and/or conversion from a "claims made" form to an "occurrence" coverage form.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded by said policies, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained in this provision shall affect and/or alter the application of any other provision contained within this Contract.

B. Risk Assessment by Contractor

By requiring such minimum insurance, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Contract, nor shall such minimum limits be construed to limit the limits available under any insurance coverage obtained by the Contractor. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

C. Minimum Scope of Insurance. Coverage shall be at least as broad as the following:

1. General Liability

   Insurance Services Office form number (CG 00 01) covering **COMMERCIAL GENERAL LIABILITY**.

2. Professional Liability, Errors and Omissions Coverage

   In the event that services delivered pursuant to this Contract either directly or indirectly involve or require professional services, Professional Liability, Errors and Omissions coverage shall be provided. "Professional Services", for the purpose of this Contract section, shall mean any services provided by a licensed professional or those services that require a professional standard of care.

3. Automobile Liability

   Insurance Services Office form number (CA 00 01) covering **BUSINESS AUTO COVERAGE**, symbol 1 "any auto"; or the appropriate coverage provided by symbols 2, 7, 8, or 9.

4. Workers' Compensation

   Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable federal or "Other States" state law.

5. Stop Gap/Employers Liability

   Coverage shall be at least as broad as the protection provided by the Workers' Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the general liability policy.

6. Property Insurance

   Insurance Services Office form number (CP 00 10) covering **BUILDING AND PERSONAL PROPERTY COVERAGE** and Insurance Services Office form number (CP 10 30) **CAUSES OF LOSS – SPECIAL FORM** or project appropriate equivalent.

7. National Flood Insurance

   The use of CDBG and HOME funds for acquisition or construction purposes in identified special flood hazard areas shall be subject to Contractor mandatory purchase of flood insurance as required by Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub L. 93-237).

8. Builder's Risk/Installation Floater

   The Contractor shall procure and maintain during the life of the Contract, or until acceptance of the project by King County, whichever is longer, "All Risk" Builders Risk Insurance at least as broad as ISO form number CP0020 (Builders Risk Coverage Form) with ISO form number CP0030 (Causes of Loss—Special Form) including coverage for collapse, theft and property in transit. The coverage shall insure for direct physical loss to property of the entire construction project, for one hundred percent of the replacement value thereof. The policy shall be endorsed to cover the interests, as they may appear, of King County, Owner, Contractor and subcontractors of all tiers with King County listed as a loss payee.

D. Minimum Limits of Insurance—Capital Projects

The Contractor shall maintain limits no less than the following:

1. Commercial General Liability: $1,000,000 combined single limit per occurrence by bodily injury, personal injury, and property damage; and for those policies with aggregate limits, a $2,000,000 aggregate limit.

2. Professional Liability, Errors, and Omissions: $1,000,000, Per Claim and in the Aggregate.

3. Automobile Liability: $1,000,000 combined single limit per accident for bodily injury and property damage if the use of motor vehicles is contemplated.

4. Workers' Compensation: Statutory requirements of the state of residency.

5. Stop Gap /Employers Liability: $1,000,000.

6. Property Insurance: One hundred percent replacement value of funded structure.

E. Minimum Limits of Insurance—-Building Construction Period

Prior to commencement of building construction and until construction is complete and approved by the Contractor, the Contractor shall cause the construction contractor and related professionals to procure and maintain insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the activities related to this Contract. The Contractor and County shall be named as additional insureds on liability policies except Workers Compensation and Professional Liability, and as Named Insureds on Builders Risk policies. The cost of such insurance shall be paid by the Contractor and/or any of the Contractor's contractors/ subcontractors. The Contractor shall maintain limits no less than the following:

1. Commercial General Liability: $1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage and $2,000,000 in the aggregate.

2. Automobile Liability: $1,000,000 combined single limit per accident for bodily injury and property damage.

3. Professional Liability, Errors & Omissions: $1,000,000, Per Claim and in the Aggregate.

4. Builder's Risk Insurance: One hundred percent replacement cost value.

5. Workers Compensation: Statutory requirements of the State of residency.

6. Stop Gap or Employers Liability Coverage: $1,000,000.

F. Minimum Limits of Insurance—Services Agreements: The Contractor shall maintain limits no less than the following:

1. Commercial General Liability: $1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage and $2,000,000 in the aggregate.

2. Automobile Liability: $1,000,000 combined single limit per accident for bodily injury and property damage.

3. Professional Liability, Errors & Omissions: $1,000,000, Per Claim and in the Aggregate.

4. Workers Compensation: Statutory requirements of the State of Residency.

5. Stop Gap or Employers Liability Coverage: $1,000,000.

Paragraphs G, H, I, J, K and L below apply to Capital Projects, Construction Projects and Services Contracts.

G. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not apply to the Contractor's liability to the County and shall be the sole responsibility of the Contractor.

H. Other Insurance Provisions

The insurance policies required in this Contract are to contain, or be endorsed to contain, the following provisions:

1. All Liability Policies except Professional and Workers Compensation.

a. The County, its officers, officials, employees, and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Contract. Such coverage shall include Products-Completed Operations.

b. To the extent of the Contractor's negligence, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by the County, its officers, officials, employees, or agents shall not contribute with the Contractor's insurance or benefit the Contractor in any way.

c. The Contractor's insurance shall apply separately to each insured against whom claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

2. Property Coverage Policies

a. The County shall be added to all Property Coverage Policies as a loss payee as its interests may appear.

b. The County shall be added as a Named Insured as its interests may appear to all Builders Risk policies.

3. All Policies

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid, until after 30 days prior written notice has been given to the County.

I. Acceptability of Insurers

Unless otherwise approved by the County, insurance is to be placed with insurers with a Bests' rating of no less than A: VIII, or, if not rated with AM Bests, with minimum surpluses the equivalent of AM Bests' surplus size VIII.

Professional Liability, Errors, and Omissions insurance may be placed with insurers with AM Bests' rating of B+VII. Any exception must be approved by the County.

If, at any time, the foregoing policies shall fail to meet the above requirements, the Contractor shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with appropriate certificates and endorsements, for approval.

J. Verification of Coverage

The Contractor shall furnish the County with certificates of insurance and endorsements required by this Contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on forms approved by the County prior to the commencement of activities associated with the Contract. The County reserves the right to require complete, certified copies of all required insurance policies at any time.

If the Agency/Contracting Party is a Municipal Corporation or an agency of the State of Washington and is a member of the Washington Cities Insurance Authority (WCIA) or any other self-insurance risk pool, a written acknowledgement/certification of current membership will be attached to the Agreement as Exhibit I and satisfies the insurance requirements specified above.

K. Subcontractors

The Contractor shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. If the Contractor is relying on the insurance coverages provided by subcontractors as evidence of compliance with the insurance requirements of this Contract, then such requirements and documentation shall be subject to all of the requirements stated herein.

L. Municipal or State Contractor Provisions

If the Contractor is a municipal corporation or a Contractor of the state of Washington and is self-insured for any of the above insurance requirements, a certification of self-insurance shall be provided for the self-insured requirements and attached hereto and be incorporated by reference and shall constitute compliance with this Section. If the certificate of self-insurance does not cover all mandatory requirements, the Contractor shall provide separate certificates and endorsements that document coverage.

XIX. NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

A. Equal Benefits to Employees with Domestic Partners

To the extent prohibited by KCC Chapter 12.19, King County's "Equal Benefits" (EB) ordinance, and related administrative rules adopted by the County Executive, as a condition of a competitive award of a contract valued at $25,000 or more, non-public Contractors agree not to discriminate in the provision of employee benefits between an employees with spouses, employees with domestic partners or employees who reside with legally domiciled members of households during the performance of this Contract. Failure to comply with this provision shall be considered a material breach of this Contract, and may subject the Contractor to administrative sanctions and remedies for breach.

When a competitively awarded contract is valued at $25,000 or more, the Contractor shall complete a Worksheet and Declaration form for County review and acceptance prior to Contract execution. The EB Compliance forms, KCC Chapter 12.19, and related administrative rules are incorporated herein by reference. They are also available online
at: http://www.kingcounty.gov/operations/procurement/Services/Equal_Benefits.aspx

B. Nondiscrimination in Employment Provision of Services

To the extent prohibited by KCC Chapter 12.16 or 12.17, during the performance of this Contract, neither the Contractor nor any party subcontracting under the authority of this Contract shall discriminate or tolerate harassment on the basis of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

C. Nondiscrimination in Subcontracting Practices

To the extent prohibited by KCC Chapter 12.16 or 12.17, during the term of this Contract, the Contractor shall not create barriers to open and fair opportunities to participate in County contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Contractor shall not discriminate against any person because of their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

D. Compliance with Laws and Regulations

The Contractor shall comply fully with all applicable federal, state and local laws, ordinances, Presidential Executive Orders and regulations that prohibit discrimination

to the extent applicable. These laws include, but are not limited to, RCW Chapter 49.60, Titles VI and VII of the Civil Rights Act of 1964, the American with Disabilities Act, and the Restoration Act of 1987. In addition, King County Code chapters 12.16, 12.17 and 12.18 are incorporated herein by reference and the requirements in these code chapters shall specifically apply to this contract, to the full extent applicable. The Contractor shall further comply fully with any equal opportunity requirements set forth in any federal regulations, statutes or rules included or referenced in the contract documents.

E. Small Contractors and Suppliers and Minority and Women Business Enterprises Opportunities

King County encourages the Contractor to utilize small businesses, including Small Contractors and Suppliers (SCS), as defined below, and minority-owned and women-owned business enterprises certified by the Washington State Office of Minority and Women's Business Enterprises (OMWBE) in County contracts. The County encourages the Contractor to use the following voluntary practices to promote open competitive opportunities for small businesses, including SCS firms and minority-owned and women-owned business enterprises:

1. Inquire about King County's Contracting Opportunities Program. King County has established a Contracting Opportunities Program to maximize the participation of SCS in the award of King County contracts. The Program is open to all SCS firms certified by King County Business Development and Contract Compliance (BDCC). As determined by BDCC and identified in the solicitation documents issued by the County, the Program will apply to specific contracts. However, for those contracts not subject to the Program or for which the Contractor elected not to participate in the Program during the solicitation stage, the Contractor is still encouraged to inquire voluntarily about available firms. Program materials, including application forms and a directory of certified SCS firms, are available at the following Web-site address: http://www.kingcounty.gov/bdcc

   The term "Small Contractors and Suppliers" (SCS) means that a business and the person or persons who own and control it are in a financial condition which puts the business at a substantial disadvantage in attempting to compete for public contracts. The relevant financial condition for eligibility under the Program is set at fifty percent of the Federal Small Business Administration (SBA) small business size standards using the North American Industry Classification System and Owners' Personal Net Worth less than $750,000 dollars.

2. Contact OMWBE to obtain a list of certified minority-owned and women-owned business enterprises by visiting their website at http://www.omwbe.wa.gov/ or by Toll Free telephone (866) 208-1064.

3. Use the services of available community organizations, consultant groups, local assistance offices, the County, and other organizations that provide assistance in the recruitment and placement of small businesses, including SCS firms and minority-owned and women-owned business enterprises.

F. Equal Employment Opportunity Efforts

The Contractor shall undertake equal employment opportunity efforts to ensure that applicants and employees are treated, without regard to their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age. The Contractor's equal employment opportunity efforts shall

include but not be limited to, the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth this nondiscrimination clause. In accordance with KCC 12.16.010.j. "equal employment opportunity efforts" shall mean active efforts to ensure equal opportunity in employment that is free from all forms of discrimination.

G. Compliance with Section 504 of the Rehabilitation Act of 1973 as amended (Section 504) and the American Disabilities Act of 1990 as amended (ADA)

Pursuant to Title II of the ADA and Section 504 the County must not discriminate against people with disabilities in providing services, programs or activities even if those services, programs or activities are carried out by contractors. The Contractor agrees that it shall provide all programs, services and activities to County employees or members of the public under this Contract in the same manner as King County is obligated to under Title II of the ADA, and Section 504 and shall not deny participation or the benefits of such services, programs or activities to people with disabilities on the basis of such disability. Failure to comply with this section shall be a material breach of, and grounds for, the immediate termination of this Contract.

1. The Contractor agrees to provide to persons with disabilities access to programs, activities and services provided under the Contract or agreement, as required by the disability access laws as defined by KCC 12.16; and

2. The Contractor shall not discriminate against persons with disabilities in providing the work under the Contract. In any subcontracts for the programs, activities and services under their contract or agreement, the Contractor shall include the requirement that the subcontractor provide to persons with disabilities access to programs, activities and services provided under the contract or agreement as required by the disability access laws as defined by KCC 12.16, that the subcontractor shall not discriminate against persons with disabilities in providing the work under the Contract and that the subcontractor shall provide that the County is a third party beneficiary to that required provision.

H. Sanctions for Violations

Any violation of the mandatory requirements of the provisions of this section shall be a material breach of contract for which the Contractor may be subject to damages, withholding payment and any other sanctions provided for by the Contract and by applicable law.

I. Fair Housing Protections

The Contractor shall comply with the federal Fair Housing Act, Public Law 90-284 (42 USC 3601 et seq.). The Contractor shall take necessary and appropriate actions to prevent discrimination in any housing-related project under this Contract, which includes rental housing projects and/or projects that include residential real estate-related transactions, as required by the Federal Fair Housing Act as amended (42 USC 3601) and the Washington State Law Against Discrimination (RCW Chapter 49.60). Residential real estate-related transactions include the making or purchasing of loans or the provision of financial assistance secured by real estate, or the making or purchasing of loans or financial assistance for the purchasing, constructing, improving, repairing or maintaining of a dwelling. Rental housing includes any dwelling that is intended for occupancy as a residence for one or more families by lease, sublease or

by grant for a consideration of the right to occupy Premises not owned by the occupant. In addition, except for projects located in incorporated jurisdictions, the Contractor shall comply with the applicable provisions of the King County Open Housing Ordinance, codified at Chapter 12.20 of the King County Code, which prohibits practices of housing discrimination against any person on the basis of age, ancestry, color, disability, marital status, national origin, parental status, possession of Section 8 housing assistance, race, religion, retaliation, sex, and sexual orientation.

Projects using federal funds shall also comply with subsections J, K, L, and M below.

J. Additional Federal Nondiscrimination Requirements

The Contractor shall comply with all applicable federal laws prohibiting discrimination, including the following:

1. Presidential Executive Order 11063 as amended and implementing regulations at 24 CFR Part 107;
2. Section 109 of the HCD Act of 1974, as amended (42 USC 5301);
3. The Americans with Disabilities Act (42 USC 1213; 47 USC 155, 201, 218 and 225); and
4. Section 504 of the Rehabilitation Act of 1973 and regulations at 24 CFR Part 8.

K. Prohibited Discriminatory Actions

1. Except where expressly authorized by federal law, the Contractor may not, under any program or activity to which this Contract applies, directly or through contractual or other arrangements, discriminate on the grounds of age, color, creed, familial status, marital status, nationality, religion, race, sex, sexual orientation, or the presence of any, physical, mental or sensory disability. Discriminatory actions may include but are not limited to the following:

    a. Denying any person access to facilities, services, financial aid or other benefits provided under the program or activity;

    b. Denying any person services due to limited English proficiency;

    c. Providing any person with facilities, services, financial aid or other benefits, which are different, or are provided in a different form from that provided to others under the program or activity;

    d. Subjecting any person to segregated or separate treatment in any facility or in any matter or process related to receipt of any service or benefit under the program or activity;

    e. Restricting in any way access to or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity;

    f. Treating any person differently from others in determining whether the person satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any facilities, services or other benefit provided under the program or activity;

g. Denying any person any opportunity to participate in a program or activity as an employee; and

h. Failing to design and construct facilities for first occupancy after January 26, 1993 that are readily accessible to and usable by individuals with disabilities and failure to remove architectural and communication barriers that are structural in nature in existing facilities, where such removal can be accomplished without difficulty and expense.

2. The Contractor shall not utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination on the basis of age, color, familial status, nationality, race, religion, sex, or sexual orientation; or mental, physical, or sensory disability; or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular age, color, familial status, nationality, race, religion, sex, or sexual orientation; or the presence of any mental, physical, or sensory disability.

3. The Contractor, in determining the site or location of housing or facilities provided in whole or in part with funds under this Contract, may not make selections of such site or location which have the effect of excluding individuals, denying them benefits, or subjecting them to discrimination on the grounds of age, sex, marital status, familial status, religion, race, creed, color, sexual orientation, nationality, or the presence of any sensory, mental or physical disability; or which have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the HCD Act or of the HUD Regulations.

L. Employment Projections

In all solicitations under this Contract, the Contractor shall state that all qualified applicants will be considered for employment. The words "equal opportunity employer" in advertisements shall constitute compliance with this section.

M. No Conflict with Federal Requirements.

As indicated by HUD Notice CPD 04-10, a faith-based organization's exemption from the federal prohibition on employment discrimination on the basis of religion, set forth in 42 USC 2000e-1(a), is not forfeited when the organization receives HUD funding. Faith-based organizations, like any other entity participating in a HUD-funded program, must, however, comply with all the statutory requirements of that particular HUD-funded program. Both the CDBG and HOME Programs contain statutory provisions imposing non-discrimination requirements on all subrecipients, subgrantees or contractors. Religious organizations that believe that certain non-discrimination statutory requirements are substantially burdensome may be entitled to protection under the Religious Freedom Restoration Act [42 USC4000bb-3, 4000bb-2(1)] which applies to all federal law and its implementation. Subrecipients, subgrantees, or contractors should be aware that anti-discrimination provisions of Section 109 of the Housing and Community Development Act of 1974, Section 282 of the HOME Investment partnership Act may pose questions of conformance with Title VII of the Civil Rights Act of 1964 and future court rulings could define more specifically the application of these laws to faith-based organizations. In the event that a provision of this Contract is deemed to be in actual conflict with federal law, the conflicting provision in this Contract shall not apply.

XX. SUBCONTRACTS AND PURCHASES

A. Subcontract Defined

"Subcontract" shall mean any agreement between the Contractor and a subcontractor or between subcontractors that is based on this Contract, provided that the term "subcontract" does not include the purchase of (1) support services not related to the subject matter of this Contract, or (2) supplies.

B. Writing Required

Any work or services assigned or subcontracted hereunder shall be in writing and must be approved by the County as provided in Section XIV. Assignment. The Contractor agrees that it is as fully responsible to the County for the acts and omissions of its subcontractors and their employees and agents, as it is for the acts and omissions of its own employees and agents, as specified in Section XVII. Hold Harmless and Indemnification Subsection C.

C. Required Contract Terms

The Contractor shall include the applicable provisions of Sections XVIII. Insurance Requirements - General, XIX. Nondiscrimination and Equal Employment Opportunity and XX. Subcontracts and Purchases in every subcontract or purchase order for goods or services which are paid for in whole or in part with funds provided under this Contract. The Contractor agrees to include the following language verbatim in every subcontract, provider agreement, or purchase agreement for services, which relate to the subject matter of this Contract:

"Subcontractor shall protect, defend, indemnify, and hold harmless King County, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages arising out of, or in any way resulting from the negligent act or omissions of subcontractor, its officers, employee, and/or agents in connection with or in support of this Contract. Subcontractor expressly agrees and understands that King County is a third party beneficiary to this Contract and shall have the right to bring an action against subcontractor to enforce the provisions of this paragraph."

Projects using federal funds must also comply with subsections D, E, F, G and H.

D. Debarred Contractors

The Contractor certifies that neither the Contractor nor any person or entity with a controlling interest in the Contractor is under suspension, debarment, voluntary exclusion or determination of ineligibility from participation in federal assistance programs under Presidential Executive Order 12549 or 12689, "Debarment and Suspension". The Contractor further certifies that neither the Contractor nor any person or entity with a controlling interest in the Contractor has any proceeding pending to suspend, debar, exclude or determine them ineligible from participation in federal assistance programs under Presidential Executive Order 12549 or 12689.

The Contractor shall not make any award at any time to any contractor, which is debarred, suspended or excluded, from participation in federal assistance programs under Presidential Executive Order 12549, "Debarment and Suspension".

The Contractor shall ensure that all subcontractors receiving any federal funds pursuant to this agreement have not been disbarred or suspended from federal

contract participation. This may be done by checking the System for Award Management at https://www.sam.gov, which lists all suspended and debarred entities.

E. Subcontracting Requirements

A Contractor which receives federal funds under this Contract also shall include the following sections in every subcontract or purchase order for goods and services which are paid in whole or in part with funds provided under this Contract: Section V. Compensation and Method of Payment Subsections F. or G. and I., Sections XVII. Hold Harmless and Indemnification Subsection B., XVIII. Insurance Requirements – General Subsection K., XIX. Nondiscrimination and Equal Employment Opportunity and XXII. No Conflict of Interest Subsection B. and, if the subcontract is for construction, Sections XXXIV. Labor Standards and XXXV. Employment Opportunities.

F. Federal Procurement Requirements

The Contractor agrees to comply with Procurement Standards specified in 2 CFR § 200.317 through - 200.326, unless otherwise provided in the Project/Program Exhibit.

G. Federal Bid Guarantee and Bond Requirements

If the Contractor is subcontracting construction work under this Contract, the subcontract shall require for any construction contracts exceeding $150,000:

1. A bid guarantee from each bidder equivalent to five percent of the bid price;
2. A performance bond from the contractor for one hundred percent of the contract price; and
3. A payment bond from the contractor for one hundred percent of the contract price. The Contractor may, at its discretion, require any of these requirements on construction contracts of less than $150,000. The specific requirements for bid guarantees and bonds are at 2 CFR § 200.325.

H. Failure to Comply is Default

Failure by the Contractor to require compliance with the above terms and conditions in subcontracts shall constitute a breach of this Contract.

XXI. NONDISCRIMINATION IN SUBCONTRACTING PRACTICES

Projects using federal funds shall comply with the following requirements:

A. Federal Requirements

In soliciting subcontractors to supply goods or services for the activities under this Contract, the Contractor shall comply with 2 CFR § 200.321. In accordance with these regulations, the Contractor shall take all necessary affirmative steps to assure M/WBEs and labor surplus area firms are used as subcontractors when possible. Affirmative steps shall include those actions specified above in this section of the Contract.

B. Nondiscrimination in Federally Assisted Construction

The Contractor shall also require compliance with Presidential Executive Order 11246 as amended and 41 CFR Part 60 regarding nondiscrimination in bid conditions for construction projects over $10,000.

XXII. CONFLICT OF INTEREST

A. King County Code Chapter 3.04 Compliance.

1. The Contractor shall comply with applicable provisions of KCC Chapter 3.04. Failure to comply with such provisions shall be a material breach of Contract and may result in termination of this Contract pursuant to Section XV. Termination and subject the Contractor to remedies stated therein or otherwise available to the County at law or in equity. This section shall not apply to a Contractor that is a municipal corporation which has adopted an employee code of ethics; provided that nothing in this section is intended to contract away such a Contractor's obligation to comply with any KCC Chapter 3.04 provision that applies independent of this Contract.

2. No Preferential Treatment

   The Contractor agrees that it will not attempt to secure preferential treatment in dealings with the County by offering any valuable consideration, thing of value, or gift, whether in the form of services, loan, thing, or promise, in any form, to any County official or employee. The Contractor acknowledges that if it is found to have violated the prohibition found in this paragraph its current contracts with the County shall be cancelled and it shall not be able to bid on any County contract for a period of two years.

3. Disclosure of Current and Former County Employees

   To avoid any actual or potential conflict of interest or unethical conduct:

   a. County employees or former County employees are prohibited from assisting with the preparation of proposals or contracting with, influencing, advocating, advising or consulting with a third party, including Contractor, while employed by the County or within one year after leaving County employment if he/she participated in determining the work to be done or processes to be followed while a County employee.

   b. Contractor shall identify at the time of offer current or former County employees involved in the preparation of proposals or the anticipated performance of Work if awarded the Contract. Failure to identify current or former County employees involved in this Contract may result in termination of this Contract.

   c. After Contract award, the Contractor is responsible for notifying the County's Project Manager of current or former County employees who may become involved in the Contract any time during the term of the Contract.

B. No Conflict of Interest

The Contractor shall abide by the provision of 2 CFR § 200.318, and by the following:

1. The Contractor shall maintain a written code or standards of conduct that shall govern the performance of its officer, employees or agents engaged in the award and administration of contracts supported by funds under this Contract;

2. No employee, director, officer or agent of the Contractor shall participate in the selection or in the award, or administration of a contract supported by funds under this contract if a conflict of interest, real or apparent, would be involved. By way of example, such a conflict would arise if such a person, or his or her employer,

immediate family member or partner has financial or other interest in the entity selected; and

3. The Contractor's officers, employees, and agents must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, the Contractor may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Contractor.

XXIII. BOARD OF DIRECTORS

A. If the Contractor is incorporated, it must have an active, legally constituted board of directors in accordance with the requirements of RCW Chapters 23B or 24, to the extent applicable.

B. The following additional requirements shall apply to the agencies that qualify as non-profit organizations under USC, Title 26, Subtitle A, Chapter 1, Subchapter F, Part 1, Section 501(C)(3).

1. The Contractor shall have a Board of Directors that shall be comprised of neither employees nor relatives of employees, officers, or directors of the Contractor. For the purposes of this section, a relative is defined as husband, wife, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law, son, son-in-law, daughter, daughter-in-law, niece, nephew, grandparent, grandchild, uncle, aunt, domestic partner and child of domestic partner. In addition, the relatives of a domestic partner shall be considered relatives to the same extent such relatives would be included in this section, as if the employee and domestic partner were married.

2. The Board of Directors shall meet regularly.

3. The Board of Directors shall cause to be adopted a formal conflict of interest policy for Board members that complies with the applicable provisions of the Internal Revenue Code and its 501(C)(3) status, and addresses issues regarding gifts, financial gain, and improper use of position.

XXIV. CONFIDENTIALITY

The Contractor agrees that all information, records, and data collected in connection with this Contract shall be protected from unauthorized disclosure in accordance with applicable state and federal law.

XXV. PERSONAL INFORMATION – NOTICE OF SECURITY BREACH

A. If the Contractor maintains computerized or other forms of data that includes personal information owned by the County, the Contractor shall notify the County of any breach of the security of the data immediately following discovery if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person in accordance with RCW 42.56.590 (2).

B. The Contractor shall provide all information requested by the County including the following in accordance with RCW 42.56.590, KCC 2.14.030, the King County Information Privacy Policy and any other applicable federal, state and local statute:

1. Circumstances associated with the breach;
2. Actions taken by the Contractor to respond to the breach ; and
3. Steps the Contractor shall take to prevent a similar occurrence.

This information shall be provided in a format requested by the County.

C. The County may at its sole discretion, require the Contractor to contact the appropriate law enforcement agency and to provide the County a copy of the report of the investigation conducted by the law enforcement agency. The Contractor shall also provide the County with any information it has regarding the security breach.

D. The Contractor shall conspicuously display King County's Privacy Notice and provide a printed copy upon request.

E. The Contractor shall be responsible for notifying individuals whose personal information may have become available to unauthorized users through a security breach. The Contractor shall also be responsible for any cost associated with notifying the affected individuals. This notification must be in accordance with RCW 42.56.590 (7).

F. If the Contractor demonstrates that the cost of providing notice would exceed $250,000, or that the potentially affected persons exceeds $500,000, or the Contractor does not have sufficient contact information, substitute notice shall consist of the following in accordance with RCW 42.56.590 (7), (c).

1. Email notice when the Contractor has an e-mail address for the subject persons;
2. Conspicuous posting of the notice on the Contractor's web site page, if the Contractor maintains one; and
3. Notification to major County-wide media.

G. For purpose of this section, "personal information" means the same as defined in RCW 42.56.590:

1. An individual's first name or first initial and last name in combination with any one of the following data elements, when either the name or the data elements are not encrypted: social security number; driver's license number or Washington identification card number; or
2. Account number or credit or debit card number, in combination with any required security code; access code, or password that would permit access to an individual's financial account.

XXVI. COMPLIANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

Terms used in this section shall have the same meaning as those terms in the Privacy Rule, 45 CFR Parts 160 and 164.

A. Obligations and Activities of the Contractor

1. The Contractor agrees not to use or disclose protected health information other than as permitted or required by this Contract, HIPAA and the Health Information Technology for Economic and Clinical Health Act (HITECH). The Contractor shall

use and disclose protected health information only if such use or disclosure, respectively, is in compliance with each applicable requirement of 45 CFR § 164.504(e). The Contractor is directly responsible for full compliance with the privacy provisions of HIPAA and HITECH that apply to business associates.

2. The Contractor agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the protected health information that it creates, receives, maintains, or transmits on behalf of the County as required by 45 CFR, Part 164, Subpart C. The Contractor is directly responsible for compliance with the security provisions of HIPAA and HITECH to the same extent as the County.

3. Within two business days of the discovery of a breach as defined at 45 CFR § 164.402 the Contractor shall notify the County of any breach of unsecured protected health information. The notification shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by the Contractor to have been, accessed, acquired, or disclosed during such breach; a brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known; a description of the types of unsecured protected health information that were involved in the breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved); any steps individuals should take to protect themselves from potential harm resulting from the breach; a brief description of what the Contractor is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; the contact procedures of the Contractor for individuals to ask questions or learn additional information, which shall include a toll free number, an e-mail address, Web site, or postal address; and any other information required to be provided to the individual by the County pursuant to 45 CFR § 164.404, as amended. A breach shall be treated as discovered in accordance with the terms of 45 CFR § 164.410. The information shall be updated promptly and provided to the County as requested by the County.

4. The Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of protected health information by the Contractor in violation of the requirements of this Contract or the law.

5. The Contractor agrees to report in writing all unauthorized or otherwise improper disclosures of protected health information or security incident to the County within two days of the Contractor knowledge of such event.

6. The Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply through this Contract to the Contractor with respect to such information.

7. The Contractor agrees to make available protected health information in accordance with 45 CFR § 164.524.

8. The Contractor agrees to make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.526.

9. The Contractor agrees to make internal practices, books, and records, including policies and procedures and protected health information, relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of King County, available to the Secretary of the U.S. Department of Health and Human Services, in a reasonable time and manner for purposes of the Secretary determining King County's compliance with HIPAA, HITECH or this Contract.

10. The Contractor agrees to make available the information required to provide an accounting of disclosures in accordance with 45 CFR §164.528. Should an individual make a request to the County for an accounting of disclosures of his or her protected health information pursuant to 45 CFR § 164.528, Contractor agrees to promptly provide an accounting, as specified under 42 U.S.C. § 17935(c)(1) and 45 CFR §164.528, of disclosures of protected health information that have been made by the Contractor acting on behalf of the County. The accounting shall be provided by the Contractor to the County or to the individual, as directed by the County.

11. To the extent the Contractor is to carry out one or more of the covered entity's obligations under Subpart E of 45 CFR § 164, the contractor shall comply with the requirements of Subpart E that apply to the County in the performance of such obligations.

B. Permitted Uses and Disclosures by Business Associate

The Contractor may use or disclose protected health information to perform functions, activities, or services for, or on behalf of, King County as specified in this Contract, provided that such use or disclosure would not violate HIPAA if done by King County or the minimum necessary policies and procedures of King County.

C. Effect of Termination

1. Except as provided in paragraph C.2. of this section, upon termination of this Contract, for any reason, the Contractor shall return or destroy all protected health information received from the County, or created or received by the Contractor on behalf of the County. This provision shall apply to protected health information that is in the possession of subcontractors or agents of the Contractor. The Contractor shall retain no copies of the protected health information.

2. In the event the Contractor determines that returning or destroying the protected health information is infeasible, the Contractor shall provide to King County notification of the conditions that make return or destruction infeasible. Upon notification that return or destruction of protected health information is infeasible, the Contractor shall extend the protections of the Contract to such protected health information and limit further uses and disclosure of such protected health information to those purposes that make the return or destruction infeasible, for so long as the Contractor maintains such protected health information.

D. Reimbursement for Costs Incurred Due to Breach

Contractor shall reimburse the County, without limitation, for all costs of investigation, dispute resolution, notification of individuals, the media, and the government, and expenses incurred in responding to any audits or other investigation relating to or arising out of a breach of unsecured protected health information by the Contractor.

XXVII. NOTICES

Whenever this Contract provides for notice to be provided by one party to another, such notice shall be in writing; and directed to the Chief Executive Officer of the Contractor and the Director of the County Department of Community and Human Services. Any time within which a party must take some action shall be computed from the date that said party receives the notice.

XXVIII. KING COUNTY RECYCLED PRODUCT PROCUREMENT POLICY

In accordance with King County Code Chapter KCC 18.20 and King County Executive Policy CON 7-1-2, the Contractor shall use recycled paper for all printed and photocopied documents related to the submission of this solicitation and fulfillment of the Contract and shall, whenever practicable, use both sides of the paper.

XXIX. SERVICES PROVIDED IN ACCORDANCE WITH LAW AND RULE AND REGULATION

The Contractor and any subcontractor agree, when applicable, to abide by the terms of Chapters 26.44, 69.54, 70.02, 70.96A, 71.05, 71A.10, 71A.14, 71A.18, 71.20, 71.24, and 71.34 of the Revised Code of Washington, rules and regulations promulgated thereunder, the Basic InterContractor Contract between the Department of Social and Health Services and King County, as amended, and regulations of the state and federal governments, as applicable, which control disposition of funds granted under this Contract, all of which are incorporated herein by reference.

XXX. POLITICAL ACTIVITY PROHIBITED

A. No Partisan Activity

None of the funds, materials, property or services provided directly or indirectly under this Contract shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

All Projects using federal funds shall also comply with the following subsection:

B. Certification Regarding Lobbying

The Contractor certifies, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any Agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than 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 Contractor, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subcontractors 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 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

XXXI. MISCELLANEOUS PROVISIONS

A. Severability.

Whenever possible, each provision of this Contract shall be interpreted to be effective and valid under applicable law. If any provision is found to be invalid, illegal or unenforceable, then such provision or portion thereof shall be modified to the extent necessary to render it legal, valid and enforceable and have the intent and economic effect as close as possible to the invalid, illegal and unenforceable provision.

B. Remedies

Not Exclusive. No provision of this Contract precludes the County from pursuing any other remedies for the Contractor's failure to perform its obligations.

C. No Third Party Beneficiaries.

Except for the parties to whom this Contract is assigned in compliance with the terms of this Contract, there are no third party beneficiaries to this Contract, and this Contract shall not impart any rights enforceable by any person or entity that is not a party thereto.

This Contract shall be governed by and construed to the laws of the State of Washington. Any claim or suit between the parties arising out of this Contract may only be filed and prosecuted in King County Superior Court of U.S. District for the Western District of Washington, in Seattle.

XXXII. AFFIRMATIVE MARKETING

A. Federal Marketing Requirements

Each Contractor must adopt affirmative marketing procedures and requirements for projects containing five or more housing units funded with CDBG and/or HOME funds. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons from all racial, ethnic, and gender groups in the housing market area to the available housing. (The affirmative marketing procedures do not apply to families with housing assistance provided by the Public Housing Authority or families with tenant based rental assistance provided with HOME funds.) The County shall annually assess the Contractor's affirmative marketing program to determine the success of affirmative marketing actions and any necessary corrective actions.

B. The affirmative marketing requirements and procedures adopted must include:

1. Methods for informing the public, owners, and potential tenants about federal fair housing laws and the use of the Equal Housing Opportunity logotype or slogan in

press releases and solicitations for owners, and written communication to fair housing and other groups;

2. Requirements and practices the Contractor must adhere to in order to carry out the participating jurisdiction's affirmative marketing procedures and requirement (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster);

3. Procedures to be used by the Contractor to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach (e.g., use of community organizations, language interpreters, places of worship, employment centers, fair housing groups, or housing counseling agencies);

4. Records must be kept describing actions taken by the Contractor to affirmatively market units and records to assess the result of these actions; and

5. A description of how the Contractor shall assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.

XXXIII. ACCESSIBILITY FOR CAPITAL PROJECTS

Any buildings or other facilities designed, constructed, or altered with federal funds pursuant to this Contract are subject to the requirements of the Architectural Barriers Act of 1968 (42 USC 4151 - 4157) and shall comply with the Uniform Federal Accessibility Standards (Appendix A to 24 CFR Part 40 for residential structures, and Appendix A to 41 CFR Parts 101-19 and subpart 101-19.6 for general type building). When applicable, certain multi-family housing units designed and constructed for first occupancy after March 13, 1991, with assistance provided under this Contract must comply with the Fair Housing Accessibility Guidelines, 24 CFR Part 100 as amended.

XXXIV. LABOR STANDARDS

Agencies receiving a CDBG and/or HOME award shall comply with Subsections A and C below.

A. Davis-Bacon Requirements

For projects assisted with CDBG funds, this Subsection shall not apply to construction or rehabilitation of residential property consisting of fewer than eight units. For projects assisted with HOME funds, this Subsection shall not apply to rehabilitation of rental property consisting of fewer than twelve units.

All construction work funded in whole or in part under this Contract must be performed in accordance with the Davis-Bacon Act, as amended (40 USC sections 276(a)-276(a)(5)), the Copeland "Anti-Kickback" Act, as amended (40 USC 276(c)) and the Contract Work Hours and Safety Standards Act (40 USC 327 et seq.) as further prescribed at 29 CFR Parts 1, 3, 5, 6 and 7. The Contractor will follow all Davis Bacon documentation requirements and regularly submit required documentation to the County shall maintain records sufficient to evidence compliance with this section and shall make such records available for the County's review upon request.

A copy of the current Davis-Bacon wages must be included in all construction bid specifications, contracts, and/or subcontracts over $2,000, except where the project

includes a copy of applicable state prevailing wages that are higher than current Davis-Bacon wages.

Agencies receiving an award of local funds (HOF, RAHP, HB 2331, Veterans and Human Services Levy or MIDD funds) or federal funds that do not trigger Davis-Bacon shall comply with Subsections B and C below:

B. Prevailing Wages

Projects that are not subject to Section A above, shall pay State residential prevailing wage rates as a minimum. Projects that are subject to State prevailing wage requirements of chapter 39.12 RCW shall pay prevailing wages at or above the applicable State classification rate.

The Contractor shall provide annual certification to the County of its compliance with the requirements of this section. The Contractor shall additionally maintain records sufficient to evidence compliance with this section and shall make such records available for the County's review upon request.

C. Use of Volunteers

The Contractor shall obtain the written approval of the County prior to allowing any volunteers to perform construction work on a project assisted under this Contract.

XXXV. EMPLOYMENT OPPORTUNITIES ON ASSISTED CONSTRUCTION PROJECTS

A. Section 3 Requirements

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

B. Section 3 Criteria for Capital Projects

As set forth in the HCD Plan, Section 3 regulations found at 24 CFR § 135.38 apply to all Project/Program Exhibits which meet all three of the following criteria:

1. The Project/Program Exhibit must include $200,000 or more in total HUD funds from one or more program years;

2. The Project/Program Exhibit must include construction or rehabilitation work as a task that will be funded in full or in part with the HUD funds; and

3. The construction or rehabilitation work that will be funded must have a contract value, which exceeds $100,000. Actual contract value of construction or rehabilitation work is the determining factor, not a cost estimate.

   Additionally, Section 3 regulations are applicable to Project/Program Exhibit(s), which do not initially meet the above criteria but which are amended so as to add funds or change the activities for which the funds are used. Section 3 regulations do not apply to projects that include $200,000 or more in HUD funds when the

funds are being used for acquisition and/or professional services only and not for construction or rehabilitation work.

XXXVI. NO BENEFIT TO OWNERS AND DEVELOPERS OF ASSISTED HOUSING

No Contractor, developer or sponsor (or officer, employee, agent or consultant of the owner, developer or sponsor) whether private, for profit or nonprofit (including a Community Housing Development Organization when acting as an owner, developer or sponsor) may occupy a CDBG, HOME, HOF, RAHP, HB 2331, Veterans and Human Services Levy, MIDD or CX-assisted affordable housing unit in a project. This provision does not apply to an owner-occupant of single family housing or to an employee or agent of the owner or developer of a rental housing project who occupies a CDBG, HOME, HOF, RAHP, HB 2331, Veterans and Human Services Levy or CX-assisted unit as the project manager or maintenance worker.

XXXVII. SUPPLANTING

Any federal CDBG or Homeless Housing and Services (2163) Funds made available under this Contract to provide public (human) services shall not be utilized by the Contractor to reduce or replace the local financial support currently being provided to public (human) service programs. Homeless Housing and Services funds cannot be used in the place of existing housing operations or services funds.

XXXVIII. DRUG FREE WORKPLACE CERTIFICATION AND OTHER FEDERAL REQUIREMENTS

A. Drug-Free Workplace Certification

The Contractor certifies that it is in compliance with the Drug-Free Workplace Act of 1988 (42 USC 701) and regulations set forth at 24 CFR part 24, subpart F.

B. Other Federal Requirements

The absence of mention in this Contract of any other federal requirements that apply to the award and/or expenditure of the federal funds made available by this Contract is not intended to indicate that those federal requirements are not applicable to Contractor activities. The Contractor shall comply with all other federal requirements relating to the expenditure of federal funds, including but not limited to, the Hatch Act (5 USC. Chapter 15) regarding political activities.

XXXIX. CONSTITUTIONAL PROHIBITION

In accordance with the First Amendment of the United States Constitution, Article 1, Section 11 of the Washington State Constitution, and separation of church and state principles, as a general rule, funds received under this Contract may not be used for religious activities. Except where otherwise allowed by federal law, the following restrictions and limitations apply to the use of CDBG and HOME funds:

A. A Contractor may not engage in inherently religious activities, such as worship, religious instruction or proselytization, as part of the assistance funded under this Contract. If the Contractor conducts religious activities, the activities must be offered separately, in time and location, from the assistance funded under this Contract, and participation must be voluntary for the beneficiaries of the assistance;

B. In performing under this Contract, the Contractor shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief; and

C. CDBG and HOME funds may be used to rehabilitate or construct facilities and housing owned by primarily religious organizations only to the extent those structures are used for conducting eligible activities consistent with 24 CFR § 570.200, 24 CFR § 92.257, and 24 CFR § 576.23.

XL. PROMISSORY NOTE, DEED OF TRUST AND COVENANT

The Contractor agrees that funding provided under this Contract for the acquisition, construction, improvement and/or rehabilitation of real property (Premises) owned by the Contractor is a loan from the County to the Contractor. The Contractor agrees to promptly execute a promissory note, deed of trust and covenant (if applicable), in a format approved by the County, if required in a Project/Program Exhibit. The Contractor agrees that for real property, which is leased by the Contractor and assisted under this Contract, the Contractor shall obtain a covenant from the owner of the real property in a form approved by the County, if required in any Project/Program Exhibit.

XLI. ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE FOR CAPITAL PROJECTS

The Contractor shall at all times comply with all applicable federal, state, and local laws, statutes, rules and regulations relating to relocation of those persons and households residing at the Premises prior to occupancy by tenants. The Contractor shall be solely responsible for the cost of all relocation benefits required by law.

Capital Projects using federal funds shall also comply with the following subsection.

A. Local Funds Only - Local Relocation Guidelines

Projects that include or will include only local county funds (HOF-CX, Veterans and Human Services Levy, RAHP, 2331, Mental Health, or HIPDD Developmental Disabilities Funds) for the acquisition, demolition, and or rehabilitation of property that has existing residential tenants who may be displaced shall provide relocation benefits to all displaced households. Effective October 1, 2014, the benefit amount for each displaced household will be $2,933 per household; provided that, if the Joint Recommendations Committee (JRC) of the King County Consortium adjusts the benefit amount in accordance with King County Consortium Supplemental Relocation Guidelines based on changes in the consumer price index, the increased benefit amount shall apply. All tenants selected for relocation shall be given formal notification regarding the need to relocate with a minimum of 90 days' notice of the date they must relocate, along with information about why they were selected. Consideration of a longer notice period may be required if the tenant demonstrates a special circumstance (for instance, health reasons) which would be alleviated by extending the notice period. A list of all displaced households, including name, unit number, household size, ethnicity, and monthly gross income shall be provided to the King County Relocation Specialist along with documentation of all the payments made to displaced tenants. All relocation costs shall be included in the project development budget.

B. Federal Acquisition and Relocation Requirements:

Implementation of any project provided for in this Contract will be undertaken so as to minimize involuntary displacement of persons, businesses, nonprofit organizations, or farms to the greatest extent feasible.

The Contractor shall comply with the following:

1. Any acquisition of real property by the Contractor for any activity assisted under this Contract shall comply with the Uniform Relocation Act and 49 CFR Part 24;

2. Any displacement of persons, businesses, nonprofit organizations, or farms occurring as the result of acquisition of real property assisted under this Contract shall comply with the Uniform Relocation Act, at 24 CFR Part 42 and 49 CFR Part 24 as amended, and the County's Residential Anti-displacement and Relocation Assistance Plan required by federal regulations at 24 CFR § 570.606(c), and adopted by the County Council as part of the HCD Plan. The Contractor shall comply with the Regulations pertaining to costs of relocation and written policies, as specified by the King County Residential Anti-displacement and Relocation Assistance Plan; and

3. When any lower-income dwelling units are demolished or converted to a use other than a lower-income dwelling unit, in connection with an activity assisted under this Contract with federal funds, the units must be replaced on a one-for-one basis. Lower-income dwelling units are defined as a dwelling unit with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent for existing housing as established by HUD and published annually, pursuant to 24 CFR Part 888. The Contractor must comply with the one-for-one replacement of housing requirements of Section 104(d) of the HCD Act, as amended. The implementing regulations are found at 24 CFR Part 42, and for CDBG funds at 24 CFR § 570.606.

XLII. PROPERTY MANAGEMENT FOR CAPITAL PROJECTS

The Contractor shall engage in sound property and program management practices and at all times operate and maintain the Premises in a manner which fully complies with all applicable federal, state, and local laws, statutes, rules and regulations covering health and safety issues in order to provide decent, safe and sanitary housing, as now in effect or as may be hereafter amended. The Contractor specifically agrees to comply and pay all costs associated with achieving such compliance without any notice of requirement or requirements from the County, and that the County does not waive this section by giving notice of demand for compliance in any instance.

The Contractor shall throughout the term of this Contract, without cost or expense to the County, keep and maintain the Premises and all improvements, landscaping, fixtures and equipment which may now or hereafter exist thereon, in a neat, clean and sanitary condition, and shall, except for reasonable wear and tear, at all times preserve the Premises in good and safe repair.

If, after 30 days' notice from the County, the Contractor fails to maintain or repair any part of the Premises or any improvement, landscaping, fixtures or equipment thereon, the County may, but shall not be obligated to, enter upon Premises and perform such maintenance or repair and the Contractor agrees to pay the costs thereof to the County upon receipt of a written demand.

XLIII. TAXES AND LICENSES

The Contractor shall pay throughout the term of this Contract, all applicable taxes, and all licenses and excise fees covering the ownership and operations of the Premises.

XLIV. PROCEDURE IN THE EVENT OF CASUALTY/CONDEMNATION FOR CAPITAL PROJECTS

A. In the event that all or any portion of the Premises is taken or conveyed as a result of any condemnation proceeding or damaged as a result of any casualty, the County and the Contractor agree that the proceeds of any condemnation or casualty affecting the Premises shall be made available for the repair or restoration of the real property if the County and the Contractor in their reasonable judgment agree that:

1. Repair or restoration of the real property is feasible and that sufficient funds are available to complete such work;
2. After the completion of work, the real property can be feasibly operated within the restrictions and requirements of the Project/Program Exhibit; and
3. More than two years remain after the completion of the work until the end of this Contract.

B. The County and the Contractor shall meet as necessary to discuss in good faith the rebuilding or repair of the real property and reach a decision with respect thereto within 60 days after the occurrence of the casualty or condemnation. If the parties cannot in good faith agree to repair or restore the real property as provided above, then any proceeds of the casualty or condemnation, within 60 days of demand, shall be paid first to satisfy the County's lien. The balance of the proceeds shall be paid to the Contractor.

IN WITNESS HEREOF, the parties hereto have caused this contract to be executed and instituted on the date above written.

KING COUNTY:

DocuSigned by:
Steve Andryszewski
1136925BF71F469...

FOR
King County Executive

3/18/2015
Date

CITY OF BURIEN:

DocuSigned by:
Kim Krause
D704B9AEEF2F45C...

Signature

Kim Krause
Name (Please type or print)

3/18/2015
Date

Approved by DCHS Director

Approved as to Form:

OFFICE OF THE KING COUNTY
PROSECUTING ATTORNEY

WA cities
Insurance Authority

P.O. Box 88030
Tukwila, WA 98138
Phone: 206-575-6046
Fax: 206-575-7426

10-Mar-15

Cert#: 9505

King County Housing & Community Development
Attn: Kathy Tremper
401 5th Ave. Suite 510
Seattle, WA 98104

RE: City of Burien
King County Community Development Block Grant (CDBG): S. 132nd Street Pedestrian Trail Project-C14248.

Evidence of Coverage

The above captioned entity is a member of the Washington Cities Insurance Authority (WCIA), which is a self insured pool of over 150 public entities in the State of Washington.

WCIA has at least $1 million per occurrence limit of liability coverage in its self insured layer that may be applicable in the event an incident occurs that is deemed to be attributed to the negligence of the member.

WCIA was created by an interlocal agreement among public entities and liability is self funded by the membership. As there is no insurance policy involved and WCIA is not an insurance company, your organization cannot be named as an additional insured.

Sincerely,

Eric B. Larson
Deputy Director

cc: Cynthia Schaff
Lori Fleming

cletter

EXHIBIT II
CITY OF BURIEN
BURIEN S. 132ND STREET PATH (C14248-1122981)

Contract No. : 5695173	Project No. : C14248-1122978
King County Project Manager: Eric Jensen	Contact Person: Lori Fleming
Start Date: May 31, 2014	Telephone: 206-248-5516
End Date: November 15, 2015	E-Mail: Lorif@burienwa.gov

I. WORK STATEMENT

This Contract entered into between King County Housing and Community Development (HCD) (hereinafter referred to as "the COUNTY", and CONTRACTOR (hereinafter referred to as " BURIEN" to identify the roles of the parties to implement the Community Development Block Grant (CDBG) activities that are the subject of this Exhibit; beginning on May 31, 2014 and ending on November 15, 2015. All such activities shall be carried out in a manner which fully complies with all applicable federal, state and local laws, statutes, rules and regulations, as currently in effect or as amended in the future.

This Contract provides the basis for collaboration in implementing the design and construction of a pervious pavement path, approximately 300 foot long and eight foot wide, for walking and bicycle use along S. 132nd Street between 9th Ave. S. and 10th Ave. S. The funds will also be used for lighting along the trail to enhance security, bench seating, bollards on both ends of the pathway, and bollards on the east side of 10th Ave S. which leads to an adjacent trail to restricting vehicular access to service vehicles only. This scope is hereinafter referred to as "the PROJECT". The total amount of funds awarded to this Exhibit shall not exceed $195,000 in King County administered CDBG funds. The Catalog of Federal Domestic Assistance (CFDA) number for the CDBG Program is 14.218.

II. PROGRAM DESCRIPTION

A. Goal

Make CDBG capital funds available for high priority public improvement needs such as public infrastructure, water, sewer, sidewalks, etc., park facility needs and accessibility improvements, in a range of low- to moderate-income areas of the Consortium.

B. Outcome

The community is a healthier and/or safer place to live, and/or has more amenities, including safe drinking water. Upon completion of the construction phase of the PROJECT, BURIEN will own and manage the S. 132nd Street Path for the benefit of low to moderate-income residents.

C. Indicators

1. Upon completion of the project, BURIEN will have infrastructure improvements that include removal of architectural barriers, improvement to lighting and pedestrian path that improve the health and safety of the community residents.

III. ROLES OF PARTIES

A. Under this Contract the responsibilities of the COUNTY shall be as follows:

1. The COUNTY shall have the lead role in directing implementation of the PROJECT during the construction phase in order to ensure that the PROJECT chosen for award of CDBG capital funds is completed pursuant to all applicable CDBG and other federal regulations.

2. The COUNTY shall conduct all necessary environmental reviews described in 24 Code of Federal Regulations (CFR) 570.604 - Environmental standards - of the CDBG regulations and § 58.5 - Related Federal Laws and Authorities - for compliance with requirements of the CDBG program. All mitigation measures identified in the Environmental Review shall be incorporated herein by this reference and shall be monitored and enforced during the implementation of the project. All mitigation measures shall be included in all bid specifications and construction contracts related to the PROJECT.

3. The COUNTY shall provide all federal and King County requirements for all plans, specifications and bid documents prepared for procurement of professional services and construction contracts.

4. The COUNTY shall assure that the CDBG funds under this Exhibit will be used to pay for the design and construction of the PROJECT. Construction will take place at along S. 132nd Street between 9th Ave. S. and 10th Ave. S., Burien WA 98166.

5. The COUNTY shall be an equal participant in collaborating with BURIEN on development of the following final procurement documents for advertising or soliciting responses for any type of good or service including, but not limited to, professional services and construction services:

   a. Construction bid specifications;

   b. Invitation to bid;

   c. Request for proposals; and

   d. Request for qualifications.

6. The COUNTY shall prepare the U.S. Department of Housing and Urban Development (HUD) Section 3 report for all contracted services related to the PROJECT.

7. The COUNTY shall ensure that the construction bid specifications and construction contracts assisted in whole or in part under this Contract, include provisions requiring each prime construction contractor (hereinafter referred to as the "PRIME") to submit assurance of final payments in a format approved by the County.

8. The COUNTY shall provide staff to direct implementation of the PROJECT and must explicitly approve by signature any and all payments made concerning the PROJECT during the construction phase.

9. COUNTY shall assign a Project Manager from the Housing and Community Development Program's Community Development Section to act in this

capacity and to work with BURIEN to implement the project during the construction phase.

10. The COUNTY shall facilitate standing weekly construction meetings at a site mutually agreed upon with an assigned representative of BURIEN and the PRIME during the course of construction and implementation through construction closeout.

11. The COUNTY shall work with BURIEN in the event that the CDBG funding award is not enough to cover all desired improvements, and the two parties shall jointly determine the priority of the improvements to be made within funding limits.

12. The COUNTY shall have mutual signature authority for changes, change orders, modifications, or amendments of this Exhibit and/or any subsequent sub-contracts, as necessary to serve the public interest.

13. COUNTY staff shall verify that federal labor requirements, including Section 3 Requirements, have been met prior to approving any payment on the PROJECT. Payment will be withheld for any costs by BURIEN, the PRIME or any sub-contractor of construction that is out of compliance.

14. The COUNTY shall be the recipient of certified weekly payrolls of construction activity and supporting documents for labor compliance. Upon review and approval of said documents, COUNTY shall approve payment to BURIEN and/or to the PRIME, depending on the nature of the expenditure and the line item budget in SECTION IV.C.2.

15. COUNTY activity project delivery costs for the project will be determined and combined with the project as part of the overall CDBG project budget.

B. Under this Contract the responsibilities of BURIEN shall be as follows:

1. BURIEN shall provide staff to implement the PROJECT and will be a signatory on any payment during the implementation of the PROJECT. BURIEN shall assign a Project Manager to act in this capacity and to work with COUNTY to implement the project.

2. BURIEN shall provide all local and state requirements for any plans, specifications and bid documents prepared for procurement of professional services and construction contracts.

3. BURIEN shall collaborate with the COUNTY to run an approved procurement process for engineering services for the design and construction oversight of the PROJECT. BURIEN shall assume responsibility for ensuring the following:

   a. BURIEN shall subcontract with a registered professional engineer (herein after referred to as Engineer), subject to COUNTY approval, to prepare all plans and specifications necessary to publicly bid the PROJECT for award to a Construction Contractor (hereinafter referred to as "PRIME"); and to have the option to provide construction oversight, including staking, surveying and all inspections of the PROJECT or hire construction management in coordination with the COUNTY and PRIME.

b. The sub-contract shall require the Engineer to maintain comprehensive general (including contractual liability) and automobile liability insurance in the amount of not less than $1,000,000 combined single limit per occurrence/$2,000,000 general annual aggregate for personal injury and property damage for the protection of the COUNTY, its officers, BURIEN and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to any of the Engineer's sub-contractor's performance of this Contract.

c. The sub-contract shall require the Engineer to maintain professional liability insurance in an amount of not less than $1,000,000 per claim. Such insurance shall include limited contractual liability coverage and shall provide for thirty days prior written notice to the COUNTY in event of cancellation. The Engineer shall endeavor to use good faith in order to maintain in force such coverage for not less than three (3) years following completion of the PROJECT. The COUNTY, at its option, may require a complete copy of the above policy and evidence of required coverage.

d. The sub-contract shall require the Engineer to include the COUNTY as an additional insured and refer to and support the Engineer's obligation to hold harmless the COUNTY, its officers, BURIEN and employees. Such insurance shall provide 30 days' written notice to the COUNTY in the event of cancellation, non-renewal, or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. The insurance company will provide written notice to the COUNTY within thirty (30) days after any reduction on the general annual aggregate limit.

e. The sub-contract shall require the Engineer to furnish the COUNTY evidence of the insurance required in III.B.2 (b) and (c) prior to the issuance of a Notice To Proceed.

f. The sub-contract shall ensure that the Engineer's responsibilities include, but are not limited to, the following:

   i. During construction the Engineer shall endeavor to guard BURIEN and the COUNTY against apparent defects and deficiencies in the permanent work constructed by BURIEN.

   ii. All reports and recommendations concerning construction shall be submitted to the COUNTY for approval. The COUNTY agrees that no decisions affecting construction shall be made without BURIEN approval.

   iii. In the event of modifications to the construction contract, which result in an increase in the contract amount, without the prior approval of the COUNTY; BURIEN shall be solely responsible for such modifications.

4. BURIEN, in coordination with the COUNTY, shall run an approved procurement process, for construction of the PROJECT.

a. Such services shall be reimbursed to BURIEN if they were identified in the PROJECT application as a CDBG eligible expense of the PROJECT and funds were awarded for that purpose.

b. BURIEN shall assure that all specifications and drawings shall be in conformance with current standards and general specifications as set forth in the application of the PROJECT, and shall collaborate with the COUNTY to ensure compliance with local, state and federal requirements associated with the use of CDBG funds.

   i. The BURIEN shall collaborate with the COUNTY to ensure compliance with Section 3 requirements set forth at 24 Code of Federal Register (CFR) Part 135 in obtaining design services. Compliance with Section 3 requirements is set forth at 24 CFR Part 135.38. When applicable, said requirements shall be incorporated into construction bid specifications, invitations to bid and/or requests for proposals as well as construction contracts with a contract value which exceeds $100,000.

   ii. The work performed by this Contract shall be subject to federal Davis Bacon Act and to the State's prevailing wage laws, Chapter 39.12 Revised Code of Washington (RCW).

   iii. BURIEN shall consult with the Washington State Department of Labor and Industries to determine the State prevailing wages that must be incorporated into the Bid Documents. BURIEN shall be considered the awarding agency for Intent to Pay, and Affidavit of Prevailing Wages paid.

c. BURIEN shall obtain all necessary and appropriate land use permits, zoning approvals, and any other permits and approvals required by local, county, state, and federal law.

d. BURIEN shall obtain any easements or approvals necessary to allow access onto private property. Acquisition of any easement shall be obtained pursuant to the federal Uniform Relocation Assistance (URA) and Real Property Acquisition Policies Act of 1970, as amended.

e. BURIEN shall use a more restrictive procurement procedure by sealed bids (formal advertising) except when allowed per 24 CFR Sec. 85.36(d)(2)(i). Bids shall be publicly solicited and a firm-fixed-price contract shall be awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price.

f. BURIEN shall exclude professional service and construction contractors that developed or drafted specifications, requirements, statements of work, invitations for bids, and/or requests for proposals related to this PROJECT from competing for such procurement as part of its efforts to eliminate unfair competitive advantage.

g. BURIEN shall seek a minimum of three bids to enhance the opportunity to obtain the best price for the construction of the PROJECT. If three bids are not received, BURIEN will work with the COUNTY to identify an

appropriate and legally acceptable alternative course of action to procure a construction contractor.

5. BURIEN shall operate and maintain the improvements for public purposes for their useful life subject to the limitations on the expenditure of funds by the BURIEN as provided by Washington Statute.

6. BURIEN shall bear the risk of loss from fire, extended coverage, and shall purchase and maintain property insurance on all affected BURIEN property. BURIEN will bear the risk of loss from accidents coverable by owner's liability insurance and may, at its option, maintain such insurance.

7. BURIEN shall provide all reasonable staffing support to assist the COUNTY with the completion of the PROJECT.

8. BURIEN shall submit to COUNTY for its approval all reports and recommendations concerning construction of PROJECT. The COUNTY will submit to BURIEN for its approval all of COUNTY's decisions affecting construction. Both parties agree that their approval may not be unreasonably delayed withheld or conditioned and will follow guidelines outlined in Attachment B., Project Implementation Manual. A customized Attachment B. 'Project Implementation Manual' shall be incorporated herein by this reference and shall be referred during the course of the implementation of the project.

9. BURIEN shall have mutual signature authority for changes, change orders, modifications, or amendments of this Exhibit and/or any subsequent sub-contracts, as necessary to serve the public interest. Upon completion of the PROJECT, BURIEN agrees to:

   a. Accept the improvements;

   b. Become the successor of the Construction Contract; and

   c. Continue operating the property as a public pedestrian trail.

10. Public Information

   a. In all news releases and other public notices related to projects funded under this Contract, BURIEN shall include information identifying the source of funds as the King County Consortium Community Development Block Grant Program.

   b. During construction of the project, a durable and adequately visible sign at the construction site, identifying the source of funds, such as: "Funding for this project was provided by King County Consortium Community Development Block Grant Program."

   c. A plaque shall be permanently placed in the highest foot traffic area readily visible to the public. The size should be at a minimum 12" by 12". The plaque should contain the following:

FUNDING FOR BURIEN S. 132ND STREET PATH
PROVIDED BY
THE KING COUNTY CONSORTIUM COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM AND
CITY OF BURIEN
THROUGH THE U. S. DEPARTMENT
OF HOUSING AND URBAN DEVELOPMENT
[DATE]

C. Records and Reports

BURIEN shall maintain files for this project containing the following items:

1. Documentation demonstrating BURIEN's determination of eligibility for the project activity and the national objective met per CDBG Program regulations.
2. Notice of Grant Award;
3. Motions, resolutions, or minutes documenting Board or Council actions;
4. A copy of this Contract;
5. Correspondence regarding budget revisions;
6. Copies of all invoices and reports submitted to the COUNTY for this project;
7. Bills for payment;
8. Copies of approved invoices and warrants;
9. Payroll time sheets for actual salary and fringe benefit costs, time sheets signed by a supervisor and annotated to document percent of time charged against this project if less than full time;
10. Documentation, such as log sheets, of copy machine use, postage, telephone use, and office supplies when these costs are shared with other programs and no invoice is available, or alternative, annotated invoices may be used to document charges as appropriate;
11. Documentation of mileage charges for private auto use;
12. Documentation of the solicitation process used to select vendors and sub-contractors with original purchase orders and sub-contracts;
13. Documentation related to adherence to labor compliance rules and regulations and report submittal related to such;
14. BURIEN shall submit project status information on a Program Accomplishment form.

D. Project Completion Ceremony

Upon completion of the CDBG assisted project, COUNTY and BURIEN shall coordinate to determine whether there will be an event or to jointly plan for such an event, (for example: ribbon cutting, open house, grand opening, tour, etc.); to celebrate the successful execution of the project. Invitations may be extended to the following representatives: King County Executive, or Department of Community and Human Services representative on behalf of the Executive, an appropriate King County Council

member(s), a representative from the local HUD Field Office, and representatives from other participating jurisdictions.

IV. COMPENSATION AND METHOD OF PAYMENT

A. Billing Invoice Requirements

1. COUNTY will not make payment on an invoice unless HCD Project Manager has signed approval for payment on the Application and Certificate for Payment form (see Attachment B. 3.03) before the payment was made, and in advance of submittal for payment.

2. BURIEN shall submit invoices to the COUNTY within ten business days after the end of each quarter in which the BURIEN incurs costs under this Contract. The final request shall be submitted prior to November 15, 2015.

3. BURIEN shall submit invoices to the COUNTY in the form of a CDBG Program Invoice Reimbursement Request form. Such forms shall be signed by an authorized representative of BURIEN and shall be accompanied by copies of supporting documents.

4. COUNTY shall retain ten percent of the value of the contract provided under this project until all construction activities are completed and labor standards are met. The COUNTY shall disburse the retained amount with the final invoice upon the COUNTY's verification that BURIEN, the Prime and all sub-contractors have complied with the provisions of this Contract.

5. Payments shall be made upon the joint approval of BURIEN, COUNTY Project Manager and Davis Bacon Compliance Officer, each verifying that respective supporting documentation meets compliance requirements.

B. Method of Payment

BURIEN shall be reimbursed for satisfactory completion of the requirements specified in this Contract in a sum not to exceed $195,000.

C. The COUNTY shall apply the following CDBG funds to the project in accordance with the Line Item Budget Summary below.

1. CDBG Funds

King County 2014 Community Development Block Grant – Funds	$195,000
Total CDBG Funds: CFDA 14. 218	$195,000

2. Line Item Budget

Item	CDBG Funds	Other Funds	Total Funds
Required Environmental Studies	$ 1,630	$0	$ 1,630
Professional Engineering and Design Services	$ 27,000	$0	$ 27,000
Construction Contract	$131,256	$0	$131,256
Burien Project Management @ 25%	$ 32,222	$0	$ 32,222
Other: Inspection Services, testing	$ 2,892	$0	$ 2,892
TOTAL CONTRACT BUDGET:	$195,000	$0	$195,000

D. Project Milestones

1. The following milestones shall be set forth for project accomplishment. Milestones may be amended from time to time with the written Contract of the COUNTY and BURIEN.

The Project shall be implemented in accordance with the following schedule.

Milestones	Projected Completion Date
Environmental Review Complete	May 30, 2014
Design Complete	March 2015
Bid Opening	April 2015
Construction 50% Complete	July 2015
Construction Complete	August 2015
Labor Standards Reviewed and Accepted Release Retainage	September 2015
Project Funding Report Form Completed	October 2015
Project Closed	November 2015

E. Liaison Responsibility

Brian Victor will act a liaison from BURIEN for the PROJECT.

Eric Jensen will act as liaison from COUNTY.

F. Special Requirements

1. Each party is an independent CONTRACTOR with regard to the other party. Neither party is an agent or employee of the other. No party or its employees is entitled to participate in a pension plan, insurance, bonus or similar benefits provided by any other party.

2. Notice.

Each party shall give the other immediate written notice of any action or suit filed or any claim made against the party which may result in litigation in any way related to this Contract.

3. Non-substitution for Local Funding.

The CDBG funding made available under this Contract shall not be utilized by BURIEN to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of funds under this Contract.

4. Evaluation.

BURIEN agrees to participate with the COUNTY in any evaluation project or performance report, as designed by the COUNTY or the appropriate Federal department, and to make available all information required by any such evaluation process.

5. Change of Use.

   BURIEN agrees to comply with applicable change of use provisions contained in 24 CFR 570.505 and the King County CDBG Consortium Policies.

6. Reversion of Assets.

   Upon expiration or termination of this Contract, BURIEN shall transfer to COUNTY any CDBG funds on hand at time of expiration and any accounts receivable attributable to the use of CDBG funds. Also for any real property under BURIEN's control that was acquired or improved in whole or in part with CDBG funds in excess of $25,000 shall ensure said real property is either:

   a. Used to meet one of the National Objectives in CFR 570.208 for the term of this CONTRACT; or

   b. Not used to meet on the National Objectives for the term of this CONTRACT, in which event BURIEN shall pay to COUNTY an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

V. TERM OF AGREEMENT

A. This agreement becomes effective when it is signed by both Parties.

B. The term of this Agreement is a period beginning when it becomes effective and ending six years after closeout of the Community Development Block Grant for this PROJECT.

C. This Contract may be suspended or terminated prior to the expiration of its term by:

   1. Written notice provided to the COUNTY from BURIEN before any materials or services for improvements are procured; or

   2. Written notice provided by the COUNTY in accordance with 24 CFR 85.43, included as Attachment A, resulting from material failure by BURIEN to comply with any term of this CONTRACT; or

   3. Mutual agreement by the COUNTY and BURIEN in accordance with 24 CFR 85.44.

D. Upon completion of improvements or upon termination of this CONTRACT, any unexpended balances of CDBG funds shall remain with the COUNTY.

Attachment A

Title 24 - Housing and Urban Development Volume: 1
Date: 2012-04-01
Original Date: 2012-04-01
Title: Section 85.43 - Enforcement.

Context: Title 24 - Housing and Urban Development. Subtitle A - Office of the Secretary, Department of Housing and Urban Development. PART 85 - ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE, LOCAL AND FEDERALLY RECOGNIZED INDIAN TRIBAL GOVERNMENTS. Subpart C - Post-Award Requirements. - Reports, Records, Retention, and Enforcement. § 85.43Enforcement.(a) Remedies for noncompliance. If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,

(2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,

(3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,

(4) Withhold further awards for the program, or

(5) Take other remedies that may be legally available.

(b) Hearings, appeals. In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) Effects of suspension and termination. Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

(1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,

Code of Federal Regulations / Title 24 - Housing and Urban Development / Vol. 1 / 2012-04-01501

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) Relationship to debarment and suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude a grantee or subgrantee from being subject to 2 CFR part 2424 (see § 85.35).

[53 FR 8068, 8087, Mar. 11, 1988, as amended at 72 FR 73493, Dec. 27, 20

PROJECT IMPLEMENTATION MANUAL
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1.00 ADMINISTRATION

1.01 PROJECT Construction Implementation Method

General

These procedures outline the construction implementation policies and procedures of the Housing and Community Development-Community Development (HCD-CD) and CITY OF BURIEN. If any of these procedures conflict with the Bid Specifications, then the Bid Specifications take precedent.

Project Team

The Project Team will consist of the following:

- HCD Project Manager: Eric Jensen,
- CITY OF BURIEN Owner's Representative: Brian Victor, Engineer
- CONSULTANT – For project engineering, inspection, and project management

Other staff may be included as required:

- HCD Coordinator: Kathy Tremper
- HCD Regional Program Manager: Mark Ellerbrook
- HCD Davis Bacon Labor Compliance Officer – Dave Mecklenburg
- CITY OF BURIEN – Lori Fleming. Management Analyst

PRIME – Construction Contractor

1.02 Project Team

Duties of the Project Team

The Project Team is responsible to the HCD Regional Program Manager and HCD Coordinator in such CDBG matters: completion of the Burien S. 132nd Street Path project within the scope and budget approved by the Joint Recommendations Committee (JRC); provide oversight to the CITY OF BURIEN Owner's Representative, Consultant, and PRIME in their roles in the construction of the project; ensure communication of project status and approvals as required from the Executive and/or committees. The Project Team will make decisions based upon the consensus of the members. Should consensus not be achievable, the issue will be brought before the appropriate line of authority for each entity for further discussion and consideration until a resolution is found.

Limits of Authority

Any proposed out-of-scope changes will be reviewed by the Project Team and concurrence obtained from the HCD Coordinator before giving approval to proceed with the changes to the Owner's Representative. The Project Team will closely monitor budget status and promptly notify the HCD Coordinator should current projections exceed approved budget. It is anticipated that the construction contract will be awarded at an amount less than the budgeted amount, and that a 10 percent contract contingency will be authorized for management of the project similar to other similar construction projects.

Should the Project Team determine that the 10 percent contract contingency is likely to be exceeded, a project budget amendment will be presented to the HCD Coordinator for presentation to the HCD Program Manager for approval in accordance with normal procedures. Should the Project Team determine that budget amendments are required to complete the project that will exceed the approved project budget by more than 50 percent, approval will be required from the HCD Program Manager and ultimately from the Joint Recommendations Committee.

1.03 OWNER'S REPRESENTATIVE

Duties of the Owner's Representative

The Owner's Representative shall provide overall construction administration, coordination and communication between the Project Team.

Limits of Authority

The Owner's Representative shall NOT have the authority to enter into contracts or agreements or to make changes to any such contracts or agreements on behalf of the CITY OF BURIEN regarding the BURIEN S.132ND STREET PATH without the specific approval of King County HCD Community Development Coordinator. The Owner's Representative may approve minor changes up to $5,000 that are in-scope of the current project design. Any out-of-scope changes must be brought to the Project Team for review.

Duties

a. Review all contract documents and help ensure all appropriate CITY OF BURIEN/County procedures are used. Recommend revisions or new procedures as necessary.
b. Manage Contract with CONSULTANT, and work with them to monitor overall budget and schedule, and advise the Project Team of any trends that affect the timely procedures and cost effective completion of the project.
c. Attend weekly and special construction meetings to keep informed of items for which action may be needed.
d. Process requests for payment by CONSULTANT and PRIME. Any increases to the scope of these contracts must be reviewed and approved by the Project Team.
e. Coordinate with CONSULTANT.

1.04 CONSULTANT

Duties of the CONSULTANT

The CONSULTANT shall provide project engineering, construction administration and inspection. This includes coordinate any construction inspectors assigned; and provide coordination and communication between the Project Team, the PRIME, the OWNERS REPRESENTATIVE, and any additional CITY OF BURIEN consultants. The CONSULTANT shall provide documentation and prepare reports.

Limits of Authority

The CONSULTANT shall NOT have the authority to enter into contracts or agreements or to make changes to any such contracts or agreements on behalf of the CITY OF BURIEN regarding the BURIEN S.132ND STREET PATH.

Project Engineering – Develop bid specifications for the project.

Construction Administration

a. Review all contract documents and ensure all appropriate CITY OF BURIEN/County procedures are used. Recommend revisions or new procedures as necessary.
b. Monitor overall budget and schedule, and advise the Project Team of any trends that affect the timely procedures and cost effective completion of the project.

c. Submit weekly and monthly written reports to the Project Team to reflect new and unresolved issues, schedule, quality control, submittal review, budget control including contingency balance, and any other pertinent issues. Project progress reports shall reflect completed work versus contract time.
d. Attend weekly and special construction meetings to evaluate and control progress, quality, budget, and other items for which action may be needed.
e. Review and coordinate all services provided by testing and inspection firms for compliance with service agreement requirements. Review and approve all invoices submitted by these testing and inspection firms and then submit recommendations to the Project Team for final approval.
f. Check the PRIME's estimate of work completed for partial payments based on the approved cost breakdown.
g. Monitor progress schedule to reflect work completed vs. actual time.
h. Evaluate and make recommendations to the Project Team regarding proposed contract changes and resolution of all claims. As directed by the Project Team, participate in or conduct negotiations to resolve claims or disputes.
i. Maintain a change order log that includes a cumulative total of changes to the contract, and reconcile change order costs with PRIME'S payment requests.
j. Coordinate final acceptance, inspection, and scheduling of occupancy.
k. Monitor completion and turnover of operation and maintenance data and record drawings. Monitor required operating tests and training required by contract. Execute the Certification of Completion form. Complete and transmit the Project Closeout Checklist to the Project Team.
l. Coordinate with OWNERS REPRESENTATIVE.

Inspection

a. Be familiar with the plans and specifications and the PRIME's operations at all times.
b. Personally observe, check and measure items placed in the construction for compliance to the contract documents, technical instructions, and directives from the Project Team.
c. Supervise and/or perform on-site testing and ensure that all required tests are performed as specified in the contract documents. Check and report all failed tests to the Project Team and request instructions as to further procedure. Check billings from the testing laboratories to see that billings reflect only tests actually performed and requested, and that unit rates match personnel used and tests performed.
d. Prevent installation of any related work until shop drawings have received final approval from CONSULTANT.
e. Inspect all materials immediately upon their delivery to the site to ensure that they comply with the specifications and approved submittals and shop drawings, and are in good condition, new, undamaged, etc.
f. Receive samples which are required to be furnished at the job site; record date received and from whom.
g. Maintain a daily diary describing general events, noting problems and unusual events, verbal instructions during field supervision trips, decisions and directions given to the PRIME and the Project Team. Fill out and transmit to the Project Team a report of injury whenever there is an accident.
h. Assist in relaying instructions from the Project Team to the PRIME and in relaying problems from the PRIME to the Project Team for solution.
i. Review the PRIME'S work on the required record drawings weekly to ensure that they are accurately marked up as required. Report any non-compliance at project meetings.
j. Assist in the final inspection and project acceptance phase.
k. Prepare project As-builts, documenting any changes to bid specifications/plans.
l. Upon completion of the project, review any and all warranties, keying, operating instruction, completion of final punch list items, etc., as called for in the project documents. Confirm that these are received before certifying the completion of the work in writing.

m. Execute the Certification of Completion form, at completion of construction, that the project was constructed in accordance to the project documents.
n. Complete and transmit the Project Closeout Checklist to the Project Team.
o. Report to the Project Team poor performance or any acts prejudicial to the CITY OF BURIEN's/County's interests. This report shall be in writing whenever such conditions may come to Owner's Representative's attention.

Documentation

Exert extreme care that verbal and written communications to the PRIME cannot be misinterpreted as changes in the scope of the work, or a change in the contract amount, unless the communication has the written approval of both the Owner's Representative and the County.

1.05 HCD PROJECT MANAGER

Attend weekly and special construction meetings to keep informed of items for which action may be needed.

a. Furnish general contract conditions of County requirements for incorporation into bid documents.
b. Furnish Supplementary General Conditions that include federal Davis-Bacon Wage rates, rules and authorities for incorporation into bid documents
c. Process requests for payment by CITY OF BURIEN. Any increases to the scope of these contracts must be reviewed and approved by the Project Team.
d. Review and approve both the schedule and the breakdown of construction contract.
e. Shall sign the payment request certifying that the completed percentage of work is accurate.
f. Shall review each contract change order for conformance to the approved change proposal(s) and review all attached back-up for completeness and conformance to the contract specifications.
g. Shall participate in final inspection; and
h. Shall review and process CITY OF BURIEN voucher reimbursement requests for payment.

2.00 DESIGN, BID AND AWARD PHASE

2.01 Design Meeting of Project Team

After the CONSULTANT is selected, the Owner's Representative will schedule 30% and 60% Design review meetings with the Project Team to review the project scope elements. The following items are possible topics to discuss at these meetings.

2.02 Design Meeting Agenda (Optional)

a. Review the special requirements of the CITY OF BURIEN and County, such as phasing, traffic control, parking, staging areas, deadlines, equipment installations, occupancy, and temporary utilities from utility company, etc. (project should pay its own way for temporary utilities), and have CONSULTANT incorporate them into the Division One specifications.
    1. Phasing: review phasing requirements in detail.
    2. Schedule: review any milestones and deadlines.
    3. Utilities
        a. Shutdowns: discuss length of notice required and any special times (e.g. weekends only, etc.).
        b. Chargebacks: discuss whether contractor is to be billed or if contingency is to cover costs, etc.
    4. Determine any CITY OF BURIEN-supplied equipment.
    5. Determine contractor parking, staging area and haul routes and any restrictions.
b. Review the contract time of performance and liquidated damages for contract overrun.

c. Discuss the alternatives, allowances and/or unit price policies. Determine if any are to be included, and how covered in Division One and on bid proposal form.
d. Plan the coordination of the project construction with other developments underway or proposed during the construction phase of the subject project.
e. Set the bidding date and the amount of the plan deposit, and decide where bidders may secure plans or review them.
f. Discuss the issuance of addenda.
g. Explain the procedures and responsibilities for conduct of the project bidding and award of contract.
h. Outline the testing procedures and explain construction inspection services.
i. Discuss other items pertinent to this project, for example, all CITY OF BURIEN-required restrictions shall be discussed and incorporated, if in the best interest of the CITY OF BURIEN.
j. Discuss Davis/Bacon federal labor requirements and compliance and environmental review mitigation measures.

2.03 General Make-up of Bidding Documents

Bidding documents consist of the project plans and specifications and all local, state and federal requirements, both generated and prepared by the CONSULTANT. The HCD Project Manager will provide the required federal provisions to be included into the bidding documents.

The bid documents should include the following:

a. Cover and title page.
b. A general index of the volume,
c. Special Conditions:
    1. Environmental Review: The following Environmental Review Mitigation Measures:
        i. Archaeology
        An Unanticipated Discovery Plan for unknown archaeological and human remains shall be in effect during construction. In the event that archaeological or historic materials are discovered during project activities, work in the immediate vicinity shall stop, the area secured, and the King County Project Manager, State Department of Archaeology & Historic Preservation and concerned tribes notified, and any related issues shall be resolved before construction work continues.
        ii. Coastal Zone Management Act
        CITY OF BURIEN shall comply with all water quality, stormwater, and State Environmental Policy Act requirements, as applicable..
    2. If not included in Division One, CITY OF BURIEN may include provisions tailored to meet CITY OF BURIEN needs that must be approved by Project Team.
d. Contract general conditions, furnished by the Owner's Representative and the HCD Project Manager, including sample forms for contract, bonds, etc.
e. Supplementary general conditions, furnished by the Owner's Representative, and HCD Project Manager.
f. All pertinent Prevailing wage rates, furnished by the Owner's Representative and HCD Project Manager.
g. Division one general requirements, prepared by the CONSULTANT and approved by the Project Team; may include provisions tailored to meet CITY OF BURIEN needs, e.g. laydown areas, traffic and parking control.

2.04 Role of the CONSULTANT During Bidding Phase

The responsibilities of the CONSULTANT during bidding phase include:

a. Reproduce the plans and specifications and furnish them for distribution to bidders.
b. Attend the Pre-Bid Walkthrough if scheduled.
c. Answer all questions from bidders relative to the project in an appropriate manner, consulting with Project Team when necessary.
d. Coordinate delivery of the project plans and specifications through the Builder's Exchange on-line system, and ensure that both the plans and specifications are numbered consecutively.
e. Ensure that a record is kept of all plans and specifications issued, by number of bid set and name of contractor receiving that bid set, along with contractor's address, phone and fax numbers.
f. Ensure that all addenda issued are attached to the plans and specifications on hand and that copies are mailed to all plan holders.
g. Issue all addenda after obtaining approval from the Owner's Representative and HCD Project Manager.
h. Attend the formal bid opening.
i. Evaluate bids and any bid overrun with the Project Team; and.
j. Submit a complete listing of all tests required in accordance with the project specifications.

2.05 Role of the Owner's Representative During Bidding Phase

During the bidding phase of the project, the responsibilities of the Owner's Representative include:

a. Make all arrangements required to accommodate the pre-bid walkthrough. (Optional)
b. Handle all public information releases concerning the project through the Project Team.
c. Prepare and conduct the formal bid opening at the CITY OF BURIEN; and
d. Ensure all bids received are accurately recorded on the official Abstract of Bids form.

2.06 Role of HCD Project Manager During Bidding Phase

During the bidding phase of the project, the responsibilities of the HCD Project Manager include:

a. Accompany the Owner's Representative on the pre-bid walkthrough. (Optional)
b. Review the records kept of all plans and specifications issued by number of bid set and name of contractor receiving that bid set, along with contractor's address, phone and fax numbers.
c. Verify that all addenda issued are attached to the plans and specifications on hand and that copies are mailed to all plan holders.
d. Coordinate with Owner's Representative to assure that all public information releases concerning the project through the Project Team.
e. Attend the formal bid opening at the CITY OF BURIEN; verify accuracy of the recording of all bids received on the official Abstract of Bids form.

2.07 Advertising for Bids

The Owner's Representative is responsible for placing advertisements soliciting bids in appropriate trade papers and newspapers in accordance with the provisions of the contract laws that apply, including at least one minority paper. Advertisements for bids should be placed at least three weeks prior to the bid opening date. At this time the Owner's Representative directs the CONSULTANT to produce project plans and specifications and arrange for Builder's Exchange on-line system by the day of the first advertisement date. A set of project plans and specifications shall be provided to the HCD Project Manager, the Owner's Representative, and the CONSULTANT.

2.08 Addenda During Bidding

The Owner's Representative is the only person who may clarify the contract documents and answer questions from bidders or other interested parties during the bidding period. The Owner's Representative must direct all technical questions concerning the project to the CONSULTANT, other than those questions relative to withdrawing plans, etc. If these questions result in the need for an addendum to the plans and specifications, the CONSULTANT will notify the Project Team and get their approval first. The CONSULTANT and/or the Owner's Representative will mail the addendum to all plan holders. Addenda must be issued in sufficient time for bidders to react to them, and three days is deemed the minimum time for this.

2.09 Bid Opening

Location, Time and Date, and Preparation for Bid Opening

For maximum success, it is recommended that bid opening be scheduled for 10:00 a.m. on a Tuesday, Wednesday or Thursday (due to traffic in Northwest/King County and staff availability at CITY OF BURIEN and County.) The bid opening should not be scheduled on the day preceding or following a holiday. The CITY OF BURIEN presides over the bid opening and receives all bids submitted. The CITY OF BURIEN will follow their standard procedures for bid opening.

2.10 Withdrawal of Bids

A bid may be withdrawn prior to bid opening by submittal of a letter of withdrawal to the CITY OF BURIEN. The Owner's Representative must make sure, by direct question, that it is a bid withdrawal letter. The Owner's Representative must then open the letter, read it, and staple it to the bid that is to be withdrawn. This bid must be set aside, to be returned to the bidder unopened.

2.11 Determination of Contractor Responsibility

The CITY OF BURIEN is responsible for completing the responsibility determination for the apparent low bidder. As specified in the contract General Conditions, there is specific information that must be provided by the low bidder within a fixed period of time after bid opening for the CITY OF BURIEN to be able to make this determination. In the event the CITY OF BURIEN determines the apparent low bidder is not responsible, there is a specified period within which a contractor can appeal the determination. After the appeal period, the process will start again with the next apparent low bidder. Any potential determination of non-responsibility must be discussed in advance with the CITY OF BURIEN Attorney.

2.12 Bid Protests

The Owner's Representative will immediately confer with the CITY OF BURIEN Attorney, and suspend contract award, if a protest is received from any bidders within the specified protest period.

3.00 CONSTRUCTION PHASE

3.01 Preconstruction Meeting

The Owner's Representative is responsible for scheduling a preconstruction meeting at the nearest appropriate location to project site at the time of execution of the contract with the successful PRIME contractor (normally prior to the Notice to Proceed). Attendance at this meeting includes:

- Owner's Representative,
- Other CITY OF BURIEN staff, as needed;
- HCD Project Manager
- HCD Labor Compliance Officer
- CONSULTANT
- CONSULTANT'S Construction Inspector;

- PRIME Contractor
- PRIME's Accounting and Payroll staff.

The main duties and responsibilities of the persons filling these positions will be outlined at this meeting. The Owner's Representative shall chair this meeting.

HCD Project Manager shall present each prime contractor and their accounting and/or payroll staff with detailed information regarding compliance with CDBG Program Regulations including, but not limited to, federal labor standards and Section 3 regulations. Pertinent federal forms will be distributed at the preconstruction meeting prior to the Notice to Proceed being issued.

3.02 Progress Schedule and Contract Bid Cost Breakdown

As specified and as required by the contract, the PRIME shall prepare a construction schedule and a contract bid cost breakdown, and submit copies to the Owner's Representative, HCD Project Manager and CONSULTANT. The CONSULTANT, with input from the Owner's Representative, HCD Project Manager and Project Team, will review and approve both the schedule and the breakdown.

3.03 Contractor's Payment Request

The approved bid cost breakdown shall be used by the PRIME in the preparation of the regular monthly payment request. The PRIME shall submit the payment request, with original signature in Blue ink to the CONSULTANT. The CONSULTANT will review, approve, and provide to the Owner's Representative for payment. The HCD Project Manager shall co-sign the payment request certifying that the completed percentage of work is accurate.

3.04 CITY OF BURIEN-furnished Items

The Owner's Representative shall be responsible for coordinating the delivery of project items to be furnished by the CITY OF BURIEN.

3.05 Field Instructions

Field instructions are the official written communication between the CONSULTANT and the PRIME. Copies of all field instructions shall be sent to the HCD Project Manager. Field instructions may be served or addressed to the PRIME for:

a. Emergency work including safety violations.
b. Outlining deficiencies and/or inspection corrections.
c. CONSULTANT directions or clarification.
d. Directions to proceed with a change per the Contract General Conditions with the Project Team's authorization.
e. Directions to proceed with disputed work per the Contract General Conditions with the Project Team's authorization.
f. Other reasons requiring written communications.

4.00 CONTRACT CHANGE ORDER PROCEDURES

4.01 General

When the proposed need for a change order is first known by the CONSULTANT, it shall be discussed with the Project Team prior to a change order being prepared. The Project Team shall determine whether or not to proceed with the proposed or requested change. When so notified by the Owner's

Representative, the CONSULTANT shall proceed with the change order. No contract change orders are to be used by the CONSULTANT prior to the approval.

4.02 Normal Change Orders

a. The need for a change order usually arises from one of the following reasons:
   1. Error in or omission from the contract documents.
   2. Unforeseeable job site conditions such as rock, expansive soil, unrecorded utility lines or similar circumstances.
   3. Change in the requirements of a regulatory agency, such as revisions in building codes, fire, safety or health regulations.
   4. A change originated by the Owner.
   5. Changes in specified work due to the unavailability of specified materials.

4.03 Change Proposal Procedures

a. The CONSULTANT shall assign numbers to change proposals sequentially. Should a change proposal be voided or not used, then the change proposal log shall reflect that status. The change proposal should include the following:
   1. Description of Proposed Change: The CONSULTANT shall describe completely and definitively the change or changes proposed.
   2. Justification for Proposed Change: The CONSULTANT shall state on the change proposal the condition, circumstance or occasion which makes the change proposal necessary.
   3. Origin and Originator of Proposed Change: The CONSULTANT shall name the originator of the proposed change and identify the original proposer, i.e. City staff or CONSULTANT, PRIME, Owner's Representative.
   4. Estimated Cost of Proposed Change. The CONSULTANT must provide an estimate, or review the estimate from the PRIME of the additional cost or credit for the proposed change to determine if it is a valid cost. If the CONSULTANT estimates a change proposal to be a no-cost change, the estimated cost should be indicated as $0. The Consultant should also indicate if the change will result in any additional costs to the CONSULTANT contract and/or any time extensions.

4.04 Contract Change Order Procedure

After approval of the change proposal by the Project Team, the CONSULTANT shall prepare the Change Order.

a. CONSULTANT shall complete one original copy of the contract change order, with all back-up materials, and send to Owner's Representative and HCD Project Manager for review. Owner's Representative and HCD Project Manager shall review the contract change order for conformance to the approved change proposal(s) and review all attached back-up for completeness and conformance to the contract specifications. After review and approval by the CITY OF BURIEN and HCD Project Manager, the Owner's Representative shall send to PRIME for signature.
b. PRIME shall review and sign contract change order and send original, with back-up materials, to the Owner's Representative. Owner's Representative will obtain CITY OF BURIEN and HCD Project Manager co-signatures on the Change Order.

c. Owner's Representative and HCD Project Manager have authority to sign all change orders not exceeding $5,000. If there are multiple change items on a single change order, the Owner's Representative and HCD Project Manager may sign the change order only if the absolute value of each separate item listed on the change order does not exceed his/her authority. If one or more of the items exceeds the Owner's Representative's signature authority the Owner's Representative must secure approval from the Project Team.
d. The CONSULTANT shall assign numbers to change orders sequentially. Should a change order be voided or not used, then the change order log shall reflect that status.

4.05 Emergency Change Orders

a. Emergency change orders are those requiring immediate action to avoid a serious work stoppage, delay and/or extra costs.
b. CONSULTANT shall advise the Project Team of the emergency situations and, if possible, estimate the cost of the change. The Owner's Representative and HCD Project Manager may give verbal approval to all changes involving a change in scope, including a change originated by the CITY OF BURIEN, to be followed up in writing.

5.00 CONTRACT COMPLETION PHASE

5.01 General

When a project is nearing completion a check inspection should be held to assure conformance to the contract requirements and to generate a punch list of work to be completed, adjusted, or corrected prior to the final inspection that verifies completion for acceptance. The Owner's Representative, HCD Project Manager, and CONSULTANT will establish a date for this inspection of the contract work.

5.02 Final Inspection

When the punch list items have been completed, a final inspection shall be held to inspect the completed work. The Owner's Representative shall coordinate the date and time for the final inspection of the project with the Project Team.

5.03 Project Completion

After final inspection and completion of the project, the CITY OF BURIEN will submit a final billing to the HCD Project Manager.

5.04 Project Files

a. The CITY OF BURIEN must maintain the project files for the project. These files shall be available for reference at all times by the Project Team. They shall be kept neat, orderly and adequately protected. At the completion of a project, any project files shall be forwarded to the CITY OF BURIEN, and shall include all equipment brochures and other submittals. The Owner's Representative is responsible for transfers.

b. Originals of pertinent Federal Labor Standards files (Davis-Bacon and Related Acts documentation) shall be maintained and kept in a neat, orderly, protected environment by HCD Project Manager for the duration of the statutory retention periods. Information regarding these procedures shall be discussed at the Preconstruction meeting. Should the Owner wish for original Certified Payroll Reports and other similar documents, the Owner's Representative will need to arrange such procedures (including but not limited to duplicate originals) during the preconstruction conference or in weekly project meetings.
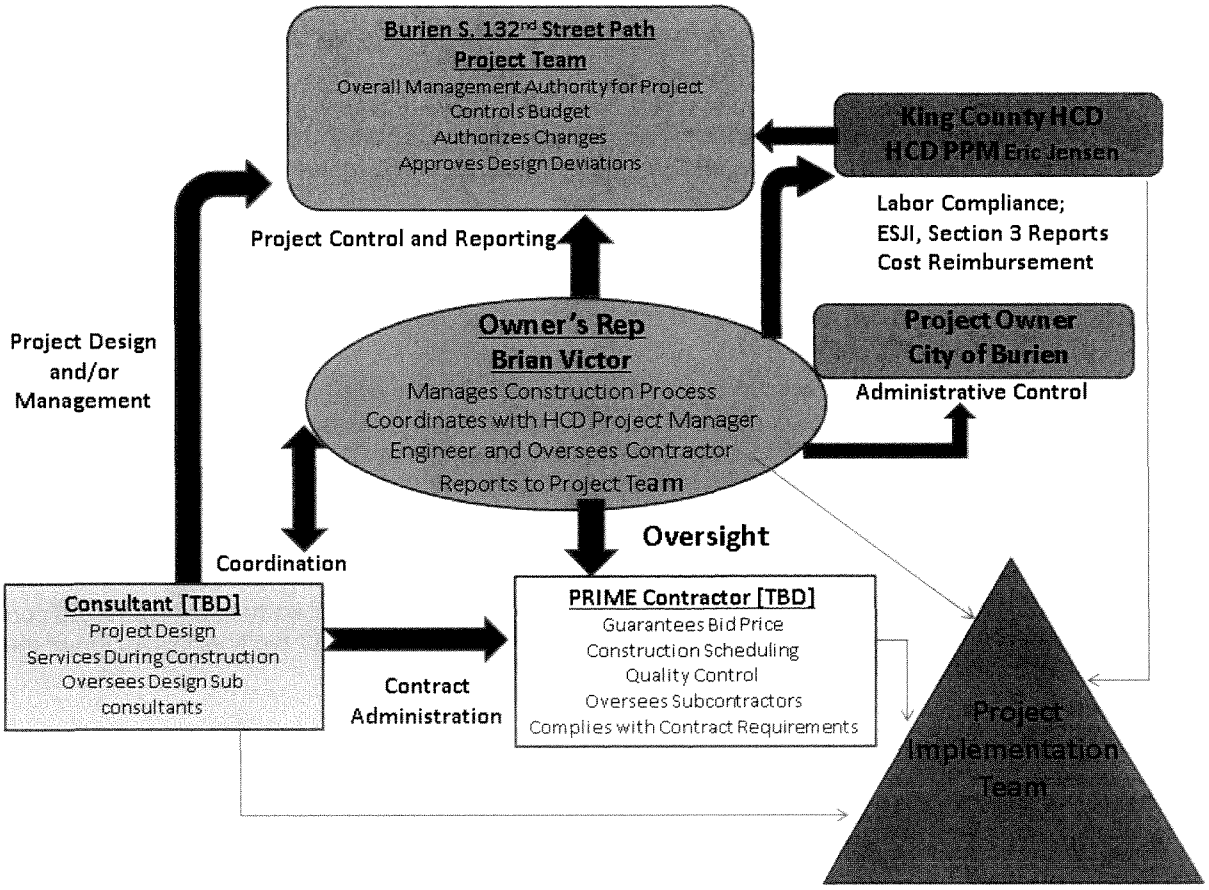
FIGURE: Roles, Responsibilities and Relationships