

# CONTRACTOR'S COPY

## 33520

AGREEMENT NUMBER

11-HRPP-8304

REGISTRATION NUMBER

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

STATE AGENCY'S NAME

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CONTRACTOR'S NAME

City of Long Beach

2. The term of this Agreement is:

Upon HCD Approval through 09/30/2016

3. The maximum amount of this Agreement is:

\$310,000.00

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

Exhibit A - Authority, Purpose and Scope of Work	2
Exhibit B - Budget Detail and Payment Provisions	3
Exhibit C - State of California General Terms and Conditions*	GTC - 610
Exhibit D - HRPP Terms and Conditions	2
Exhibit E - Special Terms and Conditions	0
Exhibit F - Additional Provisions	0
Exhibit G - Definitions	3 pages

**TOTAL NUMBER OF PAGES ATTACHED:**

Items shown with an Asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <http://www.documents.dgs.ca.gov/ols/GTC-610.doc>

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

APPROVED AS TO FORM  
November 16, 2012  
ROBERT E. SHANNON, City Attorney  
DARYL J. ANDERSON, NEA  
BY \_\_\_\_\_

**CONTRACTOR**

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

City of Long Beach

BY (Authorized Signature)

*[Signature]*  
Assistant City Manager

DATE SIGNED (Do not type)

12.7.12

PRINTED NAME AND TITLE OF PERSON SIGNING

Patrick H. West, City Manager

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

ADDRESS

2760 N. Studebaker Road, Long Beach, CA 90815

STATE OF CALIFORNIA

AGENCY NAME

Department of Housing and Community Development

BY (Authorized Signature)

*[Signature]*  
Stacy Q. Hernandez

DATE SIGNED (Do not type)

12-19-12

PRINTED NAME AND TITLE OF PERSON SIGNING

Stacy Q. Hernandez, Contracts Manager, Business & Contract Services Branch

ADDRESS

1800 Third Street, Room 350, Sacramento, CA 95811

California Department of  
General Service  
Use Only

DEC 19 2012

X Exempt per: SCM 4.04.3 (DGS Memo dated 6/12/81)

EXHIBIT A

**AUTHORITY, PURPOSE AND SCOPE OF WORK**

**Housing Related Parks (HRP) Program Grant**

**1. Authority**

Pursuant to Chapter 8 of Part 2 of Division 31 of the California Health and Safety Code, commencing with Section 50700, as added by Section 1 of Chapter 641 of the Statutes of 2008, the State of California Department of Housing and Community Development (herein referred to as the "State" or the "Department") has established the Housing-Related Parks (HRP) Program (the "Program"). This Standard Agreement (the "Agreement") is entered into under the authority of, and in furtherance of the purposes of, the Program as set forth in Health and Safety Code Section 50701. Pursuant to Health and Safety Code Sections 50702 and 50704.5, the State has issued a Notice of Funding Availability, dated December 2, 2011 (NOFA) and Program guidelines, dated December 2011 (the "Guidelines") governing the Program.

**2. Purpose**

In accordance with the authority cited above, the Contractor has applied to the State for financial assistance (the "Application") in the form of a grant from the Program (the "Grant"). The State has agreed to make the Grant, as a financial incentive based on the issuance of housing starts, for housing units affordable to very low- and low-income households by the Contractor pursuant to the terms of the NOFA, the Guidelines and this Agreement. Based on the representations made by the Contractor in its Application, which is hereby incorporated as if set forth in full, the State shall provide a Grant in the amount shown below for the purpose of paying for capital improvement(s) related to the acquisition, rehabilitation, or construction of a Park and Recreation Facility.

The State and the Contractor have agreed to enter into this Agreement in accordance with the terms and conditions herein, subject to all the provisions of the applicable statutes, the NOFA, the Guidelines and further subject to the State laws and requirements governing State contracts. Capitalized terms herein shall have the meaning of the definitions set forth in the Guidelines.

**3. Scope of Work**

Rehabilitation of landscaping, irrigation, turf soccer field, hardscape, and park connectivity at 14th Street / Seaside Park.

**EXHIBIT A**

**4. Grant Timelines**

No work performed prior to the effective date of this Agreement or after June 30, 2016, shall be funded. The effective date of this Agreement is the date it is executed by the State, after execution by the Contractor. All funds must be requested from the Department no later than April 30, 2016. For the purpose of this Agreement, no funds may be expended after June 30, 2016. It is the responsibility of the Contractor to monitor the project and timeliness of draws within the specified dates.

**5. Grant Amount**

The total amount of this Grant is \$310,000.00.

**EXHIBIT B**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

**HRP Program Grant**

**1. Allowable Uses of Grant Funds**

- A. Grant funds shall only be used for projects approved by the State that involve the construction, rehabilitation, and/or acquisition of capital assets as defined by the California Government Code, Section 16727(a) that benefit the community within the Contractor's jurisdiction and as further set out in Section 108 of the Guidelines. Capital assets include tangible physical property with an expected useful life of fifteen (15) years or more, equipment with an expected useful life of two (2) years or more, or major maintenance, reconstruction, or demolition for purposes of reconstruction and/or retrofitting work.
- B. Incidental expenses shall not be paid by Grant funds unless they are directly related to the construction or acquisition of an eligible capital asset. Such expenses include costs associated with planning, engineering, construction management, environmental impact reports, appraisals, site acquisitions, or necessary easements.
- C. Grant funds shall not be expended for the administrative costs of persons directly employed by the Contractor or for other "soft" costs that are not directly related to the construction, rehabilitation or acquisition of capital assets.

**2. Performance**

Contractor shall take such actions, pay such expenses and do all things necessary to complete the Work specified in Exhibit A in accordance with the schedule for completion set forth therein and within the terms and conditions of this Agreement.

**3. Fiscal Administration**

- A. Term: The effective date of this Agreement is the date upon which it is executed by the State (the date stamped in the lower right portion of the Standard Agreement (Std. 213) through September 30, 2016. All funds must be requested by the Contractor by April 30, 2016 and expended by June 30, 2016. This Agreement shall terminate September 30, 2016.
- B. The Contractor shall make any and all request(s) for disbursement no earlier than ninety (90) days from the anticipated need for the funds, using the forms provided by the State. The forms will be made available at <http://www.hcd.ca.gov/hpd/hrpp>. The Contractor shall expend the funds within 90 days from the date of receipt from the State, or by June 30, 2016, whichever occurs earlier and subsequent supporting documentation shall be submitted to the Department.
- C. Failure to expend contract funds in a timely manner may affect future funding.

**EXHIBIT B**

- D. A separate checking account for the Grant funds is not required. However, the Contractor shall deposit Grant funds in an interest bearing checking or savings account, or the State may require the Contractor to deposit all Grant funds into a segregated account in an institution whose deposits are insured by the federal or state government. All interest earned from the deposit of Grant funds shall be used for allowable, Program purposes and accounted for to the State. All funds not expended within 90 days of receipt, or by June 30, 2016, as applicable, shall be returned to the State with accrued interest.
- E. The Contractor shall make a good faith effort to minimize the number of disbursement requests to the State by anticipating and requesting in advance the maximum amount of funds that can be expended within the (ninety) 90 day time frame.
- F. The Contractor shall inform the State within a reasonable amount of time in the event that expenditures related to an authorized project(s) are less than the total Grant award. The Contractor may expend the balance of Grant funds on additional capital assets projects, upon written State approval. Contractor shall provide the State with a letter of request that describes the additional project(s) to be funded.
- G. The Contractor shall immediately inform the State, no later than December 31, 2015, if the Contractor anticipates it will not be able to expend all Grant funds by June 30, 2016.
- H. The Contractor is responsible for maintaining records which fully disclose the activities funded by the Grant. Adequate documentation of each transaction shall be maintained to permit the determination, through an audit if requested by the State, of the accuracy of the records and the allowability of expenditures charged to Grant funds. If the allowability of expenditure cannot be determined because records or documentation are inadequate, the expenditure may be disallowed, and the State shall determine the reimbursement method for the amount disallowed. The State's determination of the allowability of any expense shall be final, absent fraud, mistake or arbitrariness.
- I. Funds will be disbursed upon receipt by the Department of documentation of a certificate of occupancy, final inspection, or other comparable local approval evidencing completion of the Eligible Units by which the applicant qualified for Program funding. All such documentation shall be subject to the approval of the Department. If the Department determines that any of the Eligible Units, which qualified the applicant for Program funding, were not completed, then the Grant will be reduced to an amount corresponding to the actual number of completed Eligible Units.

**EXHIBIT B**

- J. Any Grant funds remaining unexpended as of June 30, 2016, must be returned to the State with accrued interest. Checks shall be made payable to the Department of Housing and Community Development (HCD) and shall be mailed to the Department at the address below, no later than July 31, 2016.

Department of Housing and Community Development  
Accounting Division  
1800 3rd Street, Room 415  
P.O. Box 952053  
Sacramento, California 94252-2053

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

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

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.



15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

- 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
- 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

**EXHIBIT D**

**HRP PROGRAM GENERAL TERMS AND CONDITIONS**

**HRP Program Grant**

**1. Report Requirements**

During the term of this Agreement, the Contractor shall submit the following reports by the deadlines specified, or as otherwise required at the discretion of the State:

- A. The Contractor shall submit annual reports to the State thirty (30) days after December 31<sup>st</sup> of each year ("Annual Report"), during the term of this Agreement for as long as the Contractor has not expended all Grant funds. The Annual Report shall contain (1) the progress the Contractor has made in completing the approved projects partially or wholly funded by the Grant, including a description of the community benefit; (2) the amount of Grant funds drawn down and expended to date by the Contractor; and (3) a description of projects completed. The Contractor shall use the forms provided by the State made available at <http://www.hcd.ca.gov/hpd/hrpp>; and,
- B. Upon complete expenditure of the Grant funds, the Contractor shall submit a final report in a manner satisfactory to the State ("Final Report"). The Final Report shall be submitted to the State within 60 days of June 30, 2016, the date all funds must be expended. The Final Report shall contain (1) a description of the final capital assets constructed or purchased with the Grant funds; and, (2) the number of certificates of occupancy issued in relation to the number of building permits issued in the program year. The Contractor shall use the forms provided by the State made available at <http://www.hcd.ca.gov/hpd/hrpp>.

**2. State Contract Coordinator**

The state contract coordinator of this Agreement for the Department is the HRP Program Manager, Division of Housing Policy Development, or the Manager's designee ("State Contract Coordinator"). Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed first class to the State Contract Coordinator at the following address:

Department of Housing and Community Development  
Division of Housing Policy Development  
1800 3rd Street, Room 430  
P.O. Box 952053  
Sacramento, California 94252-2053  
Attention: HRP Program Manager

**3. Audit/Retention and Inspection of Records**

Contractor agrees that the Department or its delegatee will have the right to review, obtain, and copy all records pertaining to performance of this Agreement. Contractor agrees to provide the

## EXHIBIT D

Department or its delegatee with any relevant information requested and shall permit the Department or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with the California Public Contract Code Section 10115 et seq., the California Government Code Section 8546.7 and Title 2, California Code of Regulations, Section 1896.60 et seq. Contractor further agrees to maintain such records for a period of three (3) years after final payment under this Agreement. Contractor shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in the California Public Contract Code Section 10115.10.

#### 4. Special Conditions

The State reserves the right to add any special conditions to this Agreement it deems necessary to assure that the policy and goals of the Program are achieved.

#### 5. Prevailing Wages

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