

AGREEMENT FOR SERVICES # 161-S0711

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**THIS AGREEMENT** made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as “County” or “Grantee”) and El Dorado County Job One, a Corporation duly qualified to conduct business in the State of California, whose principal place of business is 4535 Missouri Flat Road, Suite 1A, Placerville, California 95667 (hereinafter referred to as “Consultant”);

**WITNESSETH**

**WHEREAS**, County has determined that it is necessary to obtain a Consultant to fulfill the obligations of the Microenterprise Assistance activities under the County’s Economic Development Block Grant as administered by the Human Services Department, Community Services Division; and

**WHEREAS**, Consultant has represented to County that it is specially trained, experienced, expert and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws; and

**WHEREAS**, County has determined that the provisions of these services provided by Consultant are in the public’s best interest and that these services, are more economically and feasibly performed by outside independent Consultants as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000;

**NOW, THEREFORE**, County and Consultant mutually agree as follows:

## **ARTICLE I**

**Scope of Services:** Consultant agrees to furnish personnel and services necessary for the delivery of training programs, workshops, technical assistance, deliver business forums, and business support to prospective entrepreneurs in our community, but not are limited to:

- A. Provide delivery of training programs, no less than 6 workshops, one-on-one technical assistance (when needed), and business support.

**Time for completion ten (10) months**

- B. Work with Program Operator of Business Assistance activity on content development of training classes for technical assistance workshops.

**Time for completion one (5) weeks**

- C. Work with County to develop and implement marketing campaign to identify and recruit participants for training classes and technical assistance.

**Time for completion (5) weeks**

- D. Work with County and Program Operator of Bsuiness Assistance Activity to deliver business forums

**Time for completion two (2) months**

- E. Support the County and Program Operator with federal overlay compliance

**Time for completion thirteen (13) months**

- F. Provide county with monthly status reports of fiscal/performance reporting

**Time for completion monthly and quarterly**

- G. Support County and Program Operator of Business Assistance activity with program monitoring and record keeping.

**Time for completion monthly through completion of contract**

## **ARTICLE II**

**Term:** This Agreement shall become effective when fully executed by both parties hereto and shall expire thirteen (13) months from the date of execution by the County. Time is of the essence in this Agreement.

## **ARTICLE III**

**Compensation for Services:** For services provided herein, County agrees to pay Consultant lump sum upon completion of each deliverable identified in Exhibit "B", marked "Cost Proposal", incorporated herein and made by reference a part hereof. Payment shall be made within thirty (30) days following County receipt and approval of itemized invoice(s) detailing services rendered. The total amount of this Agreement shall not exceed \$130,000.00.

#### **ARTICLE IV**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

#### **ARTICLE V**

**Consultant to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Consultant shall act as Consultant only to County and shall not act as Consultant to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Consultant's responsibilities to County during term hereof.

#### **ARTICLE VI**

**Assignment and Delegation:** Consultant is engaged by County for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County and the State.

#### **ARTICLE VII**

**Independent Consultant/Liability:** Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates and subConsultants, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Consultant shall be responsible for performing the work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees.

Consultant, and the agents and employees of Consultant, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

#### **ARTICLE VIII**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be cancelled in its entirety subject to payment for services performed prior to cancellation.

**ARTICLE IX**

**Female and Minority Goals:** The following goals and timetables for female utilization shall be included in all Federal and Federally-assisted construction contracts and subcontracts in excess of \$10,000. The goals are applicable to the Consultant’s aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or Federally-assisted construction contract or subcontract.

**AREA COVERED**

(Goals for females apply nationwide)

<u>Timetable</u>	<u>Goal</u>
From April 1,1981, until further notice	6.9%

Until further notice, the following goals for minority utilization in each construction craft and trade shall be included in all Federal or Federally-assisted construction contracts and subcontracts in excess of \$10,000 to be performed in the respective geographical areas. The goals are applicable to each nonexempt Consultant’s total on-site construction workforce, regardless of whether or not part of that workforce is performing work on a Federal, Federally-assisted, or non-Federally related project, contract, or subcontract.

Construction Consultants participating in an approved Hometown Plan (see 41 CFR 604.5) are required to comply with the goals of the Hometown Plan with regard to construction work they perform in the area covered by the Hometown Plan. With regard to all their other covered construction work, such Consultants are required to comply with the applicable SMSA or EA goal contained in this appendix.

**ECONOMIC AREAS**

<u>Area Covered</u>	<u>Goal Percent</u>
Sacramento Economic Area	
Placer County, Sacramento County, Yolo County	16.1%
Butte County, Colusa County, El Dorado County, Glenn County, Nevada County, Sierra County, Sutter County, Yuba County	14.3%

**ARTICLE X**

**Equal Opportunity Standard Contract Language/All Contracts and Subcontracts:**

1. The Civil Rights, HCD, and Age Discrimination Acts Assurances:

During the performance of this Agreement, the Grantee assure that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, or disability, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, Tide I of the Housing and Community Development Act of 1974, as amended, and the Age Discrimination Act of 1975, and all implementing regulations.

2. The Training, Employment and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance:

- a) The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for Work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- b) The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c) The Grantee will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advertising the said labor organization or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d) The Grantee will include these Section 3 clauses in every contract and subcontract for work in connection with the project and will, at the direction of the State, take appropriate action pursuant to the contract upon a finding that the Grantee or any Consultant or subConsultant is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135 and, will not let any contract unless the Grantee or Consultant or subConsultant has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- e) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of the Agreement shall be a condition of the Federal financial assistance provided to the project, binding upon the Grantee, its successors, and assigns. Failure to fulfill these requirements shall subject the Grantee, its Consultants and subConsultants, its successors, and assigns to those sanctions specified by the grant or contract through which Federal assistance is provided, and to such sanctions asarespecifedby24 CFR Part 135.

3. State Nondiscrimination Clause:

- a) During the performance of this contract, Consultant and its subConsultants shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age (over 40) or sex. Consultants and subConsultants shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Consultants and subConsultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7258.0 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. Consultant and its subConsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- b) This Consultant shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

“The Consultant hereby agrees to abide by the requirement of executive order 11246 and all implement regulations of the Department of Labor.”

## **ARTICLE XI**

### **Non-Discrimination:**

- A. During the performance of this Agreement, Consultant and its subConsultants 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 ADS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Consultant and subConsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subConsultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated there under (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. Consultant and its subConsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- B. Consultant shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

## **ARTICLE XII**

**Disputes:** Consultant shall continue with the responsibilities under this Agreement during any dispute.

## **ARTICLE XIII**

### **Default, Termination and Cancellation:**

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date on which the extension of time to cure expires. Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired.
- B. **Bankruptcy:** This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.

- C. Ceasing Performance: County may terminate this Agreement in the event Consultant ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part seven (7) calendar days upon written notice by County for any reason. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Consultant, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.
- E. Termination for Cause: The State may terminate this Agreement and be relieved of any payments should the Consultant fail to perform the requirements of this Agreement at the time and in the manner herein provided.

#### **ARTICLE XIV**

**Child Support Compliance Act:** If this Agreement is in excess of \$100,000, by executing this Agreement, Consultant acknowledges and agrees to the following:

- A. The Consultant 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 Consultant, 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.

#### **ARTICLE XV**

**Union Activities:** By signing this agreement Consultant hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this agreement and agrees to the following:

- A. Consultant will not assist promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
- B. No state funds received under this agreement will be used to assist, promote or deter, union organizing.
- C. Consultant will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.
- D. If Consultant incurs costs, or makes expenditures to assist, promote or deter, union organizing, Consultant will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Consultant shall provide those records to the Attorney General upon request.

## **ARTICLE XVI**

**Drug-Free Workplace Requirements:** Consultant shall comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and shall provide a drug-free workplace by taking the following actions:

- A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- B. Establish a Drug-Free Awareness Program to inform employees about: (1) the dangers of drug abuse in the workplace; (2) the Consultant's policy of maintaining a drug-free workplace; (3) any available counseling, rehabilitation and employee assistance programs; and (4) penalties that may be imposed upon employees for drug abuse violations.
- C. Every employee who works on the proposed contract will: (1) receive a copy of the Consultant's drug-free workplace policy statement; and (2) agree to abide by the terms of the Consultant's statement as a condition of employment under this agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Consultant may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Consultant has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Government Code section 8350 et seq.)

## **ARTICLE XVII**

**Doing Business with the State of California:** The following laws apply to persons or entities doing business with the State of California.

### **Conflict of Interest**

Consultant needs to be aware of the following provisions regarding current or former state employees. If Consultant has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

#### A. Current State Employees (Public Contracts Code section 10410):

1. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2. No officer or employee shall contract on his or her own behalf as an independent Consultant with any state agency to provide goods or services.

#### B. Former State Employees (Public Contracts Code section 10411):

1. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.



2. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.
- C. If Consultant violates any provisions of above paragraphs, such action by Consultant shall render this Agreement void. (Public Contracts Code. section 10420).

#### **ARTICLE XVIII**

**Labor Code/Workers' Compensation:** Consultant needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Consultant affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code section 3700)

#### **ARTICLE XIX**

**Americans With Disabilities Act:** Consultant assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

#### **ARTICLE XX**

**Consultant Name Change:** An amendment is required to change the Consultant's name as listed on this Agreement. Upon receipt of legal documentation the name change, the County and State will process the amendment.

#### **ARTICLE XXI**

##### **Corporate Qualifications to Do Business in California:**

- A. If Consultant is a corporation, the State may verify that the Consultant is currently qualified to do business in California in order to ensure that all obligations due to the State are fulfilled.
- B. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate Consultant performing within the State not be subject to the franchise tax.
- C. Both domestic and foreign corporations (those incorporated outside California) must be in good standing in order to be qualified to do business in California. If Consultant is a corporation, the State will determine whether Consultant is in good standing by contacting the Office of the Secretary of State.

#### **ARTICLE XXII**

**Resolution:** A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

## **ARTICLE XXIII**

**Air or Water Pollution Violation:** Under the State laws, the Consultant shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of the provisions of federal law relating to air or water pollution

## **ARTICLE XXIV**

**Payee Data Record Form Std. 204:** This form must be completed by all Consultants that are not another state agency or other government entity.

## **ARTICLE XXV**

**National Labor Relations Board Certification:** If Consultant is receiving federal funds under this Agreement, Consultant certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Consultant within the immediately preceding two-year period because of Consultant's failure to comply with an order of a Federal court, which orders Consultant to comply with an order of the National Labor Relations Board. (Not applicable to public entities.)

## **ARTICLE XXVI**

**Domestic Partners:** Commencing on July 1, 2004 Consultant certifies that it is in compliance with Public Contract Code section 10295.3 with regard to benefits for domestic partners. For any contracts executed or amended, bid packages advertised or made available, or sealed bids received on or after July 1 2004 and prior to January 1, 2007, a Consultant may require an employee to pay the costs of providing additional benefits that are offered to comply with PCC 10295.3.

## **ARTICLE XXVII**

**Federal Terms and Conditions:** Consultant and County agree to comply with all of the Federal Terms and Conditions included in Exhibit "A", marked "Federal Terms and Conditions, incorporated herein and made by reference a part hereof.

## **ARTICLE XXVIII**

### **Practical Guidance for complying with Section 3 Regulations:**

For Jurisdictions using CDBG funds to pay local staff to implement CDBG programs and projects:

If you receive a grant or have program income in excess of \$200,000 per year and are using it to do housing rehabilitation, housing construction, or public construction projects, and you are paying some of your local full time staff to run the CDBG programs, then you are responsible for doing Section 3 outreach and reporting. This means that your personnel policies should include language about outreach (notices using standard Section 3 contract language) and preferences which are set up for hiring Section 3 eligible persons to fill those full time (permanent, temporary, seasonal) positions when they become vacant. You will need to keep a Section 3 file and, when a CDBG funded position becomes available, then you must document your Section 3 outreach efforts and who submitted applications. Use the sample forms in this section of the chapter to document compliance.

If you were not able to hire a Section 3 person then you must document why. You will also report those hires on your annual Section 3 report.

For Jurisdictions using CDBG funds to pay Consultants and/or subConsultants on housing and public construction projects over \$100,000:

If you have a construction project which requires over \$200,000 in CDBG funds and has prime and subConsultant construction contracts which are at or above \$100,000, then you must include the standard. Section 3 language in the contract of each prime and subConsultant. Use forms in this section to document compliance.

Grantees will require prime Consultants must do outreach to and when possible give preference to local subConsultant who meets the Section 3 business definition. They must document those efforts and report how many Section 3 subConsultants/businesses they were able to hire. The grantee will then report those hires in their annual Section 3 report.

Grantee will require prime Consultants and those subConsultants. with contracts above \$100,000 to certify that they will or will not be hiring any new full time staff (permanent, temporary, seasonal) as part of completing the construction work. They shall also certify that they will or will not be providing training opportunities as part of completing the project. If the prime Consultant and subConsultants certify that they will not be doing any new hires or providing any employment training opportunities as part of the project then no further action is needed. If they certify that there will be new full time hires and/or employment training opportunities, then the grantee shall require the prime and subConsultant(s) to provide documentation of outreach efforts, preferences given, and number of new hires which qualify as Section 3 residents. If they were not able to meet the Section 3 goals then they should document why those goals were not met.

## **ARTICLE XXIX**

### **Audit/Retention and Inspection of Records:**

- A. The Grantee must have intact, auditable fiscal records at all times. If the Grantee is found to have missing audit reports from the State Controller's Office ("SCO") during the term of this agreement, the Grantee will be required to submit a plan to the State, with task deadlines, for submitting the audit to the SCO. If the deadlines are not met, the Grantee will be subject to termination of this agreement and disencumbrance of the funds awarded. The Grantee's audit completion plan is subject to prior review and approval by the State.
- B. Grantee agrees that the Department of Housing and Community Development (HCD) or its delegates will have the right to review, obtain, and copy all records pertaining to performance of the contract. Grantee agrees to provide HCD or its delegates with any relevant information requested and shall permit HCD or its delegates 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 PCC § 10115 et seq., GC § 8546.7 and 2 CCR § 1896.60 et seq. Grantee further agrees to maintain such records for a period of four (4) years after final payment under the contract.

Grantee shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in PCC § 10115.10.

- C. An expenditure which is not authorized by this agreement or which cannot be adequately documented shall be disallowed and must be reimbursed to the State or its designee by the Grantee. Expenditures for grant activities not described in Exhibit A shall be deemed authorized if the performance of such grant activity is approved in writing by the State prior to the commencement of such grant activity.

- D. Absent, fraud or mistake on the part of the State, the determination by the State of the allow ability of any expenditures shall be final.
- E. Pursuant to OMB Circular A-133, the Grantee shall perform an annual audit at the close of each fiscal year in which this agreement is in effect. Audit costs for this agreement are a general administration expense and are subject to the general administration expenditure limits associated with this agreement. The costs of the CDBG-related portion of the audit may be charged to the program in accordance with Public Law 98-502, OMB Circular.A-133 and Section 7122 of Title 25 California Code of Regulations.  
  
Notwithstanding the foregoing, the Department will not reimburse the Grantee for any audit cost incurred after the expiration date of this agreement.
- F. The audit shall be performed by a qualified State, local or independent auditor. The contract for audit shall include a clause which permits access by the State to the independent auditor's working papers.
- G. If there are audit findings, the Grantee must submit a detailed response to the State for each audit finding. The State will review the response and, if it agrees with the response, the audit process ends and the State will notify the Grantee in writing. If the State is not in agreement, the Grantee will be contacted in writing and told what corrective actions must be taken.. This action could include the repayment of disallowed costs or other remediation.
- H. The State shall not approve any expenditure for the audit prior to receiving an acceptable audit report.
- I. If so directed by the State upon termination of this agreement, the Grantee shall cause all records, accounts, documentation and all other materials relevant to the grant activity to be delivered to the State as depository.

#### **ARTICLE XXX**

**Consultant's Responsibilities:** Consultant acknowledges and agrees that it is responsible for compliance with all provisions delegated to it in addition to those items specified herein.

#### **ARTICLE XXXI**

**County's Responsibilities:** County acknowledges and agrees that it will monitor the scope of services and any and all activity pursuant to this Agreement in ensure conformity with its State contract.

#### **ARTICLE XXXII**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

COUNTY OF EL DORADO  
HUMAN SERVICES DEPARTMENT  
COMMUNITY SERVICES DIVISION  
3057 BRIW ROAD  
SUITE A  
PLACERVILLE, CA 95667  
ATTN: JOYCE ALDRICH, PROGRAM MANAGER

With a Carbon Copy to:

CHIEF ADMINISTRATIVE OFFICE  
PROCUREMENT AND CONTRACTS DIVISION  
330 FAIR LANE  
PLACERVILLE, CA 95667  
ATTN: BONNIE H. RICH, PURCHASING AGENT

Or to such other location as the County directs.

Notices to Consultant shall be addressed as follows:

EL DORADO COUNTY JOB ONE  
4535 MISSOURI FLAT ROAD  
SUITE 1A  
PLACERVILLE, CA 95667  
ATTN: KAREN ARNOLD, CHAIR JOB ONE

Or to such other location as the Consultant directs.

### **ARTICLE XXXIII**

**Indemnity:** The Consultant shall defend, indemnify and hold the County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorneys fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees and the public, or damage to property or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the Consultant's services, operations or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Consultant, subConsultant(s) and employee(s) or any of these, except for the sole or active negligence of the County, its officers and employees, or as expressly prescribed by statute. This duty of Consultant to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

The Consultant 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 Consultants, subConsultants, 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 the Consultant in the performance of this Agreement

### **ARTICLE XXXIV**

**Insurance:** Consultant shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager and documentation evidencing that Consultant maintains insurance that meets the following requirements:

- A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Consultant as required by law in the State of California.

- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Consultant in the performance of the Agreement.
- D. In the event Consultant is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000.00 per occurrence. For the purposes of this Agreement, professional liability is not required.
- E. Consultant shall furnish a certificate of insurance satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Consultant agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Consultant agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Consultant agrees that no work or services shall be performed prior to the giving of such approval. In the event the Consultant fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
  - 1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to County, and;
  - 2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all liability policies except worker's compensation and professional liability insurance policies.
- I. The Consultant's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either; the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.

- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Consultant's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for protection of the County.

#### **ARTICLE XXXV**

**Interest of Public Official:** No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Consultant under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

#### **ARTICLE XXXVI**

**Interest of Consultant:** Consultant covenants that Consultant presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed by Consultant.

#### **ARTICLE XXXVII**

**California Residency (Form 590):** All independent Consultants providing services to the County must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certify that they have a permanent place of business in California. The Consultant will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7%) percent of each payment made to the Consultant during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

#### **ARTICLE XXXVIII**

**Administrator:** The County Officer or employee with responsibility for administering this Agreement is Joyce Aldrich, Program Manager, Human Services Department, Social Services Division, or successor.

**ARTICLE XXXIV**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

**ARTICLE XXXV**

**Partial Invalidity:** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

**ARTICLE XXXVI**

**Venue:** Any dispute resolution action rising out of this Agreement, including, but not limited to, litigation, mediation or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California. Consultant waives any removal rights it might have under Code of Civil Procedure Section 394.

**ARTICLE XXXVII**

**Taxpayer Identification Number (Form W-9):** All independent Consultants or Corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

**ARTICLE XXXVIII**

**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

**Contract Administrator Concurrence:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Joyce Aldrich, Program Manager  
Human Services Department, Community Services Division

**Requesting Department Concurrence:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_

John Litwinovich, Director  
Human Services Department



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

**-- COUNTY OF EL DORADO --**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Chair  
Board of Supervisors  
"County"

Cindy Keck,  
Clerk of the Board of Supervisors

ATTEST: \_\_\_\_\_ Dated: \_\_\_\_\_

Deputy Clerk

**-- CONTRACTOR --**

Dated: \_\_\_\_\_

El Dorado County Job One,  
A California Corporation

By: \_\_\_\_\_

Karen Arnold, Chair  
"Consultant"

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Corporate Secretary

**Exhibit "A"**  
**To Agreement for Services #161-S0711**  
**Federal Terms and Conditions**

**1. Anti-Lobbying Certification**

The Grantee shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with this grant activity and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and no more than \$100,000 for such failure.

"The undersigned certifies, to the best of his or her knowledge or belief, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with 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;

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions."

**2. Bonus or Commission, Prohibition Against Payments of**

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

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

**3. Citizen Participation**

The Grantee is subject to the requirements concerning citizen participation contained in Federal regulations at 24 CFR 570.486, Local Government Requirements.

#### **4. Clean Air and Water Acts**

This agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

#### **5. Conflict of Interest of Certain Federal Officials**

No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

#### **6. Environmental Requirements**

The grantee shall comply with the provisions of the National Environmental Policy Act (NEPA) by following the procedures contained in 24 CFR Part 58.

#### **7. Equal Opportunity**

##### **A. The Civil Rights, Housing and Community Development and Age Discrimination Acts Assurances**

During the performance of this agreement, the Grantee assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, handicap, religion, familial status, or religious preference, under any grant activity funded by this agreement, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, the Age Discrimination Act of 1975, the Fair Housing Amendment Act of 1988, and all implementing regulations.

##### **B. Rehabilitation Act of 1973 and the "504 Coordinator"**

The grantee further agrees to implement the Rehabilitation Act of 1973, as amended, and its regulations, 24 CFR Part 8, including, but not limited to, for Grantees with 15 or more permanent full or part time employees, the local designation for a specific person charged with local enforcement of this Act, as the "504 Coordinator."

##### **C. The Training, Employment, and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance**

1) The grant activity to be performed under this agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u.

Recipients, Consultants and subConsultants shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents in the order of priority provided in 24 CFR 135.34(a)(2).

2) The parties to this Agreement will comply with the provisions of said Section 3 and regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this agreement. The parties to this agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

3) The Grantee will include these Section 3 clauses in every contract and subcontract for work in connection with the grant activity and will, at the direction of the State, take appropriate action pursuant to the contract or subcontract upon a finding that the Grantee or any Consultant or subConsultant is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135 and, will not let any contract unless the Grantee or Consultant or subConsultant has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

4) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this agreement shall be a condition of the Federal financial assistance provided to the grant activity, binding upon the Grantee, its successors, and assigns. Failure to fulfill these requirements shall subject the Grantee, its Consultants and subConsultants, its successors, and assigns to those sanctions specified by the agreement through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

D. Assurance of Compliance with Requirements Placed on Construction Contracts of \$10,000 or more

The grantee hereby agrees to place in every contract and subcontract for construction exceeding \$10,000 the Notice of Requirement for Affirmative Action to ensure Equal Employment Opportunity (Executive Order 11246), the Standard Equal Employment Opportunity, and the Construction Contract Specifications. The Grantee furthermore agrees to insert the appropriate Goals and Timetables issued by the U.S. Dept of Labor in such contracts and subcontracts.

**8. Flood Disaster Protection**

This agreement is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). No portion of the assistance provided under this agreement is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of said Act.

The use of any assistance provided under this agreement for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program shall be subject to the mandatory purchase of flood insurance requirements of Section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this agreement shall contain certain provisions. These provisions will apply if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the Nation Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq.

These provisions shall obligate the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(s) of the Flood Disaster Protection Act of 1973. Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this agreement.

**9. Labor Standards - Federal Labor Standards Provisions**

The Grantee shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of:

**Davis-Bacon Act ( USC 276a - 276a-5)** requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Department of Labor and area issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration, or repair contracts over \$2,000.

**Copeland “Anti-Kickback” Act (47 USC 276(c))** requires that workers be paid at least once a week without any deductions or rebates except permissible deductions.

**Contract Work Hours and Safety Standards Act - CWHSSA (40 USC 327-333)** requires that workers receive “overtime” compensation at a rate of 1-1/2 times their regular hourly wage after they have worked 40 hours in one week.

**Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3, and 5** are the regulations

#### **10. Procurement**

The Grantee shall comply with the procurement provisions in 24 CFR Part 85.36, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments.

#### **11. Program Income**

“Program Income” means gross income earned by the Grantee from grant-funded activities and is subject to CDBG regulatory requirements pursuant to 24 CFR 570.489(e), Program Administrative Requirements, and Program Income. These regulations include the requirement that the Grantee record receipt and expenditure of program income as part of the financial transactions of the grant activity.

Prior to closing out this agreement, the Department shall review the actual national objective and/or public benefit achievements of the Grantee. In the event that the national objective and/or public benefit requirements are not met, the Department may, in its sole discretion, impose any or all of the following remedies: recapture of part or all of the program income, reimbursement of part or all of the grant amount; and/or exclusion of the Grantee from further CDBG funding for a period of time to be determined by the State.

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

The provisions of the Uniform Relocation Act, as amended, 49 CFR Part 24, and Section 104(d) of the Housing and Community Development Act of 1974 shall be followed where any acquisition of real property is carried out by the Grantee and assisted in whole or in part by funds allocated by CDBG.

#### **13. Uniform Administrative Requirements**

The grantee shall comply with applicable uniform administrative requirements as described in 24 CFR §570.502, including cited sections of 24 CFR part 85.

#### **14. Lead-Based Paint Hazards**

Activities performed with assistance provided under this agreement are subject to the HUD Lead-Based Paint regulations contained in 24 CFR Part 35. Any grants or loans made by the Grantee with assistance provided under this agreement shall be made subject to the provisions for the elimination or mitigation of lead-based paint hazards under this Part. The Grantee shall be responsible for the notifications, inspections, and clearance certifications required under this Part.