

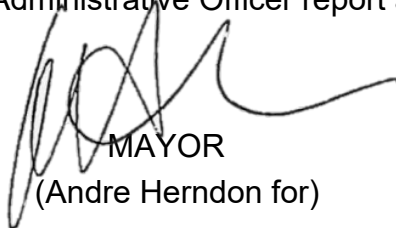
0130-02090-0004

T R A N S M I T T A L

TO The Council	DATE 12/06/2022	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT Citywide	

**Request for Authorization for 2022-23 California Certified
Local Government Grant Application, Agreement Execution,
and Award Acceptance in the Amount of \$44,000**

Transmitted for your consideration.
See the City Administrative Officer report attached.



MAYOR
(Andre Herndon for)

MWS/YC/JVW:HK:15230024

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: December 2, 2022

CAO File No. 0130-02090-0004

Council File No.

Council District: Citywide

To: The Mayor

From: *for* Matthew W. Szabo, City Administrative Officer 

Reference: Department of City Planning transmittal dated August 9, 2022; Received by the City Administrative Officer on September 26, 2022. Additional information received through November 29, 2022.

Subject: **REQUEST FOR AUTHORIZATION FOR 2022-23 CALIFORNIA CERTIFIED LOCAL GOVERNMENT GRANT APPLICATION, AGREEMENT EXECUTION, AND AWARD ACCEPTANCE IN THE AMOUNT OF \$44,000**

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Authorize the Director of Planning, or designee, to:
 - a. Retroactively apply for a Certified Local Government (CLG) grant from the California Office of Historic Preservation (CalOHP) to create a framework and strategy for the development of an Indigenous Peoples Historic Context;
 - b. Accept a CLG grant from and execute a grant agreement with CalOHP, in the amount of \$44,000 for a one-year term retroactively effective October 1, 2022 through September 30, 2023, to create a framework and strategy for developing an Indigenous Peoples Historic Context, in substantial conformance with the attached grant project agreements (Attachments 1 and 2) as approved by the City Attorney;
 - c. Submit grant reimbursement requests to CalOHP and deposit grant receipts in the City Planning Grants Trust Fund No. 46Y, Dept. 68;
 - d. Prepare Controller instructions and make necessary technical adjustments consistent with the Mayor and Council action on the matter, subject to the approval of the City Administrative Officer, and request the Controller to implement these instructions;
2. Authorize the Controller to set up a grant receivable of \$44,000 and establish an appropriation account with the City Planning Grants Trust Fund No. 46Y, Dept. 68 for the disbursement of funds for the project.

SUMMARY

The Department of City Planning (DCP) requests retroactive authority to apply for and accept a Certified Local Government (CLG) grant award from the California Office of Historic Preservation (CalOHP) in the amount of \$44,000 for a one-year term retroactively effective from October 1, 2022 through September 30, 2023. The CLG grant award of \$44,000 consists of consultant services in the amount of \$34,000 and a stipend for an advisory council in the amount of \$10,000 for the development of a framework and strategy to approach the Indigenous Peoples Historic Context (IPHC), as part of the citywide Historic Context Statement to be used for public and private historic resources surveys in Los Angeles. There is a local matching fund requirement equal to 40 percent of the total project costs at a minimum, and existing DCP administrative salary and benefit costs in the amount of \$29,334 will be used to fulfill the match requirements.

In May 2022, the DCP submitted an application to CalOHP for the CLG grant program, which funds projects that promote the identification, evaluation, and preservation of historic resources and that facilitate the incorporation of historic preservation planning into general land-use planning and decision-making. On July 14, 2022, the DCP was awarded the grant in the amount of \$40,000 and a one-year grant term. A primary draft agreement between the DCP and CalOHP is included herein (Attachment 1). Subsequent to the release of its report, the DCP was awarded an additional \$4,000 in CLG grant funds for the same one-year term and consultant services related to the IPHC project. The DCP received a secondary draft grant agreement from CalOHP (Attachment 2) on October 20, 2022 that reflects the additional grant award in the amount of \$4,000. Both draft agreements have been reviewed and approved by the City Attorney as to form and legality.

The proposed CLG grant work will be completed by: 1) existing DCP Office of Historic Resources staff, 2) a consultant to be selected from an existing pre-qualified on-call list of consultants for Historic Preservation, and 3) an advisory council of key tribal partners to be identified as part of the consultant's scope of work and will provide direct community, historical, or academic feedback on the context statement. Grant funding will be reimbursed to the DCP for the costs of the consultant (\$34,000) and the advisory council (\$10,000), which will be split among the advisory council members at a cost of \$700-1,000 per member. The DCP will use 2022-23 Adopted Budget funds to support the grant work pending grant fund reimbursements and the DCP staff costs to fulfill the CLG grant's local matching funds requirement.

The DCP reports that the IPHC is in direct support of the Conservation Element of the City's General Plan, the City's Cultural Heritage Ordinance, the Historic Preservation Overlay Zone Ordinance, and the California Statewide Historic Preservation Plan. Additional information about the IPHC project can be found in the DCP transmittal (Attachment 3). The IPHC is estimated to require a total project cost of \$140,000 and two years to complete because it requires a more complex and nuanced process in comparison to other previously completed ethnic-cultural contexts. The estimated total project cost of \$140,000 was amended by the DCP subsequent to the release of its report in light of possible future grant awards and match requirements in 2023-24. The CLG grant award of \$44,000 and the City's matching funds obligation of \$29,334 will cover the full costs of the first phase of the IPHC project. The second phase will encompass the development of the IPHC as informed by the work from the first phase and require additional

funding at an estimated cost of \$66,666. The DCP reports that it will apply for additional funding in the 2023-24 CLG grant cycle, pursue complementary state or federal grants, and collaborate with the Mayor and Council, if necessary, to fund the second phase.

FISCAL IMPACT STATEMENT

There is no additional impact to the General Fund from application and acceptance of the \$44,000 grant award. Funding for the cost of City staff to complete the grant project and to pay for consulting services prior to reimbursement from the grantor is available through existing appropriations in the 2022-23 Department of City Planning budget.

FINANCIAL POLICIES STATEMENT

The recommendations of this report comply with the City's Financial Policies in that the recommended grant project will be fully supported by existing budgetary appropriations and grant funds.

MWS/YC/JVW:HK:15230024

Attachment 1: Certified Local Government Grant Project Agreement for the \$40,000 Award
Attachment 2: Certified Local Government Grant Project Agreement for the \$4,000 Award
Attachment 3: Department of City Planning transmittal dated August 9, 2022

**NATIONAL HISTORIC PRESERVATION ACT OF 1966
HISTORICAL RESOURCES PRESERVATION PROJECT AGREEMENT**

SUBGRANT PROGRAM

2022 HISTORIC PRESERVATION FUND GRANT

PARTICIPANT

CITY OF LOS ANGELES

PROJECT PERIOD

OCTOBER 1, 2022- SEPTEMBER 30, 2023

PROJECT NUMBER

C08422001

PROJECT SCOPE

The City of Los Angeles, hereafter the Participant, will contract with a consultant team that meets the Secretary of the Interior's Professional Qualifications for history and/or archeology as set forth at 36 CFR part 61, Appendix A, as appropriate, and that preferably includes Indigenous Peoples representation and experience in historic preservation, community engagement, tribal consultation, historic and prehistoric archeology. This team will create a framework and strategy on how to approach the development of an Indigenous Peoples Historic Context that would become a part of the citywide historic context statement.

Specifically, the proposed project activities will:

- Develop a framework for how to approach completing an Indigenous Peoples Context
- Be the first step in the development of a new context to be added to the citywide context statement
- Identify key stakeholders that can identify resources, some of which may be intangible or no longer extant

All work shall be performed, and deliverables produced in accordance with the Secretary of the Interior's Standards for Preservation Planning, Identification, Evaluation and Registration when such standards are applicable.

PROGRESS REPORTS:

Participant shall submit to the State Office of Historic Preservation (OHP) regular progress reports, with specific deliverables in accordance with the following schedule.

Progress reports will include any deliverables specified in the agreement, detail the work accomplished to date, and identify and discuss any problems or issues that have the potential to adversely affect the scope or progress of the project.

OHP may ask for additional progress reports or drafts of work papers during the project period.

OHP reserves the right to withhold disbursements of up to half the grant amount until the final products have been determined to meet the Secretary of the Interior's Standards. Participant may submit billings for partial payment as the work progresses.

PROJECT FUNDING

Total costs supported by Federal grant P22AF01152 (CFDA 15.904) under the National Historic Preservation Act of 1966: **Forty thousand dollars and no cents (\$40,000.00).**

Minimum contribution of the Participant to match Federal grant funds:
Twenty-six thousand six hundred and sixty-seven dollars and no cents (\$26,667.00).

AGENCY	PARTICIPANT
STATE DEPARTMENT OF PARKS AND RECREATION	CITY OF LOS ANGELES
BY	BY
TITLE	TITLE
STATE HISTORIC PRESERVATION OFFICER	
DATE	DATE

REPORT SCHEDULE

14 November 2022: On or before this date, Participant shall submit a progress report which will provides evidence that the following has been completed:

- Participant has submitted consultant scope to OHP for review and comment
- Released bid letter
- Consultant has been selected
- Convened a kick -off meeting.

30 January 2023: On or before this date Participant shall submit a progress report which will provides evidence that the following has been completed:

- A contract has been executed
- A Summary Report for progress on background and research to date.

8 May 2023: On or before this date Participant shall submit a progress report which provides evidence that the following has been completed:

- Development of Community Engagement Plan
- Initiated community engagement meetings
- A Summary Report for the completion of background and research; and
- The commencement of HistoricPlaces LA Community Engagement Plan.

7 August 2023: On or before this date Participant shall submit a progress report which provides evidence that the following has been completed:

- Concluded community engagement meetings
- Summary of Stakeholder Engagement
- Initiated compilation of historic resources list
- Initiated context outline and work plan

11 September 2023: On or before this date Participant shall submit a progress report which provides evidence that the following has been completed:

- Completed preliminary historic resources list and known resources list
- Completed context outline
- Completed work plan

30 September 2023: On or before this date Participant shall submit all final products and a final performance report that summarizes the outcome of the project efforts comparing actual accomplishment to planned objectives, a discussion of lessons learned, explain how project data will be incorporated into local planning and preservation activities.

7 October 2023: On or before this date Participant shall submit the final Request for Reimbursement (DPR 417), with all claims for project costs incurred prior to the end of the project period (30 September 2023).

FINAL PRODUCTS, TO BE SUBMITTED ELECTRONICALLY, WILL INCLUDE:

- Final Performance Report (referenced above)
- Background and research summary, including a list of key collaborators and stakeholders
- Community Engagement Plan and Meetings Strategy report
- Summary of Stakeholder Engagement
- Potential historic resources and known resources list
- Context outline and work plan for completion of the context statement.

The attached General and Special Provisions (12 pages) are incorporated and made a part hereof. Additionally, the budget as submitted in the grant application, with revisions if approved by OHP, is incorporated by reference and made a part hereof.

GENERAL PROVISIONS

I. GENERAL

A. Performance

1. The Participant agrees to complete the project in accordance with this agreement.
2. The Participant shall perform all work and supply material necessary to complete the project described in the paragraph entitled "Project Scope:" on p.1 of this agreement within the period specified. Failure of the Participant to render satisfactory progress or to complete this or any other project which is subject to federal assistance under this program to the satisfaction of the OHP may be cause for suspension of all obligations of Interior and the State of California (State) under this agreement.
3. However, failure of the Participant to comply with the terms of this agreement shall not be cause for the suspension of all such obligations if, in the judgement of the OHP, such failure was due to no fault of the Participant. In such case, any amount required to settle at minimum costs any irrevocable obligations properly incurred shall be eligible for assistance under this agreement.

B. Cost Sharing/Matching Requirement.

1. At least 40 percent non-Federal cost-share/match is required for costs incurred under this Agreement. A minimum of 40 percent in eligible non-Federal cost share/match as identified on the cover page of this agreement, that is allowable and properly documented, must be expended for work approved under Scope of Work during the Period of Performance in addition to the Federal grant share.
2. Non-monetary contribution may constitute part or all of the Participant's match. Valuation of such contribution shall be set forth by the OHP.
3. Failure to expend the required non-Federal matching share will result in the disallowance of costs reimbursed, and/or the deobligation of remaining unexpended funds.
4. Non-Federal cost share or match must meet the same requirements as the Federal share.
5. The OHP shall not pay federal funds hereunder if the Participant has used financial assistance under any other federal program or activity (not including federal revenue sharing funds, community block grants, and any other federal funds allowable as match) as a match on the project.

C. Agreement Amendment. This agreement may be amended only by agreement in writing executed by both of the parties hereto.

D. Agreement Termination

1. The Participant may, upon written notice to the OHP, unilaterally terminate this agreement at any time prior to the commencement of the project.
2. The OHP may, upon written notice to the Participant, unilaterally terminate this agreement at any time prior to the commencement of the project.
3. The project shall be deemed commenced when the Participant makes any expenditure or incurs any obligations with respect to the project.
4. After the project commences, the Participant and the OHP may terminate the agreement by mutual consent, in which case they shall negotiate termination conditions.

E. Non-Compliance. If the Participant materially fails to comply with the terms of the agreement, the OHP shall provide written notice of non-compliance, which states the nature of the deficiency. If the Participant is still not in compliance in thirty (30) days after receipt of the notice, the OHP may in addition to other remedies: (1) withhold cash payments until deficiency is removed; (2) terminate the agreement and make no further payments hereunder; (3) disallow costs; and (4) disqualify the Participant from further subgrants.

- F. **Indemnification.** The Participant hereby waives all claims and recourse against the State including the right to contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incident to this agreement, except claims arising from the concurrent or sole negligence of the State, its officers, agents, and employees. The Participant shall indemnify the State and its officers, agents, and employees against and hold the same free and harmless from any and all claims, demands, damages, losses, costs, and/or expenses of liability due to, or arising out of, either in whole or in part, whether directly or indirectly, the organization, development, construction, operation, or maintenance of the project. Participant shall waive and indemnify State only in proportion to and to the extent that such claims, damages, losses, costs, and/or expenses of indemnification are caused by or result from the negligent or intentional acts or omission of Participant, its officers, agents, or employees.
- G. **Severability.** This agreement shall be governed by the laws of the State of California. If any provision of the agreement, including without limitation these General Conditions shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any other way be affected or impaired.
- H. **Survival.** Any and all provisions which, by themselves or their nature, are reasonably expected to be performed after the expiration or termination of this Agreement shall survive and be enforceable after the expiration or termination of this Agreement. Any and all liabilities, actual or contingent, which have arisen during the term of and in connection with this Agreement shall survive expiration or termination of this Agreement.
- I. **Partial Invalidity.** If any provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such provision to the parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- J. **Captions and Headings.** The captions, headings, article numbers and paragraph numbers appearing in this Agreement are inserted only as a matter of convenience and in no way shall be construed as defining or limiting the scope or intent of the provision of this Agreement nor in any way affecting this Agreement.

II. PROJECT EXECUTION

- A. **Standards.** The Participant shall carry out its work in accordance with the "Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation", including standards for planning, identification, evaluation, registration, historical documentation, architectural and engineering documentation, archaeological documentation, historic preservation projects, and professional qualifications, as published in the Federal Register, September 29, 1983 (Vol. 48, No. 190), pp. 44716 et seq..
- B. **Qualifications.** If the project scope requires research in history, architectural history, or archeology, the Participant shall ensure that the principal investigator meets the applicable Secretary of the Interior's professional qualifications standards. If the project scope requires architectural plans, the Participant shall ensure that the architect producing those plans meets the applicable Secretary of the Interior's professional qualifications standards. If the project scope requires an expert practitioner in another field, the Participant shall ensure that such expert meets standards of education and experience similar to those of the Secretary of the Interior's professional qualifications standards.
- C. **OHP Review.**

1. After selection of an employee or contractor to perform professional work outlined in the previous paragraph, but before making any financial commitment to that person, the Participant shall submit the person's resume to the OHP for review. The OHP shall either approve or disapprove use of the person on the project within twenty (20) working days after receipt of the resume. The Participant may consider failure of the OHP to respond within the period to constitute approval.
2. When requested to do so by the OHP, the Participant shall make available to the OHP draft reports, studies, plans, drawings, or other preliminary documents prepared during the project. The Participants shall permit periodic site visits by the OHP to ensure that work is progressing on scheduled and according to applicable instructions and standards.

D. **Reporting.**

1. As outlined in this agreement, or date approved by the OHP, the Participant shall furnish to the OHP all final work products mentioned in the project scope and elsewhere in this agreement.
2. Participant shall submit progress reports and interim work products on the dates indicated in this agreement. Progress reports shall be in such form and contain such information as the OHP instructs.
3. The OHP shall not be obligated to provide federal funds for work products that, in the opinion of the OHP, do not conform to the terms of this agreement or to the applicable Secretary of the Interior's Standards.
4. As outlined in this agreement, the Participant shall furnish to the OHP a final performance report, acceptable to the OHP, which compares actual accomplishments to planned objectives and, if appropriate, gives reasons that the objectives were not met as planned. The OHP shall provide further instructions for form the form and content of the final report.

III. **FINANCIAL ADMINISTRATION**

- A. **Financial Management.** The Participant shall use a financial management system that: permits the preparation of financial reports required herein, permits the preparation of financial reports required herein, provides an accounting of funds expended on the project, and follows the standards set forth by the Office of Management and Budget Circulars referenced herein. The Participant shall expend funds only on allowable costs as set forth in the budget established in the approved project notification.
- B. **Determination of Value of Goods and Services.** Goods in the form of equipment, whether owned, purchased, leased, or donated, will be valued on a use basis of actual costs of operation or of purchase or lease or prevailing costs of goods if donated. Residual market value of purchased equipment shall be credited to project costs upon completion. Goods in the form of supplies and material will be valued at actual direct costs to Participant or, if donated, according to the prevailing costs in the marketplace. Services will be valued in the actual amounts of salaries, wages, and direct overhead costs expended on the project.
- C. **Volunteer Services.**
 1. Volunteer services will be valued for contribution purposes at the rates paid for similar technical skills and work in other activities. Specific procedures for the Participant in establishing the value of in-kind contributions from non-Federal third parties are set forth below:
 2. Valuation of Volunteer Services: Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteered service maybe counted as cost sharing or matching if the service is an integral and necessary part of an approved program.
 3. Rates for Volunteer Services: Rates for volunteers should be consistent with those paid for similar work in other activities of state and local government. In those instances in which the

required skills are not found in the Participant's organization, rates should be consistent with those paid for similar work in the 15 labor markets in which the Participant competes for the kind of services involved. Volunteers with no historic preservation education or experience may claim only the minimum wage rate.

4. **Volunteers Employed by Other Organizations:** When an employer, other than the Grantee, furnishes the services of an employee, these services shall be valued at the employee's regular rate of any (exclusive of fringe benefits and overhead costs), provided these services are in the same skill for which the employee is normally paid. This rate shall not exceed the maximum daily rate of compensation for a GS-18 position in the federal civil service, as established by law.

D. Billing.

1. Taking into account a four-to-six-week delay between the time a payment request is submitted to the OHP and the time the OHP provides the requested federal funds, the Participant shall submit its payment requests so as to minimize the time elapsing between receipt and disbursement of funds.
2. The Participant shall have sufficient working capital to ensure that the project progresses on schedule even though payments from the OHP are unexpectedly delayed.
3. When seeking reimbursements, the Participant shall base its billings upon financial records for both the federal and nonfederal shares of project costs which are supported by appropriate documentation. All reimbursement requests shall be accompanied by copies of timesheets, cancelled checks, receipts, etc., for OHP's verification before payment.
4. The Participant shall submit billings during the project period for this agreement. The final billing statement with documentation sufficient for audit dated prior to end of the contract period, shall be submitted with the Final Report as described in this agreement.
5. Participant may also submit supplemental billing statements during the project period with progress reports but must include an itemization of expenditures or receipts or timesheets of work completed.
6. The Participant shall submit billings on the billing statement form (DPR 417) prescribed by the OHP. The OHP need not make payment on billings submitted in other formats. The Participant shall submit billings in duplicate, each with an original signature, to: Office of Historic Preservation, Department of Parks and Recreation, ATTN: Fiscal and Grants Coordinator, 1725 23rd Street, Suite 100, Sacramento CA 95816. The Participant shall ensure that the billing form bears the signature of the Participant's project representative.
7. After reviewing each billing for accuracy and appropriateness, the OHP shall pay the least of the following: (a) sixty percent of the amount of the total project costs incurred during the billing period shown on the billing; (b) the amount of cash outlays made during the billing period as shown on the billing; and (c) the amount of federal grant funds available for support of the project as shown in the project funding section of this agreement.
8. The OHP will not reimburse more than ninety (90%) percent of allocated grant funds until the OHP has verified completion of the project, and if necessary, until an audit approval has been received by the OHP for the Audits Section of the Department of Parks and Recreation.

E. Approved Indirect Rate. The federally negotiated indirect rate plus administrative costs to be applied against this agreement shall not by statute 54 U.S.C. 302902, commonly known as Section 102(e) of the NHPA, exceed 25 percent of the total project cost. Indirect costs will not be allowable charges against this agreement unless specifically included as a line item in the approved budget incorporated into this agreement. If indirect costs are allowable charges, a copy of the Participant's approved negotiated indirect rate shall be provided to the OHP.

F. Pre-Award Incurrence of Costs. The Participant shall be entitled to costs incurred on or after Start date. In accordance with 2 CFR 200.458, such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the

written approval of the Awarding agency. Pre-award costs shall only be applied to the non-Federal cost share and are not eligible for reimbursement.

IV. CHANGES

- A. **Budget.** The Participant and OHP understand that the Participant is permitted to re-budget within the approved direct cost budget to meet unanticipated requirements and may make program changes to the project.
- B. **OHP Approval.** Notwithstanding the provisions of the foregoing paragraph, the Participant shall obtain from the OHP prior approval for: (a) any substantive revision of the scope, objectives, or budget of the project; (b) extension of the need for federal funds; (c) changes in key persons, including all persons filling positions for which the incumbent must meet the Secretary of the Interior's professional qualifications standards; (d) additional contracts or hiring to perform activities that are central to the project; and (e) new or revised performance or reporting milestones. The Participant shall make requests for such changes in writing. The OHP shall approve or disapprove in writing. If appropriate, the Participant and the OHP shall amend this agreement to include approved changes.

V. REPORTS AND RECORDS

- A. **General.** All Participant financial and programmatic records, supporting documents, statistical records, and other grants-related records shall be maintained and available for access in accordance with 2 CFR 200-200.337 and the Historic Preservation Fund Grants Manual.
- B. **Service Records.** Records of personal services contributions, whether paid or volunteer, shall include timesheets bearing the signature of the person whose time is contributed and of the supervisor verifying that the record is accurate. "Personnel Activity Reports" as specified in OMB Circular A-21 and its successors shall be acceptable as documentation of time spent on this project by "professional" and "professorial" staff. Volunteer records shall show the actual hours worked, the specific duties performed, and the basis for determining the rate of contribution. These records shall be included with the audit material. The Participant shall keep such records, maps, and reports as the OHP and Interior prescribe, including records that fully disclose the dispositions by the Participant of federal grant funds, total cost of the project, the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.
- C. **Financial Records.** During its regular office hours, the Participant shall make financial records available to the OHP, Interior, the Comptroller General of the United States, or any of their duly authorized representatives for the purpose of inspection, copying, and audit. The Participant shall provide copies of such records to the OHP if requested to do so by the OHP and shall retain such records for three years following project termination. Project records shall be retained by Participant for three years following project completion or longer until notification that the Federal audit covering the project has been closed.
- D. **Single Audit Act.** If a local government, the Participant shall comply with the Single Audit Act of 1984, and furnish the OHP with a copy of the audit report within thirty (30) days after issuance. If a university or nonprofit organization, the Participant shall comply with the audit requirements of OMB Circular A-133. The Participant shall reimburse the OHP for costs disallowed during an audit.
- E. **Publications.** In regard to all copyrightable material, which are produced as a deliverable under this project, including but not limited to books reports, plans, photographs, drawings, films,

recordings, videotapes, and computer programs, which are produced as part or result of this project, the Participant must grant the United States of America a royalty-free non-exclusive and irrevocable license to publish, reproduce and use, and dispose of in any manner and for any purpose without limitation, and to authorize or ratify publication, reproduction or use of others, of all copyrightable material first produced or composed under this Agreement by the Participant, its employees or any individual or concern specifically employed or assigned to originate and prepare such material.

1. Any publications resulting from the project shall contain the following statements: "The activity which is the subject of this (type of publication) has been financed in part with Federal funds from the National Park Service, Department of the Interior, through the California Office of Historic Preservation. However, the contents and opinions do not necessarily reflect the views or policies of the Department of the Interior or the California Office of Historic Preservation, nor does mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior or the California Office of Historic Preservation. Regulations of the U.S. Department of the Interior strictly prohibit unlawful discrimination in departmental Federally-assisted programs on the basis of race, color, sex, age, disability, or national origin. Any person who believes he or she has been discriminated against in any program, activity, or facility operated by a recipient of Federal assistance should write to: Director, Equal Opportunity Program, U.S. Department of the Interior, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127
2. The Participant shall provide three copies of all publications to the OHP no later than at the end of the project period.

VI. OTHER REQUIREMENTS

- A. **OMB Circulars and Other Regulations.** The following Federal Regulations are incorporated by reference into this Agreement (full text can be found at <http://www.ecfr.gov>):
1. **Administrative Requirements:**
 - a. 2 CFR 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"
 2. **Determination of Allowable Costs:**
 - a. 2 CFR 200, Subpart E, "Cost Principles"
 3. **Audit Requirements:**
 - a. 2 CFR 200, Subpart F, "Audit Requirements"
 4. **Code of Federal Regulations/Regulatory Requirements:**
 - a. 2 CFR 182 and 1401, "Government-wide Requirements for a Drug-Free Workplace"
 - b. 2 CFR 180 and 1400, "Non-Procurement Debarment and Suspension" (previously located at 43 CFR, 42, "Government wide Debarment and Suspension (NonProcurement)")
 - c. 43 CFR 18, "New Restrictions on Lobbying"
 - d. 2 CFR 175, "Trafficking Victims Protections Act of 2000"
 - e. FAR Clause 52.203-12, Paragraphs (a) and (b), "Limitation on Payments to Influence Certain Federal Transactions"
 - f. 2 CFR 25, "System for Award Management (www.SAM.gov) and Data Universal Numbering System (DUNS)"
 - g. 2 CFR 170, "Reporting Subawards and Executive Compensation" or FFATA (Refer to XII.B.11)
- B. **Non-Discrimination.** All activities pursuant to this Agreement shall be in compliance with the requirements of Executive Order 11246, as amended; Title VI of the Civil Rights Act of 1964, as amended, (78 Stat. 252; 42 U.S.C. §2000d et seq.); Title V. Section 504 of the Rehabilitation Act of 1973, as amended, (87 Stat. 394; 29 U.S.C. §794); the Age Discrimination Act of 1975 (89 Stat. 728; 42 U.S.C. §6101 et seq.); and with all other federal laws and regulations prohibiting discrimination on grounds of race, color, sexual orientation, national origin, disabilities religion, age, or sex.

- C. **Lobbying Prohibition.** 18 U.S.C. §1913, Lobbying with Appropriated Moneys, as amended by Public Law 107-273, Nov. 2, 2002. No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Members or official, at his request, or to Congress or such official, through the proper official channels, requests for legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere, with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violation of section 1352(a) title 31. In addition to the above, the related restrictions on the use of appropriated funds found in Div. F, §402 of the Omnibus Appropriations Act of 2008(P.L. 110-161) also apply.
- D. **Anti-Deficiency Act.** Pursuant to 31 U.S.C. §1341 nothing contained in this Agreement shall be construed as binding the NPS to expend in any one fiscal year any sum in excess of appropriations made by Congress, for the purposes of this Agreement for that fiscal year, or other obligation for the further expenditure of money in excess of such appropriations.
- E. **Minority Business Enterprise Development.** Pursuant to Executive Order 12432 it is national policy to award a fair share of contracts to small and minority firms. NPS is strongly committed to the objectives of this policy and encourages all recipients of its Grant Agreements to take affirmative steps to ensure such fairness by ensuring procurement procedures are carried out in accordance with the Executive Order.
- F. **Assignment.** No part of this Agreement shall be assigned to any other party without prior written approval of the OHP and the Assignee.
- G. **Member of Congress.** Pursuant of 41 U.S.C. §22. No Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or adopted by or on behalf of the United States, or to any benefit to arise thereupon.
- H. **Agency.** The Participant is not an agent or representative of the United States, the Department of the Interior, NPS, or the State, nor will the Participant represent its self as such to third parties. NPS and State employees are not agents of the Participant and will not act on behalf of the Participant.
- I. **Non-Exclusive Agreement.** This Agreement in no way restricts the Participant or OHP from entering into similar agreements or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.
- J. **No Employment Relationship.** This Agreement is not intended to and shall not be construed to create an employment relationship between NPS or OHP and Participant or its representatives. No representative of Participant shall perform any function or make any decision properly reserved by law or policy to the Federal government.
- K. **No Third-Party Right.** This Agreement creates enforceable obligations between NPS, OHP and Participant. Except as expressly provided herein, it is not intended nor shall it be construed to

create any right of enforcement by or any duties or obligation in favor of persons or entities not a party to this Agreement.

- L. **Foreign Travel.** The Participant shall comply with the provisions of the Fly American Act (49 U.S.C. 40118). The implementing regulations of the Fly American Act are found at 41 CFR 301-10.131 through 301-10.143.

M. **Public Information and Endorsements**

1. Participant shall not publicize or otherwise circulate promotional material (such as advertisement, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications) which states or implies governmental, Departmental, bureau, or government employee endorsement of a business, product, service, or position which the Participant represents. No release of information relating to this award may state or imply that the Government approves of the Participant's work product to be superior to other or services.
2. Participant must provide a digital copy of any public information releases concerning this award that refer to the Department of the Interior, National Park Service, OHP or Historic Preservation Fund. Specific text, layout photographs, etc. of the proposed release may be submitted for prior approval.
3. As stipulated in 36 CFR 800, public views and comments regarding all Federally-funded undertaking on historic properties must be sought and considered by the authorizing Federal agency. Therefore, the grantee is required to post a press release regarding the undertaking under this grant in on or more major newspapers or news sources that cover the area affected by the project within 30 days of receiving the signed grant agreement. A copy of the posted release must be submitted to NPS within 30 days of the posting.
4. The grantee must transmit notice of any public ceremonies planned to publicize the project or its results in a timely enough manner so that NPS, Department of the Interior, Congressional or other Federal officials can attend if desired.

- N. **Publications of Results of Studies.** No party will unilaterally publish a joint publication without consulting the other party. This restriction does not apply to popular publications of previously published technical matter. Publications pursuant to this Agreement may be produced independently or in collaboration with other; however, in all cases proper credit will be given to the efforts of those parties contribution to the publication. In the event no agreement is reached concerning the manner of publication or interpretation of results, either party may publish data after due notice and submission of the proposed manuscripts to the other. In such instances, the party publishing the data will give due credit to the cooperation but assume full responsibility for any statements on which there is a difference of opinion.

O. **Audit Requirements**

1. Non-Federal entities that expend \$750,000 or more during a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Amendments of 1996 (31 U.S.C. 7501-7507) and 2 CFR 200, Subpart F.
2. Non-federal entities that expend less than \$750,000 for a fiscal year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).
3. Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. Additional audit requirements applicable to this agreement are found at 2 CFR 200, Subpart F, as applicable. Additional information on single audits is available from the Federal Audit Clearinghouse at <https://harvester.census.gov/facweb/Default.aspx>.

- P. **Procurement Procedures.** A full description of procurement standards can be found in 2 CFR 200.317-200.326.
- Q. **Prohibition on Text Messaging and Using Electronic Equipment Supplied by the Government while Driving.** Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, was signed by President Barack Obama on October 1, 2009. This Executive Order introduces a Federal Government-wide prohibition on the use of the text messaging while driving on official business or while using Government-supplied equipment. Additional guidance enforcing the ban will be issued at a later date. In the meantime, please adopt and enforce policies that immediately ban text messaging while driving company-owned or -rented vehicles, government-owned, or leased vehicles, or while driving privately owned vehicles when on official government business or when performing any work for or on behalf of the government.
- R. **Seat Belt Provision.** The Participant is encouraged to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented or personally owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.
- S. **Participant Employee Whistleblower Rights and Requirement to Inform Employees of Whistle-blower Rights.**
1. This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistle-blower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act of Fiscal Year 2013 (P.L. 112-239).
 2. The Participant shall inform its employees in writing, in the predominant language of the workplace, of employee whistleblower rights and protections under 41 U.S.C. 4712.
 3. The Participant shall insert the substance of this clause, including this subsection (3), in all subawards or subcontracts over the simplified acquisition threshold, 42 CFR 52.203-17 (as referenced 42 CFR 3.908-9).
- T. **Reporting Executive Compensation**
1. Participant must report all subaward and executive compensation data pursuant to the Federal Funding Accountability and Transparency Act (FFATA) of 2006 and associate amendments (P.L. 109-282, as amended by section 6202(a) of P.L. 110-252 (see 31 U.S.C. 6101 note)). Refer to <https://www.fsr.gov/> for more information.
- U. **Conflict of Interest**
1. The Participant must establish safeguards to prohibit its employees from using their positions for purposes that constitute or present the appearance of a personal or organizational conflict of interest. The Participant is responsible for notifying the Awarding Officer in writing of any actual or potential conflicts of interest that may arise during the life of this award. Conflicts of interest include any relationship or matter which might place the Participant or its employees in a position of conflict, real or apparent, between their responsibilities under the agreement and any other outside interests. Conflicts of interest may also include, but are not limited to, direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, or decision-making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Participant and/or Participant's employees and Sub-recipients in the matter.
 2. The Awarding Officer and the servicing Ethics Counselor will determine if a conflict of interest exists. If a conflict of interest exists, the Awarding Officer will determine whether a mitigation plan is feasible. Mitigation plans must be approved by the Awarding Officer in writing.

3. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR §200.338, Remedies/or Noncompliance, including suspension or debarment (see also 2 CFR part 180).

V. Minimum Wages Under Executive Order 13658 (January 2015)

1. Definitions. As used in this clause:
 - a. "United States" means the 50 states and the District of Columbia.
 - b. "Worker"
 - i. Means any person engaged in performing work on, or in connection with, an agreement covered by Executive Order 13568; and
 - ii. Whose wage under such agreements are governed by the Fair Labor Standards Act (29 U.S.C. chapter 8), the Service Contract Labor Standards statute (41 U.S.C. chapter 67), or the Wage Rate requirements (Construction) statute (40 U.S.C. chapter 31, subchapter IV);
 - iii. Other than individuals employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR 541.
 - iv. Regardless of the contractual relationship alleged to exist between the individual and the employer.
 - v. Includes workers performing on, or in connection with, the agreement whose wages are calculated to special certificates issued under 29 U.S.C. §214(c).
 - vi. Also includes any person working on, or in connection with, the agreement and individually registered in a bona fide apprenticeship or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.
2. Executive Order Minimum Wage rate.
 - a. The Participant shall pay to workers, while performing in the United States, and performing on, or in connection with, this agreement, a minimum hourly wage rate of \$10.60 per hour beginning January 1, 2016.
 - b. The Participant shall adjust the minimum wage paid, if necessary, beginning January 1, 2016, and annually thereafter, to meet the Secretary of Labor's annual E.O. minimum wage. The Administrator of the Department of Labor's Wage and Hour Division (the Administrator) will publish annual determination in the Federal Register no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator will also publish the applicable E.O. minimum wage on <https://sam.gov/content/wage-determinations> (or any successor Web site) and on all wage determinations issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute. The applicable published E.O. minimum wage is incorporated by reference into this agreement.
 - c. The Participant may request a price adjustment only after the effective date of the new annual E.O. minimum wage determination. Prices will be adjusted only if labor costs increase as a result of an increase in the annual E.O. minimum wage, and for associated labor costs and relevant subaward costs. Associated labor costs shall include increases or decreases that result from changes in social security and unemployment taxes and workers' compensation insurance, but will not otherwise include any amount for general and administrative costs, overhead, or profit.
 - i. Subrecipients may be entitled to adjustments due to the new minimum wage, pursuant to paragraph (b)(2). Participants shall consider any Subrecipient requests for such price adjustment.
 - ii. The Awarding Officer will not adjust the agreement price under the clause for any costs other than those identified in paragraph (b)(3)(i) of this clause, and will not provide duplicate price adjustments with any price adjustment under clauses

- implements the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.
- d. The Participant warrants that the prices in this agreement do not include allowance for any contingency to cover increased costs for which adjustment is provided under this clause.
 - e. The Participant shall pay, unconditionally to each worker, all wages due free and clear without subsequent rebate or kickback. The Participant may make deductions that reduce a worker's wages below the E.O. minimum wage rate only if done in accordance with 29 CFR §10.23, Deductions.
 - f. The Participant shall not discharge any part of its minimum wage obligation under this clause by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Labor Standards statute, the cash equivalent thereof.
 - g. Nothing in this clause shall excuse the Participant from compliance with any applicable Federal or State prevailing wage law or any applicable law or municipal ordinance establishing a minimum wage higher than the E.O. minimum wage. However, wage increases under such other laws or municipal ordinances are not subject to price adjustment under this subpart.
 - h. The Participant shall pay the E.O. minimum wage rate whenever it is higher than any applicable collective bargaining agreement(s) wage rate.
 - i. The Participant shall follow the policies and procedures in 29 CFR 10.24(b) and 10.28 for treatment of workers engaged in an occupation in which they customarily and regularly receive more than \$30.00 a month in tips.
3. This clause applies to workers as defined in Section 1.b of this agreement condition. As provided in that definition:
 - a. Workers are covered regardless of the contractual relationship alleged to exist between the Participant or Subrecipient and the worker;
 - b. Workers with disabilities whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c) are covered; and
 - c. Workers who are registered in a bona fide apprenticeship program or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered.
 4. This clause does not apply to:
 - a. Fair Labor Standards Act (FLSA) - covered individuals performing in connection with contracts covered by the E.O., *i.e.* those individuals who perform duties necessary to the performance of the agreement, but who are not directly engaged in performing the specific work called for by the agreement, and who spend less than 20% of their hours worked in a particular workweek performing in connection with such agreements;
 - b. Individuals exempted from the minimum wage requirements of the FLSA under 29 U.S.C. §213 (a) and (b), unless otherwise covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute. These individuals include but are not limited to:
 - i. Learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. §214(a).
 - ii. Students whose wages are calculated pursuant to special certificates issued under 29 U.S.C. §214(b).
 - iii. Those employed in a bona fide executive, administrative, or professional capacity (29 U.S.C. §213(a)(1) and 29 CFR 541).
 5. Notice. The Participant shall notify all workers performing work on, or in connection with, this agreement of the applicable E.O. minimum wage rate under this clause. With respect to workers covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, the Contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers whose wages are governed by the FLSA, the Participant shall post notice, utilizing the poster provided by the Administrator, which can be

obtained at www.dol.gov/whl/govcontracts, in a prominent and accessible place at the worksite. Participants that customarily post notices to workers electronically may post the notice electronically provided the electronic posting is displayed prominently on any Web site that is maintained by the Participant, whether external or internal, and customarily use for notices to workers about terms and conditions of employment.

6. Payroll Records

- a. The Participant shall make and maintain records, for three years after completion of the work, containing the following information for each worker:
 - i. Name, address, and social security number,
 - ii. The worker's occupation(s) and classification(s);
 - iii. The rate or rates of wages paid;
 - iv. The number of daily and weekly hours worked by each worker;
 - v. Any deductions made; and
 - vi. Total wages paid.
 - b. The Participant shall make records pursuant to paragraph (e)(1) of this clause available for inspection and transcription by authorized representatives of the Administrator. The Participant shall also make such records available upon request of the Contracting Officer.
 - c. The Participant shall make a copy of the agreement available, as applicable, for inspection or transcription by authorized representatives of the Administrator.
 - d. Failure to comply with this paragraph (e) shall be a violation of 29 CFR §10.26 and this agreement. Upon direction of the Administrator or upon the Awarding Officer's own action, payment shall be withheld until such time as the noncompliance is corrected.
 - e. Nothing in this clause limits or otherwise modifies the Participant's payroll and recordkeeping obligations, if any, under the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, the Fair Labor Standards Act, or any other applicable law.
7. Access. The Participant shall permit authorized representatives of the Administrator to conduct investigations, including interviewing workers at the worksite during normal working hours.
8. Withholding. The Awarding Officer, upon his or her own action or upon written request of the Administrator, will withhold funds or cause funds to be withheld from the Participant under this or any other Federal agreement with the same Participant, sufficient to pay workers the full amount of wages required by this clause.
9. Disputes. Department of Labor has set forth in 29 CFR §10.51, Disputes concerning the Participant's compliance with Department of Labor regulations at 29 CFR §10. Such disputes shall be resolved in accordance with those. This includes disputes between the Participant (or any of its Subrecipients) and the contracting agency, the Department of Labor, or the workers or their representatives.
10. Antiretaliation. The Participant shall not discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to compliance with the E.O. or this clause, or has testified or is about to testify in any such proceeding.
11. Subcontractor compliance. The Participant is responsible for Subrecipient compliance with the requirements of this clause and may be held liable for unpaid wages due Subrecipient workers.

W. **Patents and Inventions.** Participants of agreements which support experimental, developmental, or research work shall be subject to applicable regulations governing patents and inventions, including the government-wide regulations issued by the Department of Commerce at 37 CFR 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements. These regulations do not apply to any agreement made primarily for educational purposes.

**NATIONAL HISTORIC PRESERVATION ACT OF 1966
HISTORICAL RESOURCES PRESERVATION PROJECT AGREEMENT**

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

SUBGRANT PROGRAM

2022 HISTORIC PRESERVATION FUND GRANT

PARTICIPANT

CITY OF LOS ANGELES

PROJECT PERIOD

OCTOBER 1, 2022- SEPTEMBER 30, 2023

PROJECT NUMBER

C08422024

PROJECT SCOPE

The City of Los Angeles, hereafter the Participant, will use grant funds in support of its local preservation program. Uses include staff support, consulting fees, outreach and educational materials/information, program development, and administrative support and materials. Questions about other potential uses of grant funds should be directed to the Office of Historic Preservation.

On or before September 30, 2023, Participant shall submit a final narrative report identifying how grant funds were used in support of its preservation program and providing to the Office of Historic Preservation (OHP) any materials/information produced using grant funds. Final report and any materials/information must be submitted by email.

On or before October 10, 2023, Participant shall submit a reimbursement request form (DPR 417) and backup documentation making request for grant funds and identifying source(s) of matching funds.

The attached General and Special Provisions (12 pages) are incorporated and made a part hereof.

Continued on Page--1a-- Attached

PROJECT FUNDING

Total costs supported by Federal grant P22AF01152 (CFDA 15.904) under the National Historic Preservation Act of 1966: **Four thousand dollars and no cents (\$4,000.00).**

Minimum contribution of the Participant to match Federal grant funds:
Two thousand six hundred sixty-seven dollars and no cents (\$2,667.00).

AGENCY STATE DEPARTMENT OF PARKS AND RECREATION	PARTICIPANT CITY OF LOS ANGELES
BY	BY
TITLE STATE HISTORIC PRESERVATION OFFICER	TITLE
DATE	DATE

GENERAL PROVISIONS

I. GENERAL

A. Performance

1. The Participant agrees to complete the project in accordance with this agreement.
2. The Participant shall perform all work and supply material necessary to complete the project described in the paragraph entitled "Project Scope:" on p.1 of this agreement within the period specified. Failure of the Participant to render satisfactory progress or to complete this or any other project which is subject to federal assistance under this program to the satisfaction of the OHP may be cause for suspension of all obligations of Interior and the State of California (State) under this agreement.
3. However, failure of the Participant to comply with the terms of this agreement shall not be cause for the suspension of all such obligations if, in the judgement of the OHP, such failure was due to no fault of the Participant. In such case, any amount required to settle at minimum costs any irrevocable obligations properly incurred shall be eligible for assistance under this agreement.

B. Cost Sharing/Matching Requirement.

1. At least 40 percent non-Federal cost-share/match is required for costs incurred under this Agreement. A minimum of 40 percent in eligible non-Federal cost share/match as identified on the cover page of this agreement, that is allowable and properly documented, must be expended for work approved under Scope of Work during the Period of Performance in addition to the Federal grant share.
2. Non-monetary contribution may constitute part or all of the Participant's match. Valuation of such contribution shall be set forth by the OHP.
3. Failure to expend the required non-Federal matching share will result in the disallowance of costs reimbursed, and/or the deobligation of remaining unexpended funds.
4. Non-Federal cost share or match must meet the same requirements as the Federal share.
5. The OHP shall not pay federal funds hereunder if the Participant has used financial assistance under any other federal program or activity (not including federal revenue sharing funds, community block grants, and any other federal funds allowable as match) as a match on the project.

C. Agreement Amendment. This agreement may be amended only by agreement in writing executed by both of the parties hereto.

D. Agreement Termination

1. The Participant may, upon written notice to the OHP, unilaterally terminate this agreement at any time prior to the commencement of the project.
2. The OHP may, upon written notice to the Participant, unilaterally terminate this agreement at any time prior to the commencement of the project.
3. The project shall be deemed commenced when the Participant makes any expenditure or incurs any obligations with respect to the project.
4. After the project commences, the Participant and the OHP may terminate the agreement by mutual consent, in which case they shall negotiate termination conditions.

E. Non-Compliance. If the Participant materially fails to comply with the terms of the agreement, the OHP shall provide written notice of non-compliance, which states the nature of the deficiency. If the Participant is still not in compliance in thirty (30) days after receipt of the notice, the OHP may in addition to other remedies: (1) withhold cash payments until deficiency is removed; (2) terminate the agreement and make no further payments hereunder; (3) disallow costs; and (4) disqualify the Participant from further subgrants.

- F. **Indemnification.** The Participant hereby waives all claims and recourse against the State including the right to contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incident to this agreement, except claims arising from the concurrent or sole negligence of the State, its officers, agents, and employees. The Participant shall indemnify the State and its officers, agents, and employees against and hold the same free and harmless from any and all claims, demands, damages, losses, costs, and/or expenses of liability due to, or arising out of, either in whole or in part, whether directly or indirectly, the organization, development, construction, operation, or maintenance of the project. Participant shall waive and indemnify State only in proportion to and to the extent that such claims, damages, losses, costs, and/or expenses of indemnification are caused by or result from the negligent or intentional acts or omission of Participant, its officers, agents, or employees.
- G. **Severability.** This agreement shall be governed by the laws of the State of California. If any provision of the agreement, including without limitation these General Conditions shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any other way be affected or impaired.
- H. **Survival.** Any and all provisions which, by themselves or their nature, are reasonably expected to be performed after the expiration or termination of this Agreement shall survive and be enforceable after the expiration or termination of this Agreement. Any and all liabilities, actual or contingent, which have arisen during the term of and in connection with this Agreement shall survive expiration or termination of this Agreement.
- I. **Partial Invalidity.** If any provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such provision to the parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- J. **Captions and Headings.** The captions, headings, article numbers and paragraph numbers appearing in this Agreement are inserted only as a matter of convenience and in no way shall be construed as defining or limiting the scope or intent of the provision of this Agreement nor in any way affecting this Agreement.

II. PROJECT EXECUTION

- A. **Standards.** The Participant shall carry out its work in accordance with the "Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation", including standards for planning, identification, evaluation, registration, historical documentation, architectural and engineering documentation, archaeological documentation, historic preservation projects, and professional qualifications, as published in the Federal Register, September 29, 1983 (Vol. 48, No. 190), pp. 44716 et seq..
- B. **Qualifications.** If the project scope requires research in history, architectural history, or archeology, the Participant shall ensure that the principal investigator meets the applicable Secretary of the Interior's professional qualifications standards. If the project scope requires architectural plans, the Participant shall ensure that the architect producing those plans meets the applicable Secretary of the Interior's professional qualifications standards. If the project scope requires an expert practitioner in another field, the Participant shall ensure that such expert meets standards of education and experience similar to those of the Secretary of the Interior's professional qualifications standards.
- C. **OHP Review.**

1. After selection of an employee or contractor to perform professional work outlined in the previous paragraph, but before making any financial commitment to that person, the Participant shall submit the person's resume to the OHP for review. The OHP shall either approve or disapprove use of the person on the project within twenty (20) working days after receipt of the resume. The Participant may consider failure of the OHP to respond within the period to constitute approval.
2. When requested to do so by the OHP, the Participant shall make available to the OHP draft reports, studies, plans, drawings, or other preliminary documents prepared during the project. The Participants shall permit periodic site visits by the OHP to ensure that work is progressing on scheduled and according to applicable instructions and standards.

D. Reporting.

1. As outlined in this agreement, or date approved by the OHP, the Participant shall furnish to the OHP all final work products mentioned in the project scope and elsewhere in this agreement.
2. Participant shall submit progress reports and interim work products on the dates indicated in this agreement. Progress reports shall be in such form and contain such information as the OHP instructs.
3. The OHP shall not be obligated to provide federal funds for work products that, in the opinion of the OHP, do not conform to the terms of this agreement or to the applicable Secretary of the Interior's Standards.
4. As outlined in this agreement, the Participant shall furnish to the OHP a final performance report, acceptable to the OHP, which compares actual accomplishments to planned objectives and, if appropriate, gives reasons that the objectives were not met as planned. The OHP shall provide further instructions for form the form and content of the final report.

III. FINANCIAL ADMINISTRATION

- A. **Financial Management.** The Participant shall use a financial management system that: permits the preparation of financial reports required herein, permits the preparation of financial reports required herein, provides an accounting of funds expended on the project, and follows the standards set forth by the Office of Management and Budget Circulars referenced herein. The Participant shall expend funds only on allowable costs as set forth in the budget established in the approved project notification.
- B. **Determination of Value of Goods and Services.** Goods in the form of equipment, whether owned, purchased, leased, or donated, will be valued on a use basis of actual costs of operation or of purchase or lease or prevailing costs of goods if donated. Residual market value of purchased equipment shall be credited to project costs upon completion. Goods in the form of supplies and material will be valued at actual direct costs to Participant or, if donated, according to the prevailing costs in the marketplace. Services will be valued in the actual amounts of salaries, wages, and direct overhead costs expended on the project.
- C. **Volunteer Services.**
 1. Volunteer services will be valued for contribution purposes at the rates paid for similar technical skills and work in other activities. Specific procedures for the Participant in establishing the value of in-kind contributions from non-Federal third parties are set forth below:
 2. Valuation of Volunteer Services: Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteered service maybe counted as cost sharing or matching if the service is an integral and necessary part of an approved program.
 3. Rates for Volunteer Services: Rates for volunteers should be consistent with those paid for similar work in other activities of state and local government. In those instances in which the

required skills are not found in the Participant's organization, rates should be consistent with those paid for similar work in the 15 labor markets in which the Participant competes for the kind of services involved. Volunteers with no historic preservation education or experience may claim only the minimum wage rate.

4. **Volunteers Employed by Other Organizations:** When an employer, other than the Grantee, furnishes the services of an employee, these services shall be valued at the employee's regular rate of any (exclusive of fringe benefits and overhead costs), provided these services are in the same skill for which the employee is normally paid. This rate shall not exceed the maximum daily rate of compensation for a GS-18 position in the federal civil service, as established by law.

D. Billing.

1. Taking into account a four-to-six-week delay between the time a payment request is submitted to the OHP and the time the OHP provides the requested federal funds, the Participant shall submit its payment requests so as to minimize the time elapsing between receipt and disbursement of funds.
2. The Participant shall have sufficient working capital to ensure that the project progresses on schedule even though payments from the OHP are unexpectedly delayed.
3. When seeking reimbursements, the Participant shall base its billings upon financial records for both the federal and nonfederal shares of project costs which are supported by appropriate documentation. All reimbursement requests shall be accompanied by copies of timesheets, cancelled checks, receipts, etc., for OHP's verification before payment.
4. The Participant shall submit billings during the project period for this agreement. The final billing statement with documentation sufficient for audit dated prior to end of the contract period, shall be submitted with the Final Report as described in this agreement.
5. Participant may also submit supplemental billing statements during the project period with progress reports but must include an itemization of expenditures or receipts or timesheets of work completed.
6. The Participant shall submit billings on the billing statement form (DPR 417) prescribed by the OHP. The OHP need not make payment on billings submitted in other formats. The Participant shall submit billings in duplicate, each with an original signature, to: Office of Historic Preservation, Department of Parks and Recreation, ATTN: Fiscal and Grants Coordinator, 1725 23rd Street, Suite 100, Sacramento CA 95816. The Participant shall ensure that the billing form bears the signature of the Participant's project representative.
7. After reviewing each billing for accuracy and appropriateness, the OHP shall pay the least of the following: (a) sixty percent of the amount of the total project costs incurred during the billing period shown on the billing; (b) the amount of cash outlays made during the billing period as shown on the billing; and (c) the amount of federal grant funds available for support of the project as shown in the project funding section of this agreement.
8. The OHP will not reimburse more than ninety (90%) percent of allocated grant funds until the OHP has verified completion of the project, and if necessary, until an audit approval has been received by the OHP for the Audits Section of the Department of Parks and Recreation.

E. Approved Indirect Rate. The federally negotiated indirect rate plus administrative costs to be applied against this agreement shall not by statute 54 U.S.C. 302902, commonly known as Section 102(e) of the NHPA, exceed 25 percent of the total project cost. Indirect costs will not be allowable charges against this agreement unless specifically included as a line item in the approved budget incorporated into this agreement. If indirect costs are allowable charges, a copy of the Participant's approved negotiated indirect rate shall be provided to the OHP.

F. Pre-Award Incurrence of Costs. The Participant shall be entitled to costs incurred on or after Start date. In accordance with 2 CFR 200.458, such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the

written approval of the Awarding agency. Pre-award costs shall only be applied to the non-Federal cost share and are not eligible for reimbursement.

IV. CHANGES

- A. **Budget.** The Participant and OHP understand that the Participant is permitted to re-budget within the approved direct cost budget to meet unanticipated requirements and may make program changes to the project.
- B. **OHP Approval.** Notwithstanding the provisions of the foregoing paragraph, the Participant shall obtain from the OHP prior approval for: (a) any substantive revision of the scope, objectives, or budget of the project; (b) extension of the need for federal funds; (c) changes in key persons, including all persons filling positions for which the incumbent must meet the Secretary of the Interior's professional qualifications standards; (d) additional contracts or hiring to perform activities that are central to the project; and (e) new or revised performance or reporting milestones. The Participant shall make requests for such changes in writing. The OHP shall approve or disapprove in writing. If appropriate, the Participant and the OHP shall amend this agreement to include approved changes.

V. REPORTS AND RECORDS

- A. **General.** All Participant financial and programmatic records, supporting documents, statistical records, and other grants-related records shall be maintained and available for access in accordance with 2 CFR 200-200.337 and the Historic Preservation Fund Grants Manual.
- B. **Service Records.** Records of personal services contributions, whether paid or volunteer, shall include timesheets bearing the signature of the person whose time is contributed and of the supervisor verifying that the record is accurate. "Personnel Activity Reports" as specified in OMB Circular A-21 and its successors shall be acceptable as documentation of time spent on this project by "professional" and "professorial" staff. Volunteer records shall show the actual hours worked, the specific duties performed, and the basis for determining the rate of contribution. These records shall be included with the audit material. The Participant shall keep such records, maps, and reports as the OHP and Interior prescribe, including records that fully disclose the dispositions by the Participant of federal grant funds, total cost of the project, the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.
- C. **Financial Records.** During its regular office hours, the Participant shall make financial records available to the OHP, Interior, the Comptroller General of the United States, or any of their duly authorized representatives for the purpose of inspection, copying, and audit. The Participant shall provide copies of such records to the OHP if requested to do so by the OHP and shall retain such records for three years following project termination. Project records shall be retained by Participant for three years following project completion or longer until notification that the Federal audit covering the project has been closed.
- D. **Single Audit Act.** If a local government, the Participant shall comply with the Single Audit Act of 1984, and furnish the OHP with a copy of the audit report within thirty (30) days after issuance. If a university or nonprofit organization, the Participant shall comply with the audit requirements of OMB Circular A-133. The Participant shall reimburse the OHP for costs disallowed during an audit.
- E. **Publications.** In regard to all copyrightable material, which are produced as a deliverable under this project, including but not limited to books reports, plans, photographs, drawings, films,

recordings, videotapes, and computer programs, which are produced as part or result of this project, the Participant must grant the United States of America a royalty-free non-exclusive and irrevocable license to publish, reproduce and use, and dispose of in any manner and for any purpose without limitation, and to authorize or ratify publication, reproduction or use of others, of all copyrightable material first produced or composed under this Agreement by the Participant, its employees or any individual or concern specifically employed or assigned to originate and prepare such material.

1. Any publications resulting from the project shall contain the following statements: "The activity which is the subject of this (type of publication) has been financed in part with Federal funds from the National Park Service, Department of the Interior, through the California Office of Historic Preservation. However, the contents and opinions do not necessarily reflect the views or policies of the Department of the Interior or the California Office of Historic Preservation, nor does mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior or the California Office of Historic Preservation. Regulations of the U.S. Department of the Interior strictly prohibit unlawful discrimination in departmental Federally-assisted programs on the basis of race, color, sex, age, disability, or national origin. Any person who believes he or she has been discriminated against in any program, activity, or facility operated by a recipient of Federal assistance should write to: Director, Equal Opportunity Program, U.S. Department of the Interior, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127
2. The Participant shall provide three copies of all publications to the OHP no later than at the end of the project period.

VI. OTHER REQUIREMENTS

- A. **OMB Circulars and Other Regulations.** The following Federal Regulations are incorporated by reference into this Agreement (full text can be found at <http://www.ecfr.gov>):
1. **Administrative Requirements:**
 - a. 2 CFR 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"
 2. **Determination of Allowable Costs:**
 - a. 2 CFR 200, Subpart E, "Cost Principles"
 3. **Audit Requirements:**
 - a. 2 CFR 200, Subpart F, "Audit Requirements"
 4. **Code of Federal Regulations/Regulatory Requirements:**
 - a. 2 CFR 182 and 1401, "Government-wide Requirements for a Drug-Free Workplace"
 - b. 2 CFR 180 and 1400, "Non-Procurement Debarment and Suspension" (previously located at 43 CFR, 42, "Government wide Debarment and Suspension (NonProcurement)")
 - c. 43 CFR 18, "New Restrictions on Lobbying"
 - d. 2 CFR 175, "Trafficking Victims Protections Act of 2000"
 - e. FAR Clause 52.203-12, Paragraphs (a) and (b), "Limitation on Payments to Influence Certain Federal Transactions"
 - f. 2 CFR 25, "System for Award Management (www.SAM.gov) and Data Universal Numbering System (DUNS)"
 - g. 2 CFR 170, "Reporting Subawards and Executive Compensation" or FFATA (Refer to XII.B.11)
- B. **Non-Discrimination.** All activities pursuant to this Agreement shall be in compliance with the requirements of Executive Order 11246, as amended; Title VI of the Civil Rights Act of 1964, as amended, (78 Stat. 252; 42 U.S.C. §2000d et seq.); Title V. Section 504 of the Rehabilitation Act of 1973, as amended, (87 Stat. 394; 29 U.S.C. §794); the Age Discrimination Act of 1975 (89 Stat. 728; 42 U.S.C. §6101 et seq.); and with all other federal laws and regulations prohibiting discrimination on grounds of race, color, sexual orientation, national origin, disabilities religion, age, or sex.

- C. **Lobbying Prohibition.** 18 U.S.C. §1913, Lobbying with Appropriated Moneys, as amended by Public Law 107-273, Nov. 2, 2002. No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Members or official, at his request, or to Congress or such official, through the proper official channels, requests for legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere, with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violation of section 1352(a) title 31. In addition to the above, the related restrictions on the use of appropriated funds found in Div. F, §402 of the Omnibus Appropriations Act of 2008(P.L. 110-161) also apply.
- D. **Anti-Deficiency Act.** Pursuant to 31 U.S.C. §1341 nothing contained in this Agreement shall be construed as binding the NPS to expend in any one fiscal year any sum in excess of appropriations made by Congress, for the purposes of this Agreement for that fiscal year, or other obligation for the further expenditure of money in excess of such appropriations.
- E. **Minority Business Enterprise Development.** Pursuant to Executive Order 12432 it is national policy to award a fair share of contracts to small and minority firms. NPS is strongly committed to the objectives of this policy and encourages all recipients of its Grant Agreements to take affirmative steps to ensure such fairness by ensuring procurement procedures are carried out in accordance with the Executive Order.
- F. **Assignment.** No part of this Agreement shall be assigned to any other party without prior written approval of the OHP and the Assignee.
- G. **Member of Congress.** Pursuant of 41 U.S.C. §22. No Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or adopted by or on behalf of the United States, or to any benefit to arise thereupon.
- H. **Agency.** The Participant is not an agent or representative of the United States, the Department of the Interior, NPS, or the State, nor will the Participant represent its self as such to third parties. NPS and State employees are not agents of the Participant and will not act on behalf of the Participant.
- I. **Non-Exclusive Agreement.** This Agreement in no way restricts the Participant or OHP from entering into similar agreements or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.
- J. **No Employment Relationship.** This Agreement is not intended to and shall not be construed to create an employment relationship between NPS or OHP and Participant or its representatives. No representative of Participant shall perform any function or make any decision properly reserved by law or policy to the Federal government.
- K. **No Third-Party Right.** This Agreement creates enforceable obligations between NPS, OHP and Participant. Except as expressly provided herein, it is not intended nor shall it be construed to

create any right of enforcement by or any duties or obligation in favor of persons or entities not a party to this Agreement.

- L. **Foreign Travel.** The Participant shall comply with the provisions of the Fly American Act (49 U.S.C. 40118). The implementing regulations of the Fly American Act are found at 41 CFR 301-10.131 through 301-10.143.

M. **Public Information and Endorsements**

1. Participant shall not publicize or otherwise circulate promotional material (such as advertisement, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications) which states or implies governmental, Departmental, bureau, or government employee endorsement of a business, product, service, or position which the Participant represents. No release of information relating to this award may state or imply that the Government approves of the Participant's work product to be superior to other or services.
2. Participant must provide a digital copy of any public information releases concerning this award that refer to the Department of the Interior, National Park Service, OHP or Historic Preservation Fund. Specific text, layout photographs, etc. of the proposed release may be submitted for prior approval.
3. As stipulated in 36 CFR 800, public views and comments regarding all Federally-funded undertaking on historic properties must be sought and considered by the authorizing Federal agency. Therefore, the grantee is required to post a press release regarding the undertaking under this grant in on or more major newspapers or news sources that cover the area affected by the project within 30 days of receiving the signed grant agreement. A copy of the posted release must be submitted to NPS within 30 days of the posting.
4. The grantee must transmit notice of any public ceremonies planned to publicize the project or its results in a timely enough manner so that NPS, Department of the Interior, Congressional or other Federal officials can attend if desired.

- N. **Publications of Results of Studies.** No party will unilaterally publish a joint publication without consulting the other party. This restriction does not apply to popular publications of previously published technical matter. Publications pursuant to this Agreement may be produced independently or in collaboration with other; however, in all cases proper credit will be given to the efforts of those parties contribution to the publication. In the event no agreement is reached concerning the manner of publication or interpretation of results, either party may publish data after due notice and submission of the proposed manuscripts to the other. In such instances, the party publishing the data will give due credit to the cooperation but assume full responsibility for any statements on which there is a difference of opinion.

O. **Audit Requirements**

1. Non-Federal entities that expend \$750,000 or more during a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Amendments of 1996 (31 U.S.C. 7501-7507) and 2 CFR 200, Subpart F.
2. Non-federal entities that expend less than \$750,000 for a fiscal year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).
3. Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. Additional audit requirements applicable to this agreement are found at 2 CFR 200, Subpart F, as applicable. Additional information on single audits is available from the Federal Audit Clearinghouse at <https://harvester.census.gov/facweb/Default.aspx>.

- P. **Procurement Procedures.** A full description of procurement standards can be found in 2 CFR 200.317-200.326.
- Q. **Prohibition on Text Messaging and Using Electronic Equipment Supplied by the Government while Driving.** Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, was signed by President Barack Obama on October 1, 2009. This Executive Order introduces a Federal Government-wide prohibition on the use of the text messaging while driving on official business or while using Government-supplied equipment. Additional guidance enforcing the ban will be issued at a later date. In the meantime, please adopt and enforce policies that immediately ban text messaging while driving company-owned or -rented vehicles, government-owned, or leased vehicles, or while driving privately owned vehicles when on official government business or when performing any work for or on behalf of the government.
- R. **Seat Belt Provision.** The Participant is encouraged to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented or personally owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.
- S. **Participant Employee Whistleblower Rights and Requirement to Inform Employees of Whistle-blower Rights.**
1. This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistle-blower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act of Fiscal Year 2013 (P.L. 112-239).
 2. The Participant shall inform its employees in writing, in the predominant language of the workplace, of employee whistleblower rights and protections under 41 U.S.C. 4712.
 3. The Participant shall insert the substance of this clause, including this subsection (3), in all subawards or subcontracts over the simplified acquisition threshold, 42 CFR 52.203-17 (as referenced 42 CFR 3.908-9).
- T. **Reporting Executive Compensation**
1. Participant must report all subaward and executive compensation data pursuant to the Federal Funding Accountability and Transparency Act (FFATA) of 2006 and associate amendments (P.L. 109-282, as amended by section 6202(a) of P.L. 110-252 (see 31 U.S.C. 6101 note)). Refer to <https://www.fsrs/gov/> for more information.
- U. **Conflict of Interest**
1. The Participant must establish safeguards to prohibit its employees from using their positions for purposes that constitute or present the appearance of a personal or organizational conflict of interest. The Participant is responsible for notifying the Awarding Officer in writing of any actual or potential conflicts of interest that may arise during the life of this award. Conflicts of interest include any relationship or matter which might place the Participant or its employees in a position of conflict, real or apparent, between their responsibilities under the agreement and any other outside interests. Conflicts of interest may also include, but are not limited to, direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, or decision-making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Participant and/or Participant's employees and Sub-recipients in the matter.
 2. The Awarding Officer and the servicing Ethics Counselor will determine if a conflict of interest exists. If a conflict of interest exists, the Awarding Officer will determine whether a mitigation plan is feasible. Mitigation plans must be approved by the Awarding Officer in writing.

3. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR §200.338, Remedies/or Noncompliance, including suspension or debarment (see also 2 CFR part 180).

V. Minimum Wages Under Executive Order 13658 (January 2015)

1. Definitions. As used in this clause:
 - a. "United States" means the 50 states and the District of Columbia.
 - b. "Worker"
 - i. Means any person engaged in performing work on, or in connection with, an agreement covered by Executive Order 13568; and
 - ii. Whose wage under such agreements are governed by the Fair Labor Standards Act (29 U.S.C. chapter 8), the Service Contract Labor Standards statute (41 U.S.C. chapter 67), or the Wage Rate requirements (Construction) statute (40 U.S.C. chapter 31, subchapter IV);
 - iii. Other than individuals employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR 541.
 - iv. Regardless of the contractual relationship alleged to exist between the individual and the employer.
 - v. Includes workers performing on, or in connection with, the agreement whose wages are calculated to special certificates issued under 29 U.S.C. §214(c).
 - vi. Also includes any person working on, or in connection with, the agreement and individually registered in a bona fide apprenticeship or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.
2. Executive Order Minimum Wage rate.
 - a. The Participant shall pay to workers, while performing in the United States, and performing on, or in connection with, this agreement, a minimum hourly wage rate of \$10.60 per hour beginning January 1, 2016.
 - b. The Participant shall adjust the minimum wage paid, if necessary, beginning January 1, 2016, and annually thereafter, to meet the Secretary of Labor's annual E.O. minimum wage. The Administrator of the Department of Labor's Wage and Hour Division (the Administrator) will publish annual determination in the Federal Register no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator will also publish the applicable E.O. minimum wage on <https://sam.gov/content/wage-determinations> (or any successor Web site) and on all wage determinations issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute. The applicable published E.O. minimum wage is incorporated by reference into this agreement.
 - c. The Participant may request a price adjustment only after the effective date of the new annual E.O. minimum wage determination. Prices will be adjusted only if labor costs increase as a result of an increase in the annual E.O. minimum wage, and for associated labor costs and relevant subaward costs. Associated labor costs shall include increases or decreases that result from changes in social security and unemployment taxes and workers' compensation insurance, but will not otherwise include any amount for general and administrative costs, overhead, or profit.
 - i. Subrecipients may be entitled to adjustments due to the new minimum wage, pursuant to paragraph (b)(2). Participants shall consider any Subrecipient requests for such price adjustment.
 - ii. The Awarding Officer will not adjust the agreement price under the clause for any costs other than those identified in paragraph (b)(3)(i) of this clause, and will not provide duplicate price adjustments with any price adjustment under clauses

- implements the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.
- d. The Participant warrants that the prices in this agreement do not include allowance for any contingency to cover increased costs for which adjustment is provided under this clause.
 - e. The Participant shall pay, unconditionally to each worker, all wages due free and clear without subsequent rebate or kickback. The Participant may make deductions that reduce a worker's wages below the E.O. minimum wage rate only if done in accordance with 29 CFR §10.23, Deductions.
 - f. The Participant shall not discharge any part of its minimum wage obligation under this clause by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Labor Standards statute, the cash equivalent thereof.
 - g. Nothing in this clause shall excuse the Participant from compliance with any applicable Federal or State prevailing wage law or any applicable law or municipal ordinance establishing a minimum wage higher than the E.O. minimum wage. However, wage increases under such other laws or municipal ordinances are not subject to price adjustment under this subpart.
 - h. The Participant shall pay the E.O. minimum wage rate whenever it is higher than any applicable collective bargaining agreement(s) wage rate.
 - i. The Participant shall follow the policies and procedures in 29 CFR 10.24(b) and 10.28 for treatment of workers engaged in an occupation in which they customarily and regularly receive more than \$30.00 a month in tips.
3. This clause applies to workers as defined in Section 1.b of this agreement condition. As provided in that definition:
 - a. Workers are covered regardless of the contractual relationship alleged to exist between the Participant or Subrecipient and the worker;
 - b. Workers with disabilities whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c) are covered; and
 - c. Workers who are registered in a bona fide apprenticeship program or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered.
 4. This clause does not apply to:
 - a. Fair Labor Standards Act (FLSA) - covered individuals performing in connection with contracts covered by the E.O., *i.e.* those individuals who perform duties necessary to the performance of the agreement, but who are not directly engaged in performing the specific work called for by the agreement, and who spend less than 20% of their hours worked in a particular workweek performing in connection with such agreements;
 - b. Individuals exempted from the minimum wage requirements of the FLSA under 29 U.S.C. §213 (a) and (b), unless otherwise covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute. These individuals include but are not limited to:
 - i. Learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. §214(a).
 - ii. Students whose wages are calculated pursuant to special certificates issued under 29 U.S.C. §214(b).
 - iii. Those employed in a bona fide executive, administrative, or professional capacity (29 U.S.C. §213(a)(1) and 29 CFR 541).
 5. Notice. The Participant shall notify all workers performing work on, or in connection with, this agreement of the applicable E.O. minimum wage rate under this clause. With respect to workers covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, the Contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers whose wages are governed by the FLSA, the Participant shall post notice, utilizing the poster provided by the Administrator, which can be

obtained at www.dol.gov/whl/govcontracts, in a prominent and accessible place at the worksite. Participants that customarily post notices to workers electronically may post the notice electronically provided the electronic posting is displayed prominently on any Web site that is maintained by the Participant, whether external or internal, and customarily use for notices to workers about terms and conditions of employment.

6. Payroll Records

- a. The Participant shall make and maintain records, for three years after completion of the work, containing the following information for each worker:
 - i. Name, address, and social security number,
 - ii. The worker's occupation(s) and classification(s);
 - iii. The rate or rates of wages paid;
 - iv. The number of daily and weekly hours worked by each worker;
 - v. Any deductions made; and
 - vi. Total wages paid.
 - b. The Participant shall make records pursuant to paragraph (e)(1) of this clause available for inspection and transcription by authorized representatives of the Administrator. The Participant shall also make such records available upon request of the Contracting Officer.
 - c. The Participant shall make a copy of the agreement available, as applicable, for inspection or transcription by authorized representatives of the Administrator.
 - d. Failure to comply with this paragraph (e) shall be a violation of 29 CFR §10.26 and this agreement. Upon direction of the Administrator or upon the Awarding Officer's own action, payment shall be withheld until such time as the noncompliance is corrected.
 - e. Nothing in this clause limits or otherwise modifies the Participant's payroll and recordkeeping obligations, if any, under the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, the Fair Labor Standards Act, or any other applicable law.
7. Access. The Participant shall permit authorized representatives of the Administrator to conduct investigations, including interviewing workers at the worksite during normal working hours.
 8. Withholding. The Awarding Officer, upon his or her own action or upon written request of the Administrator, will withhold funds or cause funds to be withheld from the Participant under this or any other Federal agreement with the same Participant, sufficient to pay workers the full amount of wages required by this clause.
 9. Disputes. Department of Labor has set forth in 29 CFR §10.51, Disputes concerning the Participant's compliance with Department of Labor regulations at 29 CFR §10. Such disputes shall be resolved in accordance with those. This includes disputes between the Participant (or any of its Subrecipients) and the contracting agency, the Department of Labor, or the workers or their representatives.
 10. Antiretaliation. The Participant shall not discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to compliance with the E.O. or this clause, or has testified or is about to testify in any such proceeding.
 11. Subcontractor compliance. The Participant is responsible for Subrecipient compliance with the requirements of this clause and may be held liable for unpaid wages due Subrecipient workers.

W. **Patents and Inventions.** Participants of agreements which support experimental, developmental, or research work shall be subject to applicable regulations governing patents and inventions, including the government-wide regulations issued by the Department of Commerce at 37 CFR 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements. These regulations do not apply to any agreement made primarily for educational purposes.

**DEPARTMENT OF
CITY PLANNING**

COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

SAMANTHA MILLMAN
PRESIDENT

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VICE-PRESIDENT

HELEN CAMPBELL
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**CITY OF LOS ANGELES
CALIFORNIA**



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DEPUTY DIRECTOR

August 9, 2022

Honorable Eric Garcetti
Mayor, City of Los Angeles
200 North Spring Street, Room 303
Los Angeles, CA 90012

Attention: Heleen Ramirez, Legislative Coordinator

**EXECUTIVE DIRECTIVE NO. 3 TRANSMITTAL: 2022-2023 CALIFORNIA
CERTIFIED LOCAL GOVERNMENT GRANT APPLICATION, AGREEMENT
EXECUTION, AND AWARD ACCEPTANCE**

SUMMARY

In accordance with Executive Directive No. 3, the Los Angeles City Planning (LACP) requests approval to apply for and, if awarded, execute a grant agreement for an amount not to exceed \$40,000 and to subsequently receive grant funds from the State Office of Historic Preservation (“OHP”), for services related to the 2022-2023 California Local Government (CLG) Grant. This agreement is for one year and work must be performed between October 1, 2022 and September 30, 2023 to be eligible for reimbursement.

BACKGROUND

The City of Los Angeles proposes to use a \$40,000 CLG grant to assist LACP, Office of Historic Resources (“OHR”) in the creation of a framework and strategy on how to approach the development of an Indigenous Peoples Historic Context that would become a part of the citywide historic context statement.

The City of Los Angeles is striving to expand and improve its engagement with the tribal communities within the city and region. The City has not always embraced or included tribes within its legislative and planning processes. In recent years, this sentiment has shifted for the better, and it is now a priority of the City to build relationships with each of the tribes in the area. In 2019, Mayor Eric Garcetti convened a Civic Memory Working Group which was tasked with determining how to engage more productively and honestly with its past. The group met throughout 2020, and in 2021 released the City’s Past Due

report which outlines priorities and strategies as to how to best address the city's history more comprehensively. One of the identified goals was to recognize indigenous history. LACP is conducting additional training for staff on how to work with tribal governments, appointing a tribal liaison, and ensuring more effective compliance with the tribal consultation requirements of AB 52.

To build upon these initiatives and to create a more comprehensive citywide framework for the identification and preservation of tribal cultural resources, LACP is seeking to prepare an Indigenous Peoples Historic Context. This context would strive to tell the story of tribal communities in Los Angeles and create a framework for evaluating historic resources associated with the tribes. While many of these resources may no longer be extant and much of the information that may be included in such a context statement may be sensitive and or confidential, it is critical to document what we do know to better inform decision makers and the general public, and to chronicle intangible cultural heritage. Considering the accessibility and the various purposes historic context statements serve in today's historic preservation practice, it is also desired for the context statement to not only recognize indigenous history but also uplift and aid in the understanding of the City's indigenous history and communities. The completed context will develop key historical themes associated with political, social, and cultural practices and the institutions of Indigenous Peoples, while also identifying individuals, groups and organizations that played significant roles.

Through this grant application, LACP is seeking funding to craft a strategy on how to approach this complex work, develop research questions, and begin public engagement with tribes, scholars, community members and other stakeholders. Unlike the City's previous CLG grant-supported ethnic-cultural contexts, which were completed in one year, City Planning recognizes that a successful Indigenous Peoples Context will require a lengthier and more nuanced process. Given the sensitive nature of this work, the extensive citywide community engagement required across the large geography of Los Angeles, and the limited existing documentation on the subject, it is anticipated that it will take two years and approximately \$100,000 to complete the final context. To complete the context, the City may apply for funding in the 2023-2024 CLG grant cycle, pursue complementary state or federal grants, or collaborate with the Mayor and City Council to self-fund the second half of the project.

The proposed project meets the goals of the Cultural and Historical section of the Conservation Element of the City's General Plan which includes a policy to "continue to survey buildings and structures in neighborhoods throughout the city in order to develop a record that can be used in the present and future for evaluating their historic and cultural value." The context is also consistent with the criteria set forth in the City's Cultural Heritage Ordinance and the purposes of the Historic Preservation Overlay Zone (HPOZ) Ordinance which specifically "promotes the involvement of all aspects of the City's diverse communities in the historic preservation process." Finally, the project is consistent with the California Statewide Historic Preservation Plan and meets Goal 1 (Objectives I.A, I.B, and I.C).

Specifically, the proposed project activities will:

- Develop a framework for how to approach completing an Indigenous Peoples Context (which may also serve as a statewide model for other municipalities and agencies)
- Be the first step in the development of a new context to be added to the citywide context statement
- Identify key stakeholders that can identify resources, some of which may be intangible or no longer extant

LACP will be in regular communication on this project with the City of Denver, which was recently awarded a \$50,000 National Park Service Underrepresented Communities grant to prepare an American Indian and Indigenous Peoples Historic Context. The Denver context will also be a parallel two-year effort, recognizing the complexity of comprehensively addressing indigenous resources, and the NPS grant will be supplemented by additional funding sources.

FISCAL IMPACT

Although there is an in-kind staff time match component of \$27,895, there is no additional General Fund impact because no new staff will be needed. Current staff will continue with their regular work programs, regardless of grant funding, which includes the work this grant intends to augment.

Grant funds will be used for consultant services and will be disbursed to LACP by the California Office of Historic Preservation on a reimbursement basis upon submission of final deliverables invoices, and reports. Existing funds from LACP's contractual services account will support consultant grant work prior to reimbursement.

RECOMMENDATION

That the City Council authorize the Director of Planning, or his designee, subject to the approval of the Mayor, to take the following actions:

1. Apply for, and if awarded, execute a grant project agreement, subject to the approval of the City Attorney as to form and legality, with the California Office of Historic Preservation and to subsequently accept grant award to facilitate CLG Grant related work for the term of one year.
2. If awarded the grant, set up a grant receivable in the amount awarded and establish an appropriation account within the City Planning Grant Trust Fund No. 46Y, Dept. 68 for the disbursement of funds for the project.
3. Submit a grant reimbursement request to the California Office of Historic Preservation and deposit grant receipts in the City Planning Grants Trust Fund No. 46Y, Dept. 68.

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For additional information please contact Anthony Kim at (213)978-1253 or email at chang.kim@lacity.org.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

A handwritten signature in black ink that reads "Wilson Poon". The signature is written in a cursive, slightly stylized font.

WILSON POON
Chief Management Analyst

Attachments: Grant Application

cc: Heidi Kim, CAO Analyst
Brent Nichols, Deputy City Attorney
Livea Yeh, Senior Management Analyst I, City Planning