

City of New Orleans, Louisiana
Office of Community Development
Request for Proposals
RFP No.: 2103-00873
PROFESSIONAL SERVICES TO ADMINISTER THE FRESH FOOD
RETAIL INCENTIVE PROGRAM
January 28, 2010

Request for Proposals: The City of New Orleans desires to obtain proposals from partnerships of qualified organizations to administer the Fresh Food Retail Incentive (FFRI) Program as provided below, and incident to City Charter Section 6-308(5) and Executive Order CRN 09-01.

This partnership should consist, at minimum, of:

- (1) A community development lender who will handle the loan underwriting; and,
- (2) A nonprofit organization with expertise relevant to improving access to healthy food.

The partnership will be expected to provide the following services:

- (1) Program Outreach
- (2) Evaluation of Fresh Food Retail Applicants
- (3) Financing
- (4) Technical Assistance
- (5) CDBG Compliance
- (6) Monitoring and Reporting
- (7) Program Documents

Instructions: Applicants shall submit the following to the *Office of Community Development* directed Attention: Thomas "James" Nash, Sr., Economic Development Fund Manager, 1340 Poydras St., Suite 1140, New Orleans, LA 70112, Email: tjnash@cityofno.com, not later than **4:30 p.m.(CST) on February 22, 2010**

- a) **One (1)** electronic copy in Microsoft Word format or as a PDF file, sent to Thomas "James" Nash, Sr. at the address listed above, labeled "**Fresh Food Retailer Services**"; and
- b) **Three (3)** hard copies of the proposal enclosed in a sealed envelope, sent/hand delivered to Thomas "James" Nash, Sr. at the address listed above, labeled "**Fresh Food Retail Incentive Financial Services**".

Proposals should clearly demonstrate the applicant's qualifications to perform the needed services and attend all factors applicable in a professional relationship. Proposals should include detailed resumes or curricula vitae for the principals performing the services.

Please note: Any and all questions regarding this expedited request for proposals should be submitted via e-mail by **February 8, 2010**. Questions and answers submitted by due date along with copies of the solicitation and related information will be made available on the City's purchasing website at <http://www.purchasing.cityofno.com/bsa/login.jsp>. by **February 16, 2010**.

The City will not accept proposals submitted by fax. All proposals **must be received** by the City on or before the Delivery Deadline as conclusively evidenced by the City's e-mail server. The City will not accept proposals delivered after the deadline. The City will not credit delivery claims not clearly documented by original receipt. The respondents shall submit a completed Tax Clearance Certificate with the proposal (see Attachment "D").

If the City identifies a likely service provider, it may negotiate a final agreement with the provider and fix the relationship by Professional Services contract generally according to CAO Policy Memoranda 118(R). The contract will contain the standard City provisions shown in Attachment "B", the "Disadvantaged Business Enterprise" ("DBE") provisions shown in Attachment "C" and the CDBG Compliance Provisions for Professional Services Contracts in Attachment "G."

Proposals MUST contain the following statement signed by the applicant or its authorized representative, **"By responding to this RFP, respondent agrees to the City's Required Contract Provisions as provided in Attachment "B" and therefore waives any future right to contest the required provisions."**

1. DBE Program Compliance: Proposals MUST contain the following statement signed by the applicant or its authorized representative, **"The Bidder agrees to use its Best Efforts to fully comply with the DBE Program, including all reporting requirements and any specific contract goals for DBE participation."** In addition, the proposal must address the following:

The requirements of the City's DBE Program apply to this solicitation. It is policy of the City of New Orleans to practice nondiscrimination based on social and economic disadvantage, race, color, sex, gender, disability or national origin. All firms qualifying under this solicitation must submit with proposals a statement as to how they intend to meet this requirement. Award of this solicitation shall not be considered unless the respondent indicates how they will satisfy the requirements of the DBE Program. A DBE contract goal of 35 percent has been established for this solicitation. The respondent shall agree to use its best efforts, as determined by the DBE Compliance Officer prior to submission to the review panel for review to assure that all respondents comply with the factors set forth in the DBE Program, to meet the contract goal for DBE participation in the performance of this solicitation.

The following information must be contained with supporting documentation as outlined in Attachment "E" in the respondent's proposal for the DBE Compliance Officer to make a determination as to whether the proposal was responsive as to the DBE contract goal and for the Selection Review Panel to evaluate the proposal.

- i. The names and addresses of all DBE firms that will participate in the contract;
- ii. The dollar amount commitment of the participation of each DBE firm participating in the contract;
- iii. Written confirmation from the named DBE(s), verifying their participation in the contract as provided in the commitments made under (i) and (ii) above; and
- iv. If the contract goal is not met, evidence of best efforts.

The City participates in the State and Local Disadvantaged Business Enterprise Program (“SLDBE”) which also includes the Sewerage & Water Board (“S&WB”) and New Orleans Aviation Board (“NOAB”). These agencies have agreed to grant one another reciprocity with respect to the businesses certified as DBEs.

The respondent must select a DBE(s) from one of the following lists to be compliant with the City’s DBE contract goal: www.cityofno.com, www.swbno.org and www.flymsy.com. If respondent selects a DBE(s) from any of the above lists, it can be safely assumed that the business is certified with all three agencies.

Please direct all questions related to DBE compliance prior to submission of the proposal to Alvin Porter, Office of Supplier Diversity, 1300 Perdido Street, Room 9E06, New Orleans, LA 70112, telephone: 658-4235, email: agporter@cityofno.com.

2. Services Needed: Attachment “A” describes the needed services.
3. Selection: The City will select an applicant generally according to the procedures described in Executive Order CRN 09-01 and Chief Administrative Officer (“CAO”) Policy Memoranda 118(R). The City will apply the following selection criteria and weighting factors to evaluate proposals;
4. Quality of Proposal – Proposer must demonstrate the following:
 - a) Show a meaningful understanding of, and justify the need for, providing financial assistance to fresh food retailers to increase access to healthy foods in underserved areas of New Orleans.
 - b) Outline a viable partnership, and provide a well developed and viable plan to administer the FFRI Program’s outreach.
 - c) Incorporate the following components: applicant review, financing, technical assistance, monitoring and compliance. **(25%)**
 - d) Relevant Experience – Relevant professional experience of the firm with the administration of similar HUD or other government sponsored loan and/or grant programs. Proposers will receive points for significant past experience working with the grocery sector, low and moderate income communities, and/or with businesses that have difficulty securing loans from traditional lending sources **(25%)**;
 - e) Commitment of Additional Funding – Proposer must commit to meet or exceed the minimum 50% funding match detailed in Attachment A. Higher matching commitments will receive higher point values **(15%)**
 - f) Cost – The reasonableness of proposer’s budget, as requested in Attachment A, in relation to services and products to be provided **(10%)**;
 - g) Timeliness – Ability of the proposer to complete work tasks specified in this RFP in a timely fashion **(5%)**; and,

- h) Support for Business Opportunities – Willingness of the Consultant to promote full and equal business opportunities in accordance with the City’s Disadvantage Business Enterprise Program (DBE) (20%).

5. Ownership: All proposals and all documentation submitted therewith are City property for all purposes. Applicants will clearly mark documents or information claimed exempt from public records disclosure and specifically justify the exemption. The City will not credit any blanket exemption claims lacking specific justification. The City does not guarantee the confidentiality of submissions.

6. Effect: This Request for Proposals and any related discussions or evaluations by anyone create no rights or obligations whatsoever. The City may cancel or modify this solicitation at any time at will, with or without notice. Anything to the contrary notwithstanding, the Professional Services contract executed by the City and the selected applicant, if any, is the exclusive statement of rights and obligations extending from this solicitation.

RFP City Atty 6/7/07

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Attachment “A”

NEEDED SERVICES

Background: The City of New Orleans Office of Community Development (OCD) has been allocated disaster-Community Development Block Grant (CDBG) funding from the State of Louisiana as part of their Long Term Community Recovery Program. One of the many recovery-based projects that the City intends to implement with this funding is the Fresh Food Retail Incentive (FFRI) Program. The FFRI Program, which has a budget of \$7 million of disaster-CDBG, will provide direct financial assistance to retail businesses that increase access to fresh healthy foods in underserved areas of Orleans Parish that have been adversely impacted by Hurricane Katrina.

Hurricane Katrina exacerbated the lack of fresh, healthy foods in many New Orleans neighborhoods. As of January 2009, only 19 full-service supermarkets (with three or more registers) have reopened in New Orleans, half the number in business before Katrina. Moreover, most of the city’s open supermarkets are located in wealthier and higher-ground areas, leaving vast tracts of underserved neighborhoods in areas of the City that flooded. This reality has made access to fresh food difficult for many residents, but particularly for the City’s lowest income residents. In a 2007 survey conducted by Tulane University, nearly 60% of low-income residents surveyed reported that they must drive more than 3 miles to reach a supermarket, but only about half (58%) owned a car.

Through the FFRI Program, forgivable loans and low-interest loans will be awarded to supermarkets, grocery stores, and other fresh food retail businesses that are located or plan to locate in designated underserved areas of Orleans Parish. The intent of the program is to enable vendors to open, renovate, or expand retail outlets that sell fresh fruits and vegetables. This investment will directly benefit low and moderate income residents by providing healthy food at affordable prices, creating jobs and revitalizing neighborhoods.

Qualifications Desired: The professional services requested by this RFP should provide a partnership of qualified organizations to administer the FFRI Program. This partnership (referred to as the FFRI Partnership) should consist, at minimum, of:

- (1) A community development lender who will handle the loan underwriting, and
- (2) A nonprofit organization with expertise relevant to improving access to healthy food.

Organizations eligible to administer the FFRI Program through the partnership must qualify as a quasi-public or non-profit organization established under Section 501 of the Internal Revenue Code of 1986, as amended; or as a for-profit organization that is certified by the U.S. Department of Treasury as a Community Development Financial Institution or a Community Based Development Organization as defined by HUD. Eligible community development lenders will have experience lending to businesses in the greater New Orleans area, Louisiana and/or the Gulf Coast region. Eligible non-profit organizations will have relevant expertise, such as in public health and/or food security and a demonstrated commitment to work with fresh food retailers and underserved communities to improve access to healthy food.

The partnership must commit to raise matching funds equivalent to at least 50% of the total amount of CDBG funds (\$7 million) allocated to establish the FFRI Program. These matching resources will increase the total amount of financing available for the FFRI Program awards to fresh food applicants.

In addition, the partnership must be willing to operate the FFRI Program for a minimum of three years. The City seeks a partnership that will not only deliver funds quickly, but also establish meaningful working relationships so as to support fresh food retail businesses in underserved communities.

Scope of Work:

Task #1: Program Outreach: The FFRI Partnership will market the program to fresh food retail businesses and community groups in underserved areas of New Orleans. It will ensure open and convenient access to program materials. Once selected, the FFRI Partnership will prepare and submit to OCD for approval a comprehensive outreach plan, including a schedule of public information sessions and template outreach materials.

Task #2: Evaluation of Fresh Food Retail Applicants: The FFRI Partnership will be responsible for accepting and reviewing applications for the FFRI Program on a rolling basis; it will make award recommendations on a monthly basis. Specifically, this will involve (1) pre-screening the applicants for eligibility, (2) evaluating the eligible applicants and (3) making a recommendation for OCD's approval regarding the award type and amount. The FFRI Partnership's recommendation to OCD should be based on an objective assessment of the viability of the applicant's project, the level of need demonstrated, the anticipated social and economic impacts and standard underwriting criteria.

The eligibility requirements for FFRI applicants are pre-determined and can be found in Attachment F. Upon selection, the FFRI Partnership will work with OCD to refine and release guidelines for the evaluation of applicants. Draft evaluation guidelines are provided in Attachment F.

Task #3: Provision of Financing: Program awards available from the FFRI Program will be in the form of forgivable loans and low-interest loans. The FFRI Partnership – primarily the community development lender - will be responsible for underwriting these loans, executing loan awards and closings (upon OCD's approval), and otherwise administering the financial assistance. Attachment F provides draft guidelines for loan awards, as well as draft minimum standard underwriting criteria. Upon selection, the FFRI Partnership will work with OCD to refine both sets of standards.

Moreover, as loans and forgivable loans to businesses may be combined with other recovery program awards and economic development incentives, the FFRI Partnership is encouraged to assist fresh food retailers in utilizing complementary programs.

Task #4: Technical Assistance: The FFRI Partnership will make available technical assistance appropriate to operating quality fresh food retail outlets in underserved communities, whether through direct provision or referral. This may include, but is not limited to, assistance in developing business plans and proposals, workforce development, and project management. The community development lender which underwrites applications for financial assistance, however, shall ensure that any technical assistance which it provides is not in conflict with its fiduciary responsibility.

Task #5: CDBG Compliance: The FFRI Partnership will be responsible for ensuring and documenting that program delivery activities and project activities of the FFRI Program awardees meet all standards of CDBG compliance. See the Professional Service Contract Compliance Provisions in Attachment G for a list of regulations that will need to be followed. In addition, the FFRI Partnership will be responsible for:

- Documenting how each award benefits low and moderate income persons (24 CFR 570.483)
- Maintaining financial records in accordance with uniform administrative requirements (24 CFR 570.502 and 24 CFR 84.21)
- Ensuring that each awardee has cleared environmental review (24 CFR 570.604) and the Uniform Relocation and Real Properties Acquisition Policies Act (24 CFR 570.606), as relevant, prior to the disbursement of funds to that awardee.
- Ensuring awardees are compliant with labor standards (24 CFR 570.603)

Task #6: Monitoring and Reporting: The FFRI Partnership will monitor FFRI Program awards per standard loan protocol and CDBG regulations. It will provide OCD with regular financial reports on program expenditures and matching funds, submitted with reimbursement requests; quarterly progress reports; and a final report on the program and its financial expenditures. See the monitoring and reporting requirements in Attachment F.

Task #7: Program Documents: In consultation with OCD, the selected FFRI Partnership will prepare and submit for approval a comprehensive *Fresh Food Retail Incentive Program* manual which shall include application forms, forgivable loan and low interest loan agreements, guaranty agreements, template outreach materials, documentation templates, and other documents necessary to the management of the program.

Proposal Submission Format

Proposals must include all of the following components in the order listed. The proposal should be paginated with clearly labeled sections and a useful table of contents. Please adhere to all page restrictions and the following format: one inch margins, 12 point font.

A. Cover page: Cover page should include the following information for each organization proposed to be part of the partnership: organization name, address, phone number, executive director, contact name, tax ID or charity registry number (non-profits only).

B. Table of contents

C. Project narrative (maximum 15 pages). The project narrative should provide all of the information requested below:

1. Understanding of the FFRI Program

Briefly explain how you expect the FFRI Program to increase access to healthy foods in underserved areas of New Orleans through providing financial assistance to fresh food retailers. Please indicate how the FFRI Program objectives relate to your organizational mission. Also include the number of fresh food retailers that the Proposer expects to serve within the timeframe of this program and the neighborhoods on which the Proposer would focus.

2. Partnerships for Service Provision

A. Clearly identify and describe the role(s) of each partner organization in the implementation of the FFRI Program.

Also describe any existing organizational relationships with community-based groups and neighborhood associations as well as a plan for involving such groups. Up to 3 letters of support from community-based organizations may be attached.

3. Organizational Experience and Capacity

A. *Overview of the partner organizations.* Include the following information for each organization proposed to be part of the FFRI Partnership:

1. Structure of the organization (for profit or not-for profit) and its governing body (e.g., Board of Directors).
2. Names and qualifications of key personnel. Detailed resumes or curricula vitae for the principal persons performing the services should be attached.
3. Length of time in operation.
4. Organization's resources and limitations.
5. The geographic area and/or populations served by the organization.

B. *Organizational experience.* Describe the past experience of the partner organizations with respect to the following:

1. HUD or any other government sponsored grant and/or loan programs
2. Low- and moderate-income communities and businesses
3. Lending to businesses that have difficulty securing loans for traditional lending sources
4. The retail grocery sector
5. Food policy, food access, or relevant public health experience

C. *Resource capacity.* Discuss the resources available to the FFRI Partnership to administer the FFRI Program, including staff, volunteers, funds, and facilities. Note any in-kind services that will be used to support this program.

D. *Current lending practices and policies.* For the proposed community based lender, describe in detail the organization's current community development lending program. Proposers may reference and attach existing loan policy manuals or other existing documents that provide the following required information.

1. Information about the types of loan products offered.
 - Maximum and minimum loan amounts
 - Maximum and minimum loan terms
 - Type of assets that can be financed; include any restrictions or prohibitions
 - Collateral requirements, personal guarantees
2. Information on loan approval and authority for loans.
 - Collection procedures, closing fees, servicing fees
 - Refinancing of loans
 - Processing time from application to disbursement
 - Repayment rate
3. Information on the organization's loan portfolio as follows:
 - Attach business loan reports and clearly label the information "Business Loan Portfolio Report." These reports must be certified by an officer of the organization, and show the number of business loan applications received, the number approved, and the number and aggregate principal amount of business loans closed, for the past 2 years, and year-to-date.

4. Project Plan

Describe your proposed plan for implementation and service delivery of the Fresh Food Retail Incentives Program. Provide a project plan that outlines the services that will be provided to implement the Scope of Work in a manner that meets the needs of eligible businesses and communities. Identify who will do the work, whether collaborative arrangements or subcontractors will be used, the role(s) and specific responsibilities of each project partner, and the resource commitments of the partners. Include the expected stages and timelines for service delivery.

Describe how the available disaster-CDBG funds and matching funds will be used to finance program administration, low-interest loans, forgivable loans, and any other key services; include how funds are expected to be allocated across these categories.

Describe the program's expected outcomes, proposed benchmarks (e.g., target areas to be served, annual number of projects assisted), and how you will measure and evaluate the program's impact and effectiveness.

5. Commitment of Additional Funding

The FFRI Partnership must raise at minimum 50% of the total amount of CDBG funds allocated to establish the FFRI Program in matching funds.

1. Identify the sources and amounts of matching funds as well as any in-kind

contribution (i.e., gifts, services, 3rd party funding, and labor) that would be committed to the FFRI Program and that could be used to fund FFRI Program awards. State whether the additional funds are to be used for forgivable loans, low interest loans, or another purpose.

2. Discuss the ways that the organization would utilize complementary funding sources in coordination with FFRI Program funding.

6. CDBG Compliance

Describe the process for monitoring fresh food retail projects and ensuring compliance with all CDBG requirements, including:

1. Relevant experience monitoring CDBG requirements
2. Current mechanisms and processes for monitoring CDBG requirements
3. Proposed plan for monitoring FFRI Program awardees including frequency of site visits and required documentation

Any plans to contract with organizations or individuals to monitor CDBG requirements

D. Budget: Please provide a detailed budget for operation of the FFRI Program. The budget should include all administrative costs, including but not limited to salaries, benefits, travel, operating services, supplies, professional/contractual services, equipment, CDBG compliance and other costs. The budget should justify all proposed expenditures and demonstrate scalable costs of the program.

E. Attachments:

- A copy of the most recent audited or reviewed annual financial statements for each organization which is proposed to be a part of the FFRI Partnership.
- Proof of each organization's not-for-profit status, or proof of current certification as a Community Development Financial Institution by the United States Department of the Treasury or a Community-Based Development Organization, as defined by HUD.
- A copy of each organization's operating budget for the current fiscal year, including all projected sources of revenue and all items of expense.
- Board resolution providing signatory authority to an authorizing official (one per organization).
- Detailed resumes or curricula vitae for the principal persons performing the services.
- Business loan reports as specified in this RFP.
- Letters of Support (optional, up to 3).

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Attachment "B"

REQUIRED CONTRACT PROVISIONS

1. **EQUAL EMPLOYMENT OPPORTUNITY:** In all hiring or employment made possible by, or resulting from this contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable, affirmative action will be taken to ensure that the Contractors employees are treated during employment without regard to their race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry.
2. **ASSIGNABILITY:** The Contractor shall not assign any interest in this agreement and shall not transfer any interest in the same without prior written consent of the City of New Orleans.
3. **CONFLICT OF INTEREST:** In the interest of ensuring that efforts of the Contractor do not conflict with the interests of the City, and in recognition of the Contractor's responsibility to the City, the Contractor agrees to decline any offer of employment if its independent work on behalf of the City is likely to be adversely affected by the acceptance of such employment. The initial determination of such a possibility rests with the Contractor. It is incumbent upon the Contractor to notify the City and provide full disclosure of the possible effects of such employment on the Contractor's independent work in behalf of the City. Final decision on any disputed offers of other employment for the Contractor shall rest with the City Attorney.
4. **INDEMNIFICATION:** The Contractor shall indemnify and save the City harmless against any and all claims, demands, suits, judgments of sums of money to any party accruing against the City for loss of life or injury or damage to persons or property growing out of, resulting from, or by reason of any act or omission or the operation of the Contractor, its agents, servants or employees while engaged in or about or in connection with the discharge or performance of the services to be done or performed by the Contractor hereunder and shall also hold the City harmless from any and all claims and/or liens for labor, services, or materials furnished to the Contractor in connection with the performance of its obligation under this Agreement.
5. **ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION COVERAGE:** Contractor herein expressly agrees and acknowledges that it is an independent contractor as defined in R.S. 23:1021 (6) and as such, it is expressly agreed and understood between the parties hereto, in entering into this services agreement, that the City of New Orleans

shall not be liable to the Contractor for any benefits or coverage as provided by the Workmen's Compensation Law of the State of Louisiana, and further, under the provisions of R.S. 23:1034 anyone employed by the Contractor shall not be considered an employee of the City for the purpose of Worker's Compensation coverage.

6. ACKNOWLEDGMENT OF EXCLUSION OF UNEMPLOYMENT COMPENSATION COVERAGE: Contractor herein expressly declares and acknowledges that it is an independent contractor, and as such is being hired by the City under this agreement for hire as noted and defined in R.S. 23:1472 (E), and therefore, it is expressly declared and understood between the parties hereto, in entering into this services agreement, or agreement for hire, and in connection with unemployment compensation only, that:

a. Contractor has been and will be free from any control or direction by the City over the performance of the services covered by this contract; and

b. Services to be performed by Contractor are outside the normal course and scope of the City's usual business; and

c. Contractor has been independently engaged in performing the services listed herein prior to the date of this agreement.

Consequently, neither Contractor nor anyone employed by Contractor shall be considered an employee of the City for the purpose of unemployment compensation coverage, the same being hereby expressly waived and excluded by the parties hereto.

7. WAIVER OF SICK AND ANNUAL LEAVE BENEFITS: It is expressly agreed and understood between the parties entering into this services agreement that the Contractor, acting as an independent agent, shall not receive any sick and annual leave benefits from the City of New Orleans.

8. JURISDICTION & CHOICE OF LAW: The Contractor hereby consents and yields to the jurisdiction of the State Civil Courts of the Parish of Orleans, and does hereby formally waive any pleas of jurisdiction on account of the residence elsewhere of the Contractor. This agreement shall be construed and enforced according to the laws of the state of Louisiana, excepting its conflict of laws provisions.

9. DURATION: This Agreement shall commence on the Effective Date and shall continue for a period of twelve months.

10. APPROPRIATION AND/ OR EXTENSION: This agreement may be extended at the option of the City, provided that funds are allocated by the Council of the City of New Orleans and the extension of the agreement facilitates the continuity of services provided herein. This agreement may be extended by the City on an annual basis for no longer than five one year periods.

11. SOLICITATION: The Contractor has not employed or retained any company or person, other than a bona fide employee working solely for him, to solicit or secure the subject contract. The Contractor has not paid or agreed to pay any person, other than a bona fide employee working for him, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the subject contract.

12. AUDIT AND OTHER OVERSIGHT: The Contractor understands and will abide by all provisions of the Code of the City of New Orleans, Chapter 2, Art. XIII, Sect. 2-1120, as adopted by City Ordinance No. 22,888 M.C.S., (relative to the operations and authority of the City Inspector General), incorporated herein by reference.

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Attachment “C”

REQUIRED CONTRACT DBE PROVISIONS

“DBE Program Compliance. Contractor agrees to use its best efforts to fully and completely carry out the applicable requirements of the City’s DBE Program in the award and administration of this Agreement, including, without limitation, all reporting requirements and specific DBE participation goals. Contractor’s failure to carry out these requirements, as determined in good faith by the DBE Compliance Officer, shall be deemed a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as set forth in the City’s Policy Memorandum for the DBE Program.”

“DBE Compliance Reporting. Contractor agrees to provide quarterly written reports to the DBE Compliance Officer on all expenditures made to achieve compliance with the DBE participation goals for this Agreement. The report shall, at a minimum, include the following:

- i. The name and business address of each DBE involved in the contract;
- ii. A description of the work performed and/or the product or service supplied by each DBE;
- iii. The date and amount of each expenditure made to a DBE; and
- iv. Such other information as may assist the DBE Compliance Officer in determining Contractor’s compliance with the DBE Program and the status of any DBE performing any portion of the contract.”

“Access to Books and Records. Contractor agrees to grant DBE Compliance Officer reasonable access to its books and records for purposes of verifying compliance with the DBE Program.”

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Attachment “D”

TAX CLEARANCE CERTIFICATE

See attachment

According to Section 2-8 of the Code of the City of New Orleans, Louisiana 1995, the City may not enter into or make payments under a contract, grant or cooperative endeavor agreement with any person, corporation, or entity delinquent in City taxes. This form supplies the needed tax clearance. This clearance is issued without prejudice to any tax liabilities discovered by audit.

Please refer to the instruction on the back of this form

Bid/RFP No.: _____ **Contracting Department:** _____

TYPE OF BUSINESS:

BUSINESS NAME:

REAL ESTATE TAX NUMBER:

OWNER'S NAME:

BUSINESS ADDRESS:

PERSONAL PROPERTY TAX NUMBER:

MAILING ADDRESS:

CONTACT TELEPHONE:

SALES TAX/OCCUPATIONAL LICENSE NUMBER:

FAX NUMBER:

E-MAIL ADDRESS:

PRINT NAME:

TITLE:

AUTHORIZED SIGNATURE:

DATE

SIGNED:

I certify that I have the authority to execute this form with respect to the tax matters covered and that the above is true and correct. The City of New Orleans is authorized to inspect and/or receive confidential tax information.

BUREAU OF REVENUE (Room 1W15)

BUREAU OF TREASURY (Room 1W37)

This clearance covers Occupational License and Sales/Use taxes.

This clearance covers Ad Valorem taxes for Real Estate and Business Property taxes.

I HEREBY ASSERT THAT AFTER REVIEW OF THE TAXPAYER'S RECORDS OF THIS DATE THAT THE TAXPAYER **IS NOT** DELINQUENT IN ANY TAXES OWED TO THE CITY.

I HEREBY ASSERT THAT AFTER REVIEW OF THE TAXPAYER'S RECORDS OF THIS DATE THAT THE TAXPAYER **IS NOT** DELINQUENT IN ANY TAXES OWED TO THE CITY.

COLLECTOR OF REVENUE

DATE

TREASURY CHIEF

DATE

I attest that the taxpayer named above **is not** delinquent in any taxes owed to the city.

DIRECTOR OF FINANCE

DATE

INSTRUCTIONS

1. To complete this form, provide all of the information requested. Failure to fill in ALL information requested will delay processing. If the form is not signed and dated, the form will not be processed.
2. Complete, sign and date the authorization form and submit in any of the following ways:
 - a. In person or by mail to: City Hall, Department of Finance, 1300 Perdido Street, Room 4W07, New Orleans, LA 70112
 - b. Via Facsimile (Fax): (504) 658-1570
3. This form authorizes the City of New Orleans to inspect and/or receive your confidential tax information.
4. This Tax Clearance Authorization will not be honored for any purpose other than contracting with the City of New Orleans.
5. A separate Tax Clearance Authorization is required for each contract.
6. If you need additional information regarding this authorization, please call the Department of Finance at (504) 658-1550, or e-mail purchasing@cityofno.com
7. The following requirements must be met in order for a Tax Clearance Authorization form to be approved by the City of New Orleans. It is recommended that all outstanding tax and business registration be completed prior to processing the form to expedite contract execution.

Real Estate/Personal Property Tax

- o Businesses are required to be current in payment of all Real Estate Tax and Personal Property Tax.
- o A business can visit the City of New Orleans' website, www.cityofno.com at the Bureau of Treasury webpage to pay outstanding Real Estate and Personal Property taxes due.
- o A business can mail outstanding tax payments to City of New Orleans, Bureau of the Treasury 1300 Perdido St., Room 1W38, New Orleans, La. 70112.

Sales Tax/Occupational License

- o All businesses are required to have a City of New Orleans Sales Tax number.
- o If the business is located within Orleans Parish, an Occupational License is also required. If the business is domiciled outside of

- Orleans Parish, a registration is required to be completed to obtain a Revenue account number.
- If a business is not registered, a New Business Application must be completed. The application can be found on the City of New Orleans' website, www.cityofno.com, at the Bureau of Revenue webpage. Under Online Revenue Documents, an application can be downloaded and returned to the City of New Orleans, Bureau of Revenue, 1300 Perdido St., Room 1W15, New Orleans, LA 70112. Any questions may be forwarded to Revenue Administration, 658-1695 or 658-1666.
 - Non-profit organizations must comply with the Occupational License requirements by completing a New Business Application. The application can be found on the City of New Orleans' website, www.cityofno.com, at the Bureau of Revenue webpage. Under Online Revenue Documents, an application can be downloaded and returned to the City of New Orleans, Bureau of Revenue, 1300 Perdido St., Room 1W15, New Orleans, LA 70112. Any questions may be forwarded to Revenue Administration, 658-1695 or 658-1666.
 - Once exempt status is confirmed for the non-profit organization, the organization is exempt from Occupational License fees.

**City of New Orleans, Louisiana
Office of Community Development
Request for Proposals
RFP No.: 2103-00873
PROFESSIONAL SERVICES TO ADMINISTER THE FRESH FOOD
RETAIL INCENTIVE PROGRAM
January 28, 2010**

Attachment “E”

FORM DBE-1 and EVIDENCE OF BEST EFFORTS

See attachment

FORM DBE-1
DISADVANTAGED BUSINESS ENTERPRISE (DBE) RESPONSIVENESS FORM
This form should be completed by respondents within the time specified in the Invitation to Bid or RFP.

The undersigned bidder/ respondent has satisfied the requirements of the bid specification or RFP in the following manner (please check the appropriate space):

_____ The bidder/ respondent is committed to a minimum of _____ % DBE utilization on this contract.

_____ The bidder/ respondent (is unable to meet the DBE goal of _____ %) is committed to a minimum of _____ % DBE utilization on this contract and will submit documentation demonstrating best efforts.

Name of bidder/respondent's firm: _____

State Registration Number: _____

By _____
(Signature) (Title)

Name of DBE firm: _____

Address: _____

City: _____ State _____ ZipCode: _____

Telephone: _____

Description of work to be performed by DBE

The bidder/respondent is committed to utilizing the above-named DBE firm for the work described above.

The estimated dollar value of this work is \$ _____.

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: _____
(Signature) (Title)

STANDARDS OF DEMONSTRATED BEST EFFORTS

Before receiving an award of the contract, the contractor must meet the DBE goals or prove that he/she has made demonstrated BEST EFFORTS. To determine whether a particular contract bidder has made demonstrated BEST EFFORTS to reach the DBE participation goal, the Office of Supplier Diversity and its staff will consider the following:

- a) whether the contractor attended all pre-bid meetings that may have been scheduled by the City of New Orleans to inform DBE firms of subcontracting opportunities and/or requested the City of New Orleans Directory of Certified DBE firms;
- b) whether the contractor advertised in general circulation and trade association publications, concerning the DBE subcontracting opportunities, and allowed the subcontractors reasonable time to respond;
- c) whether the contractor provided written notice to a reasonable number of individually named DBE firms and allowed sufficient time for the DBE firms to participate effectively;
- d) whether the contractor followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested in bidding;
- e) whether the contractor selected specific portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including breaking down contracts into smaller units to facilitate DBE participation);
- f) whether the contractor provided interested DBEs with adequate information about the plans, specifications and requirements of the contract;
- g) whether the contractor negotiated in “good faith” with interested DBEs and did not reject DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;
- h) if the contractor did reject a DBE as unqualified, the contractor must state his or her reason for doing so in writing;
- i) whether the contractor has used the services of available community organizations and small and/or disadvantaged business groups; local, state and federal small or disadvantage business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBE firms;
- j) whether the contractor has made sufficient efforts to negotiate with DBEs for specific sub-bids, including at a minimum:
 - (1) names, addresses, telephone numbers of DBEs that the contractor contacted,
 - (2) a description of information provided to those DBE firms, and
 - (3) a statement of why additional agreements with DBEs were not reached to include but not limited to proof the DBEs’ price exceeded that of non-DBEs.

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Attachment “F”

FFRI PROGRAM GUIDELINES

The Fresh Food Retail Incentives (FFRI) Program will provide direct financial assistance to retail businesses that increase access to fresh healthy foods in Orleans Parish. Through the program, forgivable loans and low-interest loans will be awarded to supermarkets and other fresh food retail businesses that are located or plan to locate in underserved areas of Orleans Parish that have been adversely affected by Hurricane Katrina. The intent of the program is to enable operators to open, renovate, or expand retail outlets that sell fresh fruits and vegetables in underserved areas. This investment will directly benefit low- and moderate-income residents by providing healthy food at affordable prices, creating jobs, and revitalizing neighborhoods.

Eligibility Criteria for Applicants:

- A. To be eligible for forgivable loans and low-interest loans under the FFRI Program, the Applicant and the Applicant’s business must meet the following requirements.
 1. At least one of the following:
 - a. Applicant plans to open or restore a supermarket or other grocery retail outlet that operates on a self-service basis, primarily selling affordable fresh produce, seafood, meat, dairy products, and other groceries.
 - b. Applicant currently owns a grocery retail outlet that carries limited to no fresh produce and applicant plans to substantially improve the store’s ability to stock and sell a variety of fresh fruits and vegetables.
 - c. Applicant plans to develop a real estate project which will lease space to a grocery retail tenant. In this case, the applicant must have a signed lease with a fresh food retail operator. Projects which have multi-tenant uses may be eligible if the development project is split into separate footprints, allowing the FFRI award to focus only on the grocery retail tenant portion.
 2. Applicant will locate business in an underserved area of Orleans Parish. Underserved area is defined as an area of below average supermarket density that (1) is located in a low- or moderate-income census tract or (2) serves a

customer base with more than 51% living in a low- or moderate-income census tract.

3. Applicant will demonstrate that significant shelf space (suggested minimum of either 15% of the current or future store shelf space or 24 linear feet of shelf space, whichever is greater) is dedicated to the sale of fresh fruit and vegetables. This standard establishes a meaningful commitment to sell fresh produce and other healthy foods.
 4. Applicant proposes to use the award for one of the following designated activities:
 - a. Site Assembly and Improvement: funds may be used to pay for land acquisition, demolition, environmental remediation, unstable foundations and soil conditions, and other costs associated with site and infrastructure improvement.
 - b. Construction and Rehabilitation: funds may be used to construct, rehabilitate, or expand the interior and/or exterior of the retail space, including for builder overhead and profit, labor, materials, and contingency funding.
 - c. Equipment: funds may be used to install or upgrade equipment, machinery, furnishings or interior fit-out, especially as necessary to increase the inventory and sale of fresh fruit and vegetables.
 - d. Staff Training: funds may be used to pay for training new or existing staff, especially in such areas as safe food handling techniques, sanitation, and management of fresh fruits and vegetables.
 - e. Security: funds may be used to pay for security staff, security training, and security related equipment and site design features to create a safe environment in a neighborhood setting.
 - f. Inventory and Working Capital: funds may be used to cover first-time inventory or other working capital expenses necessary to the sale of fresh fruit and vegetables and the initial operations of the business.
- B. Other eligibility guidelines:
1. Eligible entities include but are not limited to national chains, regional grocery chains, singular grocery retail outlets, and smaller neighborhood food stores.
 2. The business can have for-profit or non-profit status.
 3. The Applicant can also participate in other loan, grant, or incentive programs offered by federal, state, or local governments.
 4. Common ownership of different businesses will be subject to the guidelines on the maximum grant per operator.
 5. The Applicant must meet the CDBG guidelines for evaluating and selecting economic development projects (24 CFR 570.209):
 - a. That project costs are reasonable;
 - b. That all other sources of project financing are committed;
 - c. Documentation of need and that CDBG funds are not substituted for non-Federal financial funding or support;

- d. That the project is financially feasible;
 - e. That to the extent practicable, the return on the applicant's equity investment will not be unreasonably high; and
 - f. That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.
- C. The following businesses will not be eligible.
- 1. Applicants that fail to demonstrate a commitment to offer fresh healthy foods, in the judgment of OCD and the FFRI Partnership
 - 2. Large department stores that specialize in many different types of goods, of which groceries are only one department
 - 3. Restaurants, cafes, or bakeries
 - 4. Pharmacies with grocery sections
 - 5. Businesses with alcohol or tobacco retail sales as the primary source of revenue
 - 6. Public entities.

Draft Criteria for Evaluating Eligible Applicants:

(It is expected that the selected FFRI Partnership may wish to revise and/or add weights to these criteria.)

- 1. Degree of benefit to underserved populations: The project will have a demonstrable impact on the level of affordable fresh foods provided to low- and moderate-income residents of the area that the project serves. The project's results must be measurable and the methodology for measurement must be described.
- 2. Promotion of fresh fruits and vegetables: The Applicant demonstrates a commitment to promoting the sale of fresh fruits and vegetables, e.g. the project (1) meets or exceeds the suggested minimum shelf space dedicated to the sale of fresh produce and (2) details strategies to promote fresh produce sales beyond simple availability, such as product placement, marketing, and outreach.
- 3. Organizational experience and capacity: The Applicant demonstrates the capacity to implement and sustain the project, e.g. through a sound financial/business plan and relevant experience in fresh food retail.
- 4. Project Need: The project requires an investment of public funding to move forward, to create impact, or to be competitive with similar projects in the region.
- 5. Community Support: The project demonstrates community support and/or partnerships as evaluated by Letters of Support from community-based organizations and community groups.
- 6. Consistency with Strategic Recovery and Redevelopment Plan: Points may be awarded to qualified projects that fulfill a Critical Project included in the New Orleans Strategic Recovery and Redevelopment Plan.
- 7. Consistency with "Green Community" Objectives: Points may be awarded to qualified projects that incorporate environmentally responsible practices into

the project plan, such as integrated design, site improvements, water conservation, energy efficiency, and use of materials beneficial to the environment.

Draft Underwriting Criteria

(It is expected that the selected FFRI Partnership may wish to revise these guidelines)

To receive a forgivable loan and/or a low-interest loan under the FFFRI Program, the Applicant and the Applicant's business must satisfy the following minimum standard underwriting criteria, unless mitigating circumstances are present and noted in the file.

A. Basic Standard Underwriting Criteria:

1. Determination that the project meets general program eligibility criteria
2. Beacon credit score ≥ 550
3. Projected debt coverage ratio of $1.2x^1$
1. Personal guarantee, where applicable

Draft Guidelines for Loan Awards

(It is expected that the selected FFRI Partnership may wish to revise these guidelines.)

- A. Forgivable Loan Information: Forgivable Loans of up to \$500,000 per store will be awarded for designated project activities. Applicants will be required to submit a narrative that demonstrates the need for a Forgivable Loan.

Forgivable Loans will be provided at a 0% rate of interest and forgiven over a period of four years. One-fifth (1/5) of the Forgivable Loan amount shall be forgiven for each full year after the fresh food retail outlet begins operation at the project location. In the event of project default or non-compliance with the stated terms, or in the event that any business other than an eligible fresh food retail outlet operates at the location of the project, the balance of the loan shall be immediately due and payable from the recipient of the Forgivable Loan.

Other Guidelines:

1. No operator shall receive more than \$1,000,000 in Forgivable Loans, which must be allocated among different stores.
2. Recipients may also apply to receive low-interest loans under the FFRI Program.

- B. Low-Interest Loan Information: Loans will be provided at below-market rates. Loan terms and interest rates will be set by the FFRI Partnership in consultation with OCD.

Other Guidelines

1. The total amount of CDBG funds awarded for forgivable loans and low-interest loans combined may not exceed \$1,000,000 per store. The total amount of CDBG funds awarded for forgivable loans and low-interest loans combined may not exceed \$1,500,000 per operator, which must be allocated

¹ Debt coverage ratio defined as EBITDA / (interest payments + current maturities)

among different stores.

2. Borrowers will be required to provide a minimum of 10% cash equity.
3. Default covenants are required for selling the business, selling or diluting majority ownership, or selling assets purchased with CDBG funds.
4. OCD may hereafter provide for the establishment of a revolving loan fund to use repaid loan funds for future FFRI Program awards. Any such use shall require compliance with applicable CDBG requirements.

Draft Monitoring and Management of Grants and Loans
(OCD reserves the right to revise these requirements.)

- A. The FFRI Partnership will monitor loans per standard loan protocol along with CDBG regulations. It also will cooperate with OCD monitoring activities.
- B. The FFRI Partnership will make customary and reasonable efforts to collect on loans.
- C. The FFRI Partnership must furnish all FFRI award recipients with an award agreement detailing joint responsibilities, including but not limited to:
 1. Ensuring that award funds are used only for the purposes stated in the approved project application in accordance with all CDBG requirements. Any significant changes to an approved project should be reported to OCD immediately. Funding may be revoked for failure to report changes or where changes made to a project are determined to reduce its effectiveness or adherence to the program objectives.
 2. Monitoring the performance of all project activities and ensuring that the work is completed within the established time frame.
 3. Sending OCD a copy of any contract or secondary agreement related to the project.
 4. Award recipient must retain documents providing evidence of the use of the award fund for five years from the date of disbursement of the initial award payment.
- D. If the FFRI Partnership contracts any other partners during the course of administration of the FFRI Program, it is the FFRI Partnership's responsibility to ensure all partners are in full compliance with their contract with the City and the FFRI Program rules.
- E. The FFRI Partnership will cooperate with any audits performed by OCD or the State.

Draft Program Reporting Requirements
(OCD reserves the right to revise these requirements.)

- A. Financial Reports. Brief financial reports on program expenditures from CDBG and match funds will be submitted with reimbursement requests.
- B. Progress Reports. Quarterly progress reports from the FFRI Partnership to OCD are required. The report should be organized under, but not limited to, the following headings:
 1. Activities: Briefly summarize activities performed, including:

- Number of new program applications received and status of applications.
- Forgivable loans initiated and closed.
- Low-interest loans initiated and closed.
- Type of technical assistance provided.
- Details on businesses awarded funds including use of funds, geographic area served, number of low-moderate income residents served, size of retail space (sq ft), shelf space dedicated to the sale of fresh produce, and number of jobs created and retained.

2. Problems and Delays: Note unexpected delays or impediments.

3. Future Program Plans: Outline work to be performed during the succeeding period.

4. Funding to Date: State the level of CDBG and match funds expended to date.

C. Final Report. A narrative final report is required within 90 days of the program's ending date. As this report is an important vehicle for sharing results and lessons learned, the FFRI Partnership is expected to work with OCD before submission to determine a format suitable for wide distribution.

D. Final Financial Status Report. The final financial status report is required within 90 days of the program's ending date. The FFRI Partnership also shall submit to OCD written receipts or other documentation to verify the total amount of the program costs.

E. Record Retention. FFRI Partnership organizations must retain all records pertaining to the administration, receipt and use of federal funds for five (5) years following the final close-out of the CDBG grant from HUD to OCD. These records include but are not limited to:

- Financial records (i.e. general ledger, bank statements, cancelled checks, supporting invoices, financial statements etc.)
- Programmatic records (i.e. all loan documents, including documentation of credit analysis and due diligence; intake records; documentation of declined applications.)
- Any other documents that the FFRI Partnership considers material to a potential audit.

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Attachment "G"

CDBG COMPLIANCE PROVISIONS FOR PROFESSIONAL SERVICES
CONTRACTS

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1. **EQUAL EMPLOYMENT OPPORTUNITY (Equal Opportunity Clause)**
(applicable to contracts and subcontracts above \$10,000)

During the performance of this contract, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.
- C. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the Contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor.
- E. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and others.
- F. In the event of the Contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The Contractor will include the provisions of the sentence immediately preceding paragraph A and the provisions of paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order

11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

2. **CERTIFICATION OF NONSEGREGATED FACILITIES**
(applicable to contracts and subcontracts over \$10,000)

By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that he/she does not maintain or provide for his/her establishments, and that he/she does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

He/she further agrees that (except where he/she has obtained for specific time periods) he/she will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

3. **CIVIL RIGHTS**

The Contractor shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

4. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

5. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 - COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, and the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the

subcontractor has been found in violation of the regulations in 24 CFR part 135.

- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

6. SECTION 503 OF THE REHABILITATION ACT OF 1973 (29 USC 793)
(applicable to contracts and subcontracts over \$10,000)

- A. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is otherwise qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- B. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- C. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

- D. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- E. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- F. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

7. SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, any program or activity that receives the benefits from the federal financial assistance.

8. AGE DISCRIMINATION ACT OF 1975

The Contractor shall comply with the provisions of the Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

**9. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS
(applicable to contracts and subcontracts exceeding \$100,000)**

The Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

- A. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR Part 15, as amended.
- B. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.
- D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

10. FLOOD DISASTER PROTECTION

This contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). Nothing included as a part of this contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this contract for such acquisition for construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements or Section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of Flood Disaster Protection Act of 1973.

11. ACCESS TO RECORDS - MAINTENANCE OF RECORDS

The State of Louisiana, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with this contract will be maintained in a central location by the unit of local government and will be maintained for a period of five (5) years from the official date of the State's final closeout of the grant.

12. INSPECTION

The authorized representative and agents of the State of Louisiana and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

13. REPORTING REQUIREMENTS

The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the Owner.

14. CONFLICT OF INTEREST

A. No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

B. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

15. ACTIVITIES AND CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246, AS AMENDED

(applicable to contracts and subcontracts of \$10,000 and under)

During the performance of this contract, the Contractor agrees as follows:

A. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for

employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

- B. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. Contractors shall incorporate foregoing requirements in all subcontracts.

16. PATENTS

- A. The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.
- B. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Contractor.
- C. If the Contractor uses any design device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the owner of such patented or copy-righted design device or material. It is mutually agreed and understood, that without exception the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copy-righted design, device or materials or any trademark or copy-right in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

17. COPYRIGHT

No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the Contractor for copyright purposes. Any such materials produced as a result of this contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

18. TERMINATION FOR CAUSE

If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the Owner shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor under this contract shall, at the option of the Owner, become the Owner's property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the contract by the Contractor, and the Owner may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the Owner from the Contractor is determined.

19. TERMINATION FOR CONVENIENCE

The Owner may terminate this contract at any time by giving at least ten (10) days notice in writing to the Contractor. If the contract is terminated by the Owner as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date.

20. ENERGY EFFICIENCY

The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

21. SUBCONTRACTS

- A. The Contractor shall not enter into any subcontract with any subcontractor who has been debarred, suspended, declared ineligible, or voluntarily excluded from participating in contracting programs by any agency of the United States Government or the State of Louisiana.
- B. The Contractor shall be as fully responsible to the Owner for the acts and omissions of the Contractor's subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by the Contractor.
- C. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractor to the Contractor by the terms of the contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards

terminating any subcontract that the Owner may exercise over the Contractor under any provision of the contract documents.

D. Nothing contained in this contract shall create any contractual relation between any subcontractor and the Owner.

22. DEBARMENT, SUSPENSION, AND INELIGIBILITY

The Contractor represents and warrants that it and its subcontractors are not debarred, suspended, or placed in ineligibility status under the provisions of 24 CFR 24 (government debarment and suspension regulations).

23. BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Contractor or the Contractor's subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this contract. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

24. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

25. CHANGES

The Owner may, from time to time, request changes in the scope of the services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation which are mutually agreed upon by and between the Owner and the Contractor, shall be incorporated in written and executed amendments to this Contract.

26. PERSONNEL

The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Owner.

All the services required hereunder will be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

No person who is serving sentence in a penal or correctional institution shall be employed on work under this Contract.

27. ANTI-KICKBACK RULES

Salaries of personnel performing work under this Contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. 874; and Title 40 U.S.C. 276c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to insure compliance by the subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

28. ASSIGNABILITY

The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the Owner provided that claims for money due or to become due the Contractor from the Owner under this Contract may be assigned to a bank, trust company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Owner.

29. INTEREST OF CONTRACTOR

The Contractor covenants that he presently has no interest and shall not acquire any interest direct or indirect in the above described project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

30. POLITICAL ACTIVITY

The Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

31. COMPLIANCE WITH THE OFFICE OF MANAGEMENT AND BUDGET

The parties agree to comply with the regulations, policies, guidelines, and requirements of the Office of Management and Budget, Circulars A-95, A-102, A-133, and A-54, as they relate to the use of Federal funds under this contract.

32. DISCRIMINATION DUE TO BELIEFS

No person with responsibilities in operation of the project to which this grant relates will discriminate with respect to any program participant or any applicant for participation in such program because of political affiliation or beliefs.

33. CONFIDENTIAL FINDINGS

All of the reports, information, data, etc., prepared or assembled by the Contractor under this Contract are confidential, and the Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

34. LOBBYING

The Contractor certifies, to the best of his or her knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.