



2023

CONSTRUCTION CONTRACT

(Name of Bidder Awarded Contract: **INSERT CONTRACTOR NAME**)

(Name of Project: HOMEKEY PHASE II)

THIS CONSTRUCTION CONTRACT (hereinafter, "Contract") is made and entered into this _____ day of _____ 2023 (hereinafter, the "Effective Date") by and between the CITY OF EL MONTE, a municipal corporation (hereinafter, "CITY") and _____ (hereinafter, "CONTRACTOR"). For the purposes of this Contract, CITY and CONTRACTOR may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or CONTRACTOR interchangeably as appropriate.

RECITALS

WHEREAS, CITY requires construction services for Homekey Phase II (hereinafter, the "Project"); and

WHEREAS, CITY issued a solicitation for competitive bids dated May 04, 2023 and entitled "City of El Monte Bid Solicitation Package and Administrative Specifications for Homekey Phase II Restoration of Existing M Motel"; and

WHEREAS, following the opening of bids on **INSERT DATE OF OPENING BIDS**, CONTRACTOR was determined to be the lowest responsive and responsible bidder for the Project; and

WHEREAS, the Project will be funded through federal and state funding sources including the US Department of Housing and Urban Development (HUD), California Department of Housing and Urban Development, Permanent Local Housing Allocation (PLHA) and Homekey for the Project; and

WHEREAS, the award of this Contract to CONTRACTOR was approved by the El Monte City Council ("City Council") at its meeting of _____, 2023 under Agenda Item No. _____.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONTRACTOR agree as follows:

I.
THE CONTRACT DOCUMENTS

1.1 The Contract also includes and encompasses the following documents which are incorporated in this Contract by their reference below:

- a) Invitation to Bid entitled "Homekey Phase II" dated, May 04, 2023, which is attached hereto as **Exhibit "A"**;
- b) CONTRACTOR's submitted Bid, dated **INSERT DATE OF BID PROPOSAL**, which consists of the items listed below and is attached hereto as **Exhibit "B"**;
 - o Bid Schedule
 - o City Bid Form 01 – Bid Acknowledgement and Signatures
 - o City Bid Form 02 – Bidder's General Information
 - o City Bid Form 03 – City Bidder Qualifications Questionnaire
 - o City Bid Form 04 – Subcontractor Listing
 - o City Bid Form 05 – Non-Collusion Declaration
 - o City Bid Form 06 – Iran Contracting Act Certification
 - o City Bid Form 07 – DIR Registration Certification
 - o City Bid Form 08 – Workers' Compensation Certification
 - o City Bid Form 09 – False Claims Act Certification/History
 - o City Bid Form 10 – Debarment Certification
 - o City Bid Form 11 – Civil Litigation Declaration/History
 - o City Bid Form 12 – Conflict of Interest Certification/Disclosure
 - o Federal Form – Equal Employment Opportunity Commitment
 - o Federal Form – Bidder's Questionnaire
 - o Federal Form – Non-Segregated Facilities Certification
 - o Federal Form – Past Performance Certification
 - o Federal Form – Federal Lobbyist Certification
 - o Federal Form – Declaration of Intent with Section 3
 - o Federal Form – Notice of Section 3 Commitment
 - o Federal Form – Business Concern Certification
- c) CONTRACTOR's Bid Security dated **INSERT DATE OF BID SECURITY**, which is attached hereto as **Exhibit "C"**;
- d) CONTRACTOR's Payment Bond No. **INSERT BOND NO.**, dated **INSERT DATE OF PAYMENT BOND**, a true and correct copy of which is attached hereto as **Exhibit "D"**;
- e) CONTRACTOR's Performance Bond No. **INSERT BOND NO.**, dated **INSERT DATE OF PERFORMANCE BOND**, a true and correct copy of which is attached hereto as **Exhibit "E"**;
- f) Plans (**Total of XX Sheets**) attached hereto as **Exhibit "F"**;
- g) Technical Specifications attached hereto as **Exhibit "G"**;
- h) Bid Solicitation and Administrative Specifications attached hereto as **Exhibit "H"**;
- i) Future supplement agreements and contract change orders approved by

Commented [NL1]: Added these new forms

CITY.

The term "Contract Documents" shall be a collective reference to this Contract and all of the foregoing documents identified and listed above.

II.

WORK TO BE PERFORMED

- 2.1 The CONTRACTOR agrees to furnish all supervision, design, deliverables, labor, materials, tools, furnishings, equipment, apparatus, services, facilities, transportation, and ancillary tasks, whether specifically defined or not, necessary to perform and complete the Project defined by the Contract Documents in a good and workmanlike manner. It is understood and agreed that the tools, equipment, apparatus, facilities, labor, transportation, and material shall be furnished and the work performed and completed as required in the Contract Documents under the sole direction and control of the CONTRACTOR, and subject to inspection and approval of the CITY (as authority having jurisdiction), any representative of the CITY (as owner of the project), and any other authority having jurisdiction over some portion of the work. The CITY hereby designates as its representative for the purpose of this Contract the following named person: Betty Donovanik, Director of Community & Economic Development.

III.

CONTRACT PRICE

- 3.1 Subject to the terms and conditions set forth in the Contract Documents, CITY agrees to pay and the CONTRACTOR agrees to accept, in full payment for all work contemplated under the Contract Documents **INSERT DOLLAR AMOUNT SPELLED OUT (\$INSERT DOLLAR AMOUNT IN NUMBERS)**.

IV.

NOTICE TO PROCEED AND TIME FOR COMPLETION

- 4.1 A written Notice to Proceed issued by CITY must be received by CONTRACTOR before CONTRACTOR may mobilize or commence any work on the site. CONTRACTOR shall commence its performance of the work contemplated under this Contract no later than the date specified in the Notice to Proceed. CONTRACTOR shall complete the total project within THIRTY-SIX (36) CALENDAR WEEKS, as defined in the General Conditions, after the date stated in the Notice to Proceed.

V.

NOTICE AND SERVICE THEREOF

- 5.1 Any notice from one party to the other under the Contract shall be in writing and shall be dated and signed by the Party giving such notice or by a duly authorized representative of such Party. Any such notice shall not be effective for any purpose

whatsoever unless served in the following manner, namely:

- (a) If the notice is given to the CITY, by personal delivery thereof, or by depositing the same in the United States mail, enclosed in a sealed envelope, postage prepaid, and certified; addressed to the CITY at:

City of El Monte
Community & Economic Development Department
Attn: Betty Donovanik, Director of Community Development
El Monte City Hall – West, 2nd Floor
11333 Valley Boulevard
El Monte, CA 91731

- (b) If the notice is given to the CONTRACTOR, by personal delivery thereof to said CONTRACTOR or to its duly authorized representative at the site of the project, or by depositing the same in the United States mail, enclosed in a sealed envelope, postage prepaid, and certified; addressed to the CONTRACTOR at:

[INSERT CONTRACTOR NAME]
[Attn: _____]
[ADDRESS _____]
[ADDRESS _____]
[PHONE NO. _____]

- (c) If the notice is given to the surety or any other person, by personal delivery to such surety or other person, or by depositing the same in the United States mail, enclosed in a sealed envelope, addressed to such surety or other person, as the case may be, at the address of such surety or person last communicated by it to the party giving the notice, postage prepaid and certified.

VI.
LIQUIDATED DAMAGES

- 6.1 Liquidated damages as provided for in Article 6, Supplemental Conditions of the Bid Solicitation and Administrative Specifications shall be in the sum of Seven Thousand Five Hundred Dollars (\$7,500) for each and every calendar day as defined therein for each different scope of work as defined by the Base Bid and each change order except where mutually agreed otherwise.

VII.

FEDERAL REQUIREMENTS AND RESTRICTIONS

- 7.1 CONTRACTOR shall comply with all applicable state and local codes, ordinances and other applicable laws, all applicable CITY CDBG program requirements and any amendments hereafter to CITY CDBG program guidelines and requirements. CONTRACTOR agrees to comply with all applicable federal laws and regulations and to any amendments hereafter including, but not limited to, the following:
- A. **COMMUNITY DEVELOPMENT BLOCK GRANT REGULATIONS.** The CDBG Regulations, 24 CFR Part 570, and any amendments hereafter thereto; and
 - B. **NONDISCRIMINATION.** No person or entity shall discriminate in the employment of persons in the performance of this Contract by CONTRACTOR or under any subcontract executed by CONTRACTOR in the furtherance of CONTRACTOR's performance under this Contract because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sexual preference, or gender of such persons, except as provided in Section 12940 of the Government Code. This Contract is also subject to state contract nondiscrimination and compliance requirements pursuant to Government Code, Section 12990. CONTRACTOR and any subcontractor of CONTRACTOR who violates the provisions of Section 1735 of the Labor Code shall be subject to all the penalties imposed for a violation of Chapter 1, Part 7, Division 2 of the Labor Code; and
 - C. **NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS.** Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), and implementing regulations in 24 CFR part 1, prohibiting discrimination upon the basis of race, color, religion, ancestry, sex, marital status, mental or physical disability, age, familial status, sexual orientation, or national origin; and
 - D. **HOUSING AND COMMUNITY DEVELOPMENT ACT.** Section 109 of the Housing and Community Development Act requiring that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act; and
 - E. **REHABILITATION ACT OF 1973.** Section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, and with all applicable implementing regulations. Any contract in excess of \$10,000 entered into by any Federal department or agency for the procurement of personal property and non-personal services (including construction) for the United States shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified

individuals with disabilities. No otherwise qualified individual with handicaps in the United States shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance.

F. **AGE DISCRIMINATION ACT OF 1975.** The Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR, Part 146, which prohibit discrimination because of age in programs and activities receiving Federal financial assistance; and

G. **EQUAL EMPLOYMENT AND CONTRACTING OPPORTUNITY** - Equal Employment Opportunity, as amended, and regulations of Executive Order 11246, amended by Executive orders 11375, 11478, 12086, and 12107 (3 CFR 1964-1965 Comp. p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264).

CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, marital status, mental or physical disability, age, familial status, sexual orientation, gender identity or national origin. CONTRACTOR will take affirmative action to insure that applicants are employed, without regard to race, color, religion, ancestry, sex, marital status, mental or physical disability, age, familial status, sexual orientation, gender identity, 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. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the municipality setting forth the provisions of this nondiscrimination clause.”

CONTRACTOR will cause the foregoing provisions to be inserted in all subcontracts for work covered by this Contract so that such provision will be binding upon each subcontractor, provided that the foregoing provision shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

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 for employment without regard to their race, color, religion, ancestry, sex, marital status, mental or physical disability, age, familial status, sexual orientation, gender identity, or national origin.

CONTRACTOR will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. CONTRACTOR will assist and cooperate actively with the CITY and the Secretary of Labor in obtaining the compliance of CONTRACTORS and

subcontractors with the equal opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor, that it will furnish the Secretary of Labor such information as they may require for the supervision of such compliance and that it will otherwise assist the Secretary in the discharge of the Secretary's primary responsibility for securing compliance.

CONTRACTOR will refrain from entering into any contract or contract modification subject to Executive Order 11246, as amended, with a CONTRACTOR debarred from, or who has not demonstrated eligibility for government contracts and federally assisted construction contracts pursuant to said Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Secretary of Housing and Urban Development or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order; and

- H. **DEBARRED, SUSPENDED OR INELIGIBLE CONTRACTORS OR SUBRECIPIENTS.** The requirements set forth in 24 CFR part 5 and Executive Orders 12549 and 12689, prohibiting the use of debarred, suspended or ineligible contractors or subcontractors; and
- I. **“SECTION 3 REQUIREMENTS”** - HOUSING AND URBAN DEVELOPMENT ACT OF 1968 (12 U.S.C. 1701U). 24 CFR, Part 75, also known as Section 3, which provides employment opportunities for businesses and lower income persons in connection with federally-assisted projects. CONTRACTOR will also ensure that provisions of 24 CFR, Part 75, are included in all subcontracts.

The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance of 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. The parties to this Contract agree to comply with HUD's regulations in 24 CFR Part 75, which implements Section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual obligation or other impediment that would prevent them from complying with Part 75 of the regulations.

CONTRACTOR agrees to send each labor organization or representative of workers with which CONTRACTOR has a collective bargaining Contract or other understanding, if any, a notice advising the labor organization or workers' representative of CONTRACTOR's commitments under Section 3, 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, shall set forth the minimum number and job titles subject to hire, and the name and location of the person(s) taking

applications for each of the positions; and the anticipated date the work shall begin.

CONTRACTOR agrees to include this Section 3 contract language in every subcontractor subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 contract language, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. 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 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts."

J. **MINORITY AND WOMEN-OWNED BUSINESSES (W/MBE).** Executive Orders 11625, 12432, and 12138, which state that recipients of federal assistance shall take affirmative action to encourage participation by minority and women-owned business enterprises. In accordance with 2 CFR § 200.321 all non-federal entities must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. As used in this Contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women; and

K. **DAVIS-BACON LABOR STANDARDS.** CONTRACTOR and all subcontractors, engaged in contracts in excess of \$2,000 for the construction, completion, rehabilitation, or repair of any building or work financed in whole or in part with assistance provided under this Contract are subject to the federal labor standards provisions, Davis Bacon and Related Acts as amended (40 USC 3141-5144 and 3146-3148), which govern the payment of wages and the ratio of apprentices and trainees to journey-workers. Under the terms of the Davis-Bacon Act, as supplemented by 29 CFR Part 5, amended, the contractor and subcontractors are required to pay all laborers and mechanics employed on construction work wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor, and shall pay overtime compensation in accordance with and subject to the provision of the Contract Work Hours and Safety Standards Act (40 USC 3701-3708), and the CITY shall comply with all regulations issued pursuant to these Acts and with other applicable Federal laws and regulations pertaining to labor standards, including the Copeland "Anti-Kickback" Act (40 USC 3145). Federal Wage Determination Number

CA20230022 is attached hereto as Exhibit "C" and incorporated herein by this reference as though set forth in full. Provided, that if wage rates higher than those required under the regulations are imposed by State or local laws, nothing hereunder is intended to relieve the CITY of its obligation, if any, to require payment of the higher rates. In the event of any conflict or inconsistency between the provisions of Federal statutes and regulations under this paragraph and the provision of any other applicable State or local prevailing wage requirements described elsewhere in the Contract Documents, the provisions affording broader protections or higher wage requirements shall govern and control but only to the extent of the conflict or inconsistency and no further; and

- L. **VOLUNTEERS.** The regulations of 24 CFR part 70 shall apply to the use of volunteers; and
- M. **ENVIRONMENTAL REVIEW STANDARDS.** The Contract is subject to the regulations of 24 CFR part 58, which specify the provisions of law which further the purposes of the National Environmental Policy Act of 1969; and
- N. **FLOOD DISASTER PROTECTION ACT 1973.** The requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128 and the National Flood Insurance Program in accordance with section 202(a) of the Flood Disaster Protection Act and the regulations in 44 CFR parts 59 through 79); and the Coastal Barrier Resources Act (16 U.S.C. 3601); and
- O. **EXECUTIVE ORDER 13279 (EQUAL PROTECTION OF THE LAWS FOR FAITH-BASED AND COMMUNITY ORGANIZATIONS).** The regulations of Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60. As applicable, the requirements of the CDBG Program Regulations for religious or faith-based organizations under 24 CFR 570.200(j); and
- P. **LEAD-BASED PAINT.** The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this part; and
- Q. **DRUG-FREE WORKPLACE ACT.** The Drug-Free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR, Part 24, Subpart F, requiring provision of drug-free workplace; and
- R. **CONFLICT OF INTEREST.** The conflict of interest provisions, as applicable, in accordance with 2 CFR Part 200.112, 24 CFR Part 92.356, and 24 CFR Part 570.611; and

S. ARCHITECTURAL BARRIERS ACT AND THE AMERICANS WITH DISABILITIES ACT. The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157), the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings), and Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA).

T. VIETNAM ERA VETERANS' READJUSTMENT ASSISTANCE ACT OF 1974. The Vietnam Era Veterans' readjustment Assistance Act of 1974, as amended. Covered contracts entered into by any department or agency for the procurement of personal property and non- personal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. The provisions of this section shall apply to any subcontract entered into by a prime contractor in carrying out any contract for the procurement of personal property and non-personal services (including construction) for the United States.

U. PURCHASE OF U.S. MADE GOODS, PRODUCTS AND MATERIALS. This Project is subject to the Build America, Buy America Act (BABA). The non-Federal entity should ensure the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

Commented [NL2]: I changed this to reflect the BABA requirements. Please modify if necessary

V. LOBBYING REGULATION. Neither CONTRACTOR nor any subcontractor may use Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractors and subcontractors must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

W. COMPLIANCE WITH FEDERAL AIR AND WATER STATUTES. During the performance of this contract, 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.

X. MAINTENANCE OF RECORDS. In compliance with the regulations and

authorities under 2 CFR 200 the Contractor and applicable subcontractors shall maintain adequate invoices, receipts, job records and disbursement journals and such other records for the Project for a period of three years.

VIII.

TERMINATION BY CITY FOR CONVENIENCE

- 8.1 In accordance with §10.11 of the Administrative Specifications, CITY, in its sole and absolute discretion, may terminate the Contract for convenience and discontinue the Project at any time prior to the completion of the Project or if the Project is stopped by an injunction of a court of competent jurisdiction or by order of any competent authority. Upon service of such notice of termination, the CONTRACTOR shall discontinue the Project in such manner, sequence, and at such times as described in the Administrative Specifications. The CONTRACTOR shall have no claim for damages for such discontinuance or termination, nor any claim for anticipated profits on the Project thus dispensed with, nor any other actually performed up to the time of discontinuance, including any extra work ordered by CITY to be done, nor for any claim for liquidated damages.

IX.

CONTRACTOR REGISTRATION

- 9.1 By the execution of this Contract, CONTRACTOR hereby certifies that it is registered with the California Department of Industrial Relations as required pursuant to Labor Code section 1725.5 (contractor registration).

(SIGNATURES ON NEXT PAGE)

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed the day and year first appearing in this Contract, above.

CITY OF EL MONTE

CONTRACTOR

By: _____
Alma K. Martinez
City Manager

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM

By: _____
Richard Padilla
Assistant City Attorney

Date: _____

