

RESOLUTION NO. 210047 **MAR 5 1974**

WHEREAS, The City of San Diego, hereinafter referred to as "Applicant," has heretofore submitted an application to the United States of America, Department of Housing and Urban Development, hereinafter referred to as "Government," for a grant under Section 702 of the Housing and Urban Development Act of 1965, as amended, to aid in financing a certain public works identified as Project No. WSF-CA-09-16-1005; and

WHEREAS, the Government has approved the said application and has submitted to the Applicant a certain Grant Agreement for approval and execution by the Applicant, which said agreement is satisfactory; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the Applicant, that the said agreement, a copy of which is attached hereto, be and the same is hereby approved. The City Manager or his designee is hereby authorized and directed to execute the said agreement in the name and on behalf of the applicant, in as many counterparts as may be necessary, and the City Clerk is hereby authorized and directed to affix or impress the official seal of the applicant thereon and to attest the same. The proper officer is directed to forward the said executed counterparts of the said agreement to the government, together with such other documents evidencing the approval and authorization to execute the same as may be required by the government.

APPROVED: JOHN W. WITT, City Attorney

By H. Valderhaug
Harold Valderhaug, Deputy

nr/1-31-74

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

GRANT AGREEMENT

(Water and Sewer Facilities Grant Program)

Name of Applicant: City of San Diego

Project No. WSF-CA-09-16-1005

Address: 1222 First Avenue
San Diego, California 92101

Federal Contract No. H-602-4209

THIS GRANT AGREEMENT dated as of June 1, 1973, by and between City of San Diego (Herein called the "Applicant"), and the United States of America, Secretary of Housing and Urban Development (herein called the "Government"):

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

That for and in consideration of the mutual promises hereinafter contained, the parties hereto do covenant and agree as follows:

Section 1. Amount and Purpose. Subject to the Terms and Conditions attached hereto and made a part hereof as Attachments "A", "B" and "C" and the provisions of this Agreement, the Government will make a Grant to the application on account of the Project. The Grant shall in no event exceed the lesser of (i) fifty percent of the Eligible Project Cost, not including the cost of relocation payments and assistance, as determined by the Government on completion of the Project, such cost estimated at \$110,000.00, and the Government's share of the cost of relocation payments and assistance provided by the Applicant in connection with the Project as specified in Section 5 of this Agreement, (ii) \$45,000.00.

Section 2. Description of the Project. The project shall consist of construction of a storm sewer about 1,800 feet long and 48-inches indiameter complete with necessary appurtenances. (herein called the "Project").

Section 3. Government Field Expense. The amount of the fixed fee for Government Field expense referred to in Section 32 of the attached Terms and Conditions shall be \$1,000.00.

Section 4. Reduction in Grant. The Government shall have the right to reduce the amount of the Grant upon giving the Applicant written notice, if the Eligible Project Cost after award of construction contract is determined by the Government to be less than the estimated cost upon which the stipulated amount of the Grant was based.

Section 5. Relocation Payments. The applicant agrees to make relocation payments and payments for eligible expenses incidental to transfer of title and condemnation litigation, and to provide relocation assistance to or on behalf of eligible displacees in accordance with and to the full extent permitted by the regulations or other requirements of the Secretary of Housing and Urban Development and within the budgetary limits of this Agreement. Notwithstanding any other provision of this Agreement, the Government shall provide a Grant to fund the first \$25,000 of the cost to the Applicant of providing such payments and assistance for each eligible displacee, pursuant to such regulations or other requirements, displaced prior to July 1, 1972. Costs of the Applicant for providing such payments and assistance in excess of said \$25,000 per eligible displacee on account of displacement occurring prior to July 1, 1972, and all costs of the Applicant for providing such payments and assistance on account of displacement occurring on or after July 1, 1972, shall be treated and funded as are other eligible projects costs. Grant funds from the total amount thereof set forth in Section 1 of this Agreement, used to fund the cost of relocation payments and assistance in accordance with this Section of this Agreement shall not without the prior written consent of the Secretary of Housing and Urban Development, exceed \$NONE.

Section 6. Special Conditions. The Government's obligation to make the Grant is also subject to the following Special Conditions:

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a. Employment of Apprentices and Trainees. The Grantee shall comply with the provisions of the Department of Labor Regulations (29 C.F.R., Part 5 and 5(a)) and shall ascertain that these provisions are made a part of every invitation for bids, and to every negotiation, request for proposals, or request for quotation.

b. Compliance With the Provisions of the Clean Air Act. Notwithstanding any other provisions of this contract, the Legal Public Agency (or appropriate contracting agency) agrees to comply with the Clean Air Act, as amended (42 U.S.C. 1857, et seq.), and the standards issued thereto, in connection with the activities receiving assistance hereunder.

c. "Notwithstanding any other provision of this contract, in all work made possible or resulting from this contract which is being carried out in a model neighborhood area designated in an approved Comprehensive City Demonstration Program, as the same may from time to time be amended, affirmative action will be taken in accordance with requirements of the government to ensure that residents of the area are given a maximum opportunity for training and employment and that business concerns located in or owned in substantial part by residents of the model neighborhood are to the greatest extent feasible, awarded contracts."

IN WITNESS WHEREOF, this agreement has been executed in the name and on behalf of the Applicant by the undersigned official, and under its official seal, duly attested, and in the name and on behalf of the United States of America, Secretary of Housing and Urban Development, by the undersigned official.

City of San Diego

(SEAL)

By _____
(Signature)

(Type or Print Name)

ATTEST:

(Title)

(Signature)

(Type or Print Name)

(Title)

UNITED STATES OF AMERICA
Secretary of Housing and Urban Development

(Date of Execution by the Government)

By _____
Area Director
Los Angeles Area Office

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HUD-41420
(5-66)

Attachment "A"

TERMS AND CONDITIONS

Constituting Part of the Grant Agreement Providing for the Financing and Construction of Water or Sewer Facilities Under Title VII of the Housing and Urban Development Act of 1965, Public Law 89-117, August 10, 1965.

Section 1. Definitions.--As used in these Terms and Conditions:

"Government" means the United States of America.

"Project" means the Water or Sewer Facilities covered by the Grant Agreement.

"Grant Agreement" means the contract between the Government and the Applicant covering the Project and includes both these Terms and Conditions and other contract instruments.

"Applicant" means the public entity or entities designated in the Grant Agreement.

"Project Cost" means the cost of construction work for the Project, cost of necessary architectural/engineering services, legal, administrative and clerical costs, cost of land acquisition, necessary travel expenses, interest during construction, and other necessary miscellaneous expenses.

"Eligible Project Cost" means the cost of construction, of land acquired for the project, and of site improvements, all as determined by the Government.

"Depository Bank" means a bank or trust company which is a member of the Federal Deposit Insurance Corporation.

"Project Site" means any of the land, rights-of-way, easements, or other interests in land acquired by the Applicant in connection with the development of the site.

Section 2. Prerequisites to Government's Obligations.--The Government shall be under no obligation to disburse funds under the Grant Agreement if:

(a) Representations.--Any representation made by the Applicant to the Government in connection with the application, shall be incorrect or incomplete in any material respect, or the Government determines that the Applicant has failed to proceed promptly with Project financing or construction;

(b) Concurrence by Government.--The Applicant, having submitted to the Government the documents mentioned in Section 16 hereof, shall have proceeded without having been advised by the Government that the same are satisfactory; it being the purpose of this provision to insure that no action will be taken in the development of the project which would result in legal or contractual violation rendering it impossible for the Government to make the grant hereunder or for the parties to accomplish the objects of the Agreement;

(c) Prohibited Interests.--If any official of the Applicant who is authorized in such capacity and on behalf of the Applicant to negotiate, make, accept or approve, or to take any part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction, materials, supply, or equipment contract or any subcontract in connection with the construction of the project, shall become directly or indirectly

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interested personally in any such contract or subcontract, or if any official, employee, architect, attorney, engineer or inspector of or for the Applicant who is authorized in such capacity and on behalf of the Applicant to exercise any legislative, executive, supervisory or other functions in connection with the construction of the project, shall become directly or indirectly interested personally in any construction, materials, supply, equipment or insurance contract, in any subcontract or any other contract pertaining to the project.

Section 3. Applicant's Funds.--The Applicant shall initiate and prosecute to completion all proceedings necessary to enable the Applicant to provide its share of the Project Cost on or prior to the time that such funds are needed to meet project costs.

Section 4. Legal Matters.--The Applicant shall take all actions necessary to enable it to finance, construct, and develop the project in due time, form and manner as required by law and the Grant Agreement.

Section 5. Project Site.--The project shall be located on lands or the requisite interest therein of the Applicant; such lands and interest when acquired subsequent to the date of the Grant Agreement shall be acquired in accordance with the land acquisition policy requirements set forth in Sections 6 through 9 hereinafter. The Applicant shall comply with the provisions of Title IV, of the Housing and Urban Development Act of 1965 (P.L. 89-117) and regulations and requirements of the Government thereunder which establish certain policies and provide for specific payments in connection with the acquisition by eminent domain of the real property necessary for the Project.

Section 6. Negotiated Purchase.--The Applicant covenants and agrees that it will make every reasonable effort to acquire each parcel of or interest in land constituting part of the Project Site by negotiated purchase. Applicant shall (1) directly or through its agents, make a diligent, conscientious effort to induce the owner to accept a fair and proper price for such property and, if such effort is unsuccessful, make a final offer to the owner in writing. Such offer shall include: (1) an invitation to discuss the acquisition of his property with the applicant; (2) afford a reasonable period of time for the owner to consider the offer; and (3) include a notification of the date on which the applicant intends to institute eminent domain proceedings if agreement cannot be reached for a negotiated purchase within the time specified.

Section 7. Payment for Real Property.--The Applicant covenants and agrees that it will not require the owner to surrender possession of any parcel of or interest in land constituting part of the Project Site until it has paid to the owner (1) the agreed purchase price arrived at by negotiation, or (2) in any case where only the amount of payment to the owner is in dispute, not less than 75 percent of the appraised fair value of the property as approved by the applicant. Such requirement for 75 percent payment may be satisfied either by direct payment to the owner or by deposit in court of such amount, provided such deposit may be paid over to the owner without prejudice to his right to obtain a judicial determination of the value of the property. A tender of payment to the owner, whether or not accepted by the owner, shall be regarded as payment.

Section 8. Notice to Surrender Possession.--The Applicant covenants and agrees that no person lawfully occupying property constituting part of the Project Site shall be required to surrender possession on account thereof without at least ninety days' written notice of the date on which construction or development is scheduled to begin. Such notice shall be given to all persons lawfully occupying such property including owners conveying title pursuant to a negotiated sale. Such notice shall not be given until the applicant has the legal right to possession of the property.

Section 9. Records of Negotiations.--The Applicant covenants and agrees that it will maintain complete and accurate records of all negotiations and other actions affecting acquisition of any property in connection with the Project and such records shall be available for inspections by representatives of the Government. Such records shall be maintained in one place for a period of at least three years following completion of construction of the Project.

Section 10. Disbursement of Grant Funds for Land Acquisition.--The Applicant may requisition disbursements on account of grant provided in the Agreement for acquisition of land at any time after receipt of the Agreement as needed to enable the Applicant to make payment as required under Section 5 above, provided (1) no impediment exists which would prevent carrying forward of the Project, and (2) the Applicant has a firm and binding commitment for its share of the Project costs, and (3) the cost of the land so acquired is acceptable to the Government. In the event the Project for any reason is subsequently abandoned, the Applicant covenants and agrees that it will repay any funds disbursed hereunder.

Section 11. Grant Disbursements.--The Applicant may requisition disbursements on account of the grant provided in the Agreement at any time. Such requisitions shall be accompanied by such supporting data as the Government may require. The Government shall honor, subject to the provisions of the Agreement, such requisitions in amounts and at times deemed by it to be proper to insure the expeditious prosecution and payment to the costs of the Project. No request for review of a determination of the Government affecting the grant payable under the Agreement will be considered unless such request is received by the Government not later than three months following notice to the Applicant of such determination. In no event shall the total amount of grant funds disbursed to pay land and construction costs exceed 90 percent of the grant amount specified in the Agreement for such costs until after the Project has been completed and audited, and the final grant amount determined by the Government.

Section 12. Prerequisites to Disbursements.--Prior to the Government disbursing any portion of the grant except as provided otherwise in Section 10 above, the Applicant shall present satisfactory evidence that:

- (a) It has obtained, or can obtain, all land, rights-of-way, easements, permits, franchises, Federal, State, County, and Municipal approvals required in connection with the construction and operation of the Project, including approval of the final plans and specifications by the appropriate State authorities;
- (b) It has the funds or a firm and binding commitment to provide its share of the Project Cost;
- (c) It has deposited into the Construction Account, in addition to the grant proceeds, any portion then available of the funds to be furnished by the Applicant to meet its share of the Project Cost and that it will promptly deposit any remaining portion of its share of the Project Cost in order that all payments in connection with the Project can be made as the same become due;
- (d) The Project can be completed at a total cost satisfactory to the Government which will be within the amount of funds available therefor; and
- (e) It is able to provide or obtain the provision of all necessary building or household connections and local collection or distribution laterals as determined by the Government from sources other than grant funds hereunder.

Section 13. Construction Account.--The Applicant shall set up in a Depository Bank, or with the fiscal agency of the Applicant fixed by law, a separate account or accounts (herein collectively called the "Construction Account") into which shall be deposited any temporary loans, Government grants, and the additional funds required by the provisions of the Grant Agreement to be furnished by the Applicant in order to assure the payment of all Project Costs. Moneys in the Construction Account shall be expended only for such purposes as shall have been previously specified in the Project Cost estimates approved by the Government. The Applicant shall pay all Project Costs from the Construction Account.

Moneys in the Construction Account shall be secured by the Depository Bank in the manner prescribed by statutes relating to the securing of public funds. Where the moneys on deposit in the Construction Account exceed the estimated disbursements on account of the Project for the next 90 days, the Applicant may direct the Depository Bank to invest such excess funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States Government, which shall mature not later than 18 months after the date of such investment and which shall be subject to redemption at any time by the holder thereof. The earnings from any such investments shall be deposited in the Construction Account by the Applicant.

After completion of construction and payment of all costs of the Project, any balance in the Construction Account shall remain therein pending determination by the Government of the total Project Cost and the grant. Such balance shall be used to refund promptly to the Government any overpayment made with respect to the grant; any amount thereafter remaining shall be available for disposition by the Applicant in accordance with its other contractual agreements, applicable State or local law or other governing conditions.

Section 14. Prompt Procedure - Economic Construction.--The Applicant covenants and agrees that it will proceed promptly with all matters necessary to the financing and the development of the Project; and that the Project will be undertaken and developed in such manner that economy will be promoted in such development and in the construction work.

Section 15. Approvals and Permits.--The Applicant shall obtain approvals and permits required by law as a condition precedent to the acquisition, construction, development, and operation of the Project.

Section 16. Submission of Proceedings, Contract and Other Documents.--The Applicant shall submit to the Government such data, reports, records and documents relating to the financing, construction, and operation of the project as the Government may require. Approval of the Government must be obtained prior to the assignment of any interest in or part of any contract relating to the Project.

Section 17. Construction by Contract.--All work on the Project shall be done under contract and every opportunity shall be given for free, open and competitive bidding for each and every construction, material, and equipment contract. The Applicant shall give such publicity by advertisement or calls for bids by it for the furnishing to it of work, labor, materials, and equipment as required by applicable law and as will provide adequate competition; and the award of each contract therefor shall be made, after approval by the Government to the lowest responsible bidder as soon as practicable; Provided, that in the selection of equipment or materials the Applicant may, in the interest of standardization or ultimate economy, if the advantage of such standardization or such ultimate economy is clearly evident, and if permissible under applicable local law, award a contract to a responsible bidder other than the lowest in price. The Applicant shall obtain the concurrence of the Government before approving subcontracts relating to the Project.

Section 18. Changes in Construction Contract.--Any change in a construction contract shall be submitted to the Government for approval.

Section 19. Contract Security.--The Applicant shall require that each construction contractor shall furnish a performance bond in an amount at least equal to 100 percent of his contract price as security for the faithful performance of his contract and also a payment bond in an amount not less than 50 percent of his contract price or in a penal sum not less than that prescribed by State, territorial, or local law, as security for the payment of all persons performing labor on the Project under his contract and furnishing materials in connection with his contract. The performance bond and the payment bond may be in one or separate instruments in accordance with local law.

Section 20. Insurance During Construction.--The Applicant shall require that each of its contractors and all subcontractors maintain during the life of his contract, Workmen's Compensation Insurance, Public Liability, Property Damage, and Vehicle Liability Insurance, in amounts and on terms satisfactory to the Government. Until the Project is completed and accepted by the Applicant, the Applicant or (at the option of the Applicant) the contractor is required to maintain Builders Risk Insurance (fire and extended coverage) on a 100 percent basis (completed value form) on the insurable portion of the Project for the benefit of the Applicant, the prime contractor, and all subcontractors, as their interests may appear.

Section 21. Wage Rates.--The Applicant shall comply with the provisions of the Act of March 3, 1931 (Davis-Bacon Act, 40 USC sec. 1276), as amended, and the applicable rules and regulations issued by the Secretary of Labor thereunder which are incorporated herein by reference. The Applicant shall cause to be inserted in each contract or subcontract subject to the Davis-Bacon Act the specific provisions required by the regulations of the Secretary of Labor.

Section 22. Contract Work Hours.--The Applicant shall comply with the provisions of the Contract Work Hours Standards Act (40 USC secs. 327-332) and the applicable rules and regulations issued by the Secretary of Labor thereunder which are incorporated herein by reference. The Applicant shall cause to be inserted in each contract or subcontract subject to the Work Hours Standards Act the specific provisions required by the above regulations.

Section 23. Payment of Employees.--The Applicant shall require of its contractors that all employees engaged in work on the Project be paid in full (less deductions made mandatory by law) not less often than once each week.

Section 24. Copeland Act.--The Applicant shall comply with the provisions of the Copeland Act (Anti-Kickback), 48 Stat. 1948, as amended, and the applicable rules and regulations issued by the Secretary of Labor thereunder which are incorporated herein by reference. The Applicant shall cause to be inserted in each contract or subcontract subject to the Copeland Act the specific provisions required by the above regulations.

Section 25. Accident Prevention.--The Applicant shall require of its contractors that precaution shall be exercised at all times for the protection of persons (including employees) and property, and that hazardous conditions be guarded against or eliminated.

Section 26. Supervision and Inspection.--The Applicant shall provide and maintain on its own behalf competent and adequate architectural or engineering services covering the supervision and inspection of the development and construction of the Project.

Section 27. Equal Employment Opportunity.--The Applicant hereby agrees to incorporate or cause to be incorporated into any contract for construction work or modification thereof, paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance or guarantee, the following equal opportunity clause:

'During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, 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, creed, color, 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.
- (2) 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 for employment without regard to race, creed, color, or national origin.
- (3) 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 advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the 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 of Housing and Urban Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such 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 or Federally-assisted construction contracts, in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the provisions of paragraphs (1) through (7) in every sub-contract or purchase order unless exempted by rules, regulations, or orders of the

Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, 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 of Housing and Urban Development may direct as a means of enforcing such provisions, including sanctions for noncompliance; Provided, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department of Housing and Urban Development, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

The Applicant further agrees that it will be bound by the above equal opportunity clause in any Federally-assisted construction work which it performs itself other than through the permanent work force directly employed by an agency of government.

The Applicant agrees that it will cooperate actively with the Department of Housing and Urban Development 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 Department of Housing and Urban Development and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the Department of Housing and Urban Development in the discharge of the Department's primary responsibility for securing compliance. The Applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally-assisted construction contracts pursuant to Part II, Subpart D, of Executive Order 11246 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 Department of Housing and Urban Development or the Secretary of Labor pursuant to Part II, Subpart D, of Executive Order 11246. In addition, the Applicant agrees that if it fails or refuses to comply with these undertakings, the Department of Housing and Urban Development may cancel, terminate or suspend in whole or in part this grant, may refrain from extending any further assistance to the Applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such Applicant, or may refer the case to the Department of Justice for appropriate legal proceedings.

Section 28. Civil Rights Act of 1964.--The Applicant covenants and agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and with the rules and regulations (24 CFR, Subtitle A, Part 1) of the Department of Housing and Urban Development issued pursuant thereto.

Section 29. Payments to Contractors.--Not later than the fifteenth day of each calendar month the Applicant shall make a partial payment to each construction contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month by the particular contractor, but shall retain until final completion and acceptance of all work covered by the particular contract a reasonable amount, specified in the contract, sufficient to insure the proper performance of the contract.

Section 30. Inspection of Work and Records; Maintenance of Records.--The Applicant shall require of its contractors that the Government's authorized representatives be permitted, and it will itself permit them to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records appertaining to the development of the Project. The Applicant shall maintain proper and accurate financial records, books and accounts pertaining to the grant and the development of the Project that will readily disclose (1) relocation costs,

(2) eligible Project costs, and (3) other Project costs, and shall permit the Government's authorized representatives to examine such books, records, and accounts. The Applicant agrees to maintain all of the aforesaid data, records and invoices in one place for at least a period of three years following completion of construction of the Project.

Section 31. Signs.--The Applicant shall cause to be erected at the site of the Project, and maintained during construction, signs satisfactory to the Government identifying the Project and indicating the fact that the Government is participating in the development of the Project.

Section 32. Audit.--The Applicant shall contract at its own expense for an audit of the Project by an independent certified or licensed public accountant; a copy of the contract shall be furnished to the Government; and three copies of the audit report in substance satisfactory to the Government shall be furnished promptly to the Government.

Section 33. Government Field Expense.--The Government will bill the Applicant for payment of the fee specified in the Grant Agreement to cover inspection costs and payment will be due from the first funds deposited in the Construction Account by the Applicant to pay its share of the Project Cost. In the event of termination of the Grant Agreement, the Applicant shall be entitled to a refund of all or a proportionate part of the fee. The refund shall be in such an amount as the Government determines to be equitable under the circumstances.

Section 34. Operation of Project.--The Applicant covenants that it will operate and maintain the project or provide for the operation and maintenance thereof, to serve the objects and purposes for which the grant has been made available under the Federal law and the terms of the Agreement.

Section 35. Interest of Third Parties.--The Agreement is not for the benefit of third parties, including the holders from time to time of any of the bonds issued to finance a portion of the Project, and the Government shall be under no obligation to any such parties, whether or not indirectly interested in said Agreement, to pay any charges or expenses incident to compliance by the Applicant with any of its duties or obligations thereunder.

Section 36. Interest of Members of or Delegates to Congress.--No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

Section 37. Bonus or Commission.--By execution of the Agreement, the Applicant represents that it has not paid and, also, agrees not to pay, any bonus commission or fee for the purpose of obtaining an approval of its application for the grant hereunder.

Section 38. State or Territorial Law.--Anything in the Agreement to the contrary notwithstanding, nothing in the Agreement shall require the Applicant to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable State or territorial law; Provided, That if any of the provisions of the Agreement violate any applicable State or territorial law, or if compliance with the provisions of the Agreement would require the Applicant to violate any applicable State or territorial law, the Applicant will at once notify the Government in writing in order that appropriate changes and modifications may be made by the Government and the Applicant to the end that the Applicant may proceed as soon as possible with the construction of the project.

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Attachment B

EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS

Equal Employment Opportunity. The Grantee hereby agrees to incorporate or cause to be incorporated into any contract for construction work or modification thereof, paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance or guarantee, the following equal opportunity clause:

"During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, 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, creed, color, 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.
- (2) 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 for employment without regard to race, creed, color, or national origin.
- (3) 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 advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the 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 of Housing and Urban Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such 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 or Federally-assisted construction contracts, in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the provisions of paragraphs (1) through (7) 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 No. 11246 of September 24, 1965, 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 of Housing and Urban Development may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department of Housing and Urban Development, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

The Grantee further agrees that it will be bound by the above equal opportunity clause in any Federally-assisted construction work which it performs itself other than through the permanent work force directly employed by an agency of government.

The Grantee agrees that it will cooperate actively with the Department of Housing and Urban Development 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 Department of Housing and Urban Development and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the Department of Housing and Urban Development in the discharge of the Department's primary responsibility for securing compliance. The Grantee further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally-assisted construction contracts pursuant to Part II, Subpart D, of Executive Order 11246 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 Department of Housing and Urban Development or the Secretary of Labor pursuant to Part II, Subpart D, of Executive Order 11246. In addition, the Grantee agrees that if it fails or refuses to comply with these undertakings, the Department of Housing and Urban Development may cancel, terminate or suspend in whole or in part this grant, may refrain from extending any further assistance to the Grantee under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such Grantee, or may refer the case to the Department of Justice for appropriate legal proceedings.

ATTACHMENT "C"

With respect to any construction, rehabilitation, or modernization work on or after the date of this contract funded in whole or in part from the financial assistance provided by this contract, the City of San Diego shall include or cause to be included in all contracts for such work the following provisions:

- (a) If apprentices are employed in connection with this contract who were not employees of the contractor prior to the execution of this contract so as to be identified as regular employees of the contractor (employed at least six months by the contractor), the contractor agrees that priority shall be given in hiring practices to lower income applicants for employment residing in the project area; provided that such applicants otherwise meet the requirements for apprenticeship existing in the locality for the particular trade:
- (b) If common laborers or skilled craftsmen are employed in connection with this contract who were not employees of the contractor prior to the execution of this contract so as to be identified as regular employees of the contractor (employed at least six months by the contractor), the contractor agrees that priority shall be given in hiring practices to lower income applicants for employment residing in the project area;
- (c) Priorities of hiring hereunder may not be limited to such lower income applicants as may be union members.

For the purposes of this Section "lower income applicants" means those applicants for employment whose income does not exceed the maximum established by the locality's housing authority for continued occupancy in low rent housing projects of such authority financed under the U.S. Housing Act of 1937 as amended.

For the purposes of this Section "applicants for employment residing in the area of such project" means: (1) in the case of an urban renewal, neighborhood development, model cities, code enforcement, or new communities projects, those individuals or persons who reside in the area of the project as such area is described and set forth in the federal aid contract; (2) in the case of existing low rent housing projects, those who reside in such projects; and (3) in the case of all other projects and programs which are located within boundaries of incorporated cities or towns, those who reside in such city or town, and for such other projects and programs located outside of the boundaries of cities and towns, those who reside in the unincorporated areas of the county.

CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATION OF UNALLOTTED BALANCE

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

RECEIVED
CITY AUDITOR'S OFFICE
1974 FEB - 11 AM 11:35
SAN DIEGO, CALIF.

Fund _____

Auditor and Comptroller of
The City of San Diego, Calif.

Date _____, 19 _____

By _____

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said moneys now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to exceed \$ 110,000.00

Dated January 28, 19 74

W. B. Sage
Auditor and Comptroller of
The City of San Diego, Calif.

BY Matt Lupo

Job Order
Resolution No. 111110
Project No. _____

Fund 244 Dept./Activity 4501 Object 3275

Purpose Construction of a storm drain in Cottonwood Road.

Vendor (HUD) Urban Dept. of Housing and Development

CERTIFICATE NO. 5430

MAR 5 1974

Passed and adopted by the Council of The City of San Diego on
by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lee Hubbard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Ellis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Bates	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

(Seal)

EDWARD NIELSEN

City Clerk of The City of San Diego, California.

By *Yolanda Limon*, Deputy.

RECEIVED
CITY CLERK'S OFFICE
1974 FEB -1 AM 11:36
SAN DIEGO, CALIF.

Office of the City Clerk, San Diego, California

Resolution Number 210047 Adopted MAR 5 1974

gr