

SUBRECIPIENT AGREEMENT**BY AND BETWEEN****THE CITY OF NEW ORLEANS****AND****RESILIENCE FORCE****FOR****Advancing Health Literacy to Enhance Equitable****Community Response to COVID-19 in Orleans Parish, LA**

THIS SUBRECIPIENT AGREEMENT (the “**Agreement**”) is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the “**City**”), and Resilience Force, represented by Moly Bartlett, Operations Director (the “**Subrecipient**”). The City and the Subrecipient may sometimes each be referred to as a “**Party**,” and collectively, as the “**Parties**.” The Agreement is effective as of July 1, 2022 (the “**Effective Date**”).

RECITALS

WHEREAS, the City is a political subdivision of the State of Louisiana;

WHEREAS, the Subrecipient is a non-profit whose mission is to preparing and repairing America in the face of disaster whose principal address is located at 1441 Canal Street, New Orleans, LA 70112;

WHEREAS, the City was awarded \$3,900,000.000 in OASH grant funds (“**Advancing Health Literacy to Enhance Equitable Community Response to COVID-19 program**”) from the U.S. Department of Health and Human Services (the “**Department**”), made available by OASH grant and has selected Subrecipient to be a “Subrecipient” under the OASH grant funds program to receive certain funds in order to implement the program as set forth below;

WHEREAS, the Subrecipient, by agreeing to undertake the implementation of this Agreement utilizing funds provided by the Department, will be acting as a Subrecipient of the City as defined by 2 C.F.R. part 200.93, and hereby agrees to carry out this Agreement in full compliance with the laws and regulations of the program and exhibits incorporated to this Agreement;

WHEREAS, the activities hereunder are eligible under the OASH grant funds program;

WHEREAS, the City and the Subrecipient desire to accomplish the valuable public purpose of increasing the availability, acceptability, and use of COVID-19 public health information and services by racial and ethnic minorities and other vulnerable populations in Orleans Parish;

WHEREAS, the City and Subrecipient desire to work with community advocates and forward-thinking leaders in government, labor, the private sector, and philanthropy to develop solutions to ensure effective and equitable approaches to disaster preparation, response, recovery, and

rebuilding; and

WHEREAS, the City will provide the Subrecipient with grant funding in exchange for the aforementioned services; and

NOW THEREFORE, the City and the Subrecipient each having the authority to do so, agree as follows:

ARTICLE I – GENERAL AWARD INFORMATION

The subaward from the City to the Subrecipient, which is described below, is for the purpose of carrying out a portion of a Federal award described in this Article, and creates a Federal assistance relationship with the Subrecipient. This Agreement must be updated to reflect any changes to the federal award and the following award information.

Federal Award Identification Number (FAIN): CPIMP211230

CFDA Number and Name: 93.137

Federal award project description: Advancing Health Literacy to Enhance Equitable Community Response to COVID-19 in Orleans Parish, LA

Is this award for research and development? Yes

Amount of Federal funds obligated by this agreement: \$922,500.00

Total Amount of Federal Funds Obligated to the Subrecipient: \$922,500.00

Indirect cost: \$81,500.00

Contact information:

Grantee:

LaToya Cantrell
Mayor
City of New Orleans
1300 Perdido St., New Orleans, LA 70112
E-mail: MayorCantrell@nola.gov

Subrecipient:

Molly Bartlett
Operations Director
Resilience Force
1411 Canal Street., New Orleans, LA 70112
E-mail: MBartlett@resilienceforce.org

ARTICLE II – SUBRECIPIENT'S OBLIGATIONS

A. Statement of Work. The Subrecipient shall:

1. Recruit, hire, and deploy 10-15 community health workers (CHWs) to work in vulnerable frontline communities impacted by COVID-19;
2. Work with LSU and LACHON to assure certified training of CHWs and to receive technical assistance for organizational and workforce capacity;

3. Work with New Orleans Health Department to coordinate participation on community health events;
4. Report activities and participate in data collection and evaluation in relation to the grant;
5. Provide timely project and financial reports;
6. Submit complete and accurate invoices, maintain records, submit to audits and inspections, maintain insurance, and perform all other obligations of the Subrecipient as set forth in this Agreement;
7. Promptly correct any errors or omissions and any work deemed unsatisfactory or unacceptable by the City, all at no additional compensation;
8. Monitor, supervise, and otherwise control and be solely responsible for all persons performing work on its behalf;
9. Perform all requirements set forth in La. R.S. 38:2192, including, without limitation, the payment of any associated costs, and submit a copy of any recorded documents to the City within 30 days after the approval of the associated plan change or amendment; and
10. Cooperate with the City and any person performing work for the City.

B. Compliance with Laws. The Subrecipient, and any person performing work on its behalf, will comply with all applicable federal, state, and local laws, regulations, and ordinances, including, without limitation.

C. Compliance with Federal Regulations, Notices, and Uniform Administrative Requirements. The Subrecipient, as well as any of its sub-Sub-recipients, shall:

1. **In general.** Comply with all applicable federal regulations and requirements incorporated therein by reference, whether specifically discussed herein or not.

2. **Uniform Administrative Requirements.** Comply with the applicable Uniform Administrative Requirements as described in 2 CFR 200.

3. **Procurement.** Comply with the procurement standards in 2 CFR §200.318 - §200.326 when procuring property and services under this Agreement.

4. **Notices.** Comply with all applicable Notices and directives promulgated by the Department.

D. Invoices.

1. The Subrecipient must submit invoices monthly (unless agreed otherwise between the parties to this Agreement) to the City electronically, via its supplier portal, for goods or services provided under this Agreement no later than 10 calendar days following the end of the period covered by the invoice. Untimely invoices may result in delayed payment for which the City is not liable. Each invoice must include, at a minimum, the following information:

- a. Name of Subrecipient;
 - b. Date of Invoice;
 - c. Invoice Number;
 - d. Contract or BRASS Number issued by the City (i.e. K#);
 - e. Name of the City Department to be invoiced (e.g. PDU);
 - f. Description of the Services completed;
2. Invoices will be processed in accordance with Article IV of the Agreement.
3. All invoices must be signed by an authorized representative of the Subrecipient under penalty of perjury attesting to the validity and accuracy of the invoice.
4. The City may require changes to the form of the invoice and may require additional supporting documentation to be submitted with invoices.

ARTICLE III - THE CITY'S OBLIGATIONS

A. Administration. The City will administer this Agreement through the New Orleans Health Department.

B. Access to Information. The City shall provide the Subrecipient with all material and information reasonably necessary to allow the Subrecipient to perform its obligations under this Agreement.

ARTICLE IV - COMPENSATION

A. Maximum Amount Payable. The maximum amount payable by the City under this Agreement is \$922,500.00. The full anticipated budget breakdown is incorporated into this Agreement, and marked as Exhibit A.

B. Other Costs. The Subrecipient understands and agrees that the compensation shall be inclusive of all personnel costs, fringe benefits, equipment costs, travel costs, supply costs, and indirect costs identified as those not directly incurred as a result of providing the services listed in this Agreement and deemed ineligible for federal modified total direct costs for on-campus research.

C. Payment. Unless otherwise agreed by the City, payment terms are NET 30 days upon providing that goods and/or services described under this Agreement have been delivered, installed (if required), rendered, and/or accepted and upon receipt by the City of properly submitted invoice via the City's supplier portal.

ARTICLE V - DURATION AND TERMINATION

A. **Term.** The term of this Agreement shall be for one year from the Effective Date.

B. **Extensions.** The City shall have the option to extend the term of this Agreement for one additional year by giving written notification to the Subrecipient stating such intentions at least thirty calendar days prior to the termination of the Agreement. The term of the Agreement must be extended if the Subrecipient is in control of any CDBG funding.

C. **Termination for Convenience.** The City may terminate this Agreement at any time during the term of the Agreement by giving the Subrecipient written notice of the termination at least 30 calendar days before the intended date of termination.

D. **Termination for Cause.** The City may terminate this Agreement immediately for cause by sending written notice to the Subrecipient. "Cause" includes without limitation any failure to perform any obligation or abide by any condition of this Agreement or the failure of any representation or warranty in this Agreement, including without limitation any failure to comply with any provision of City Code § 2-1120 or requests of the Office of Inspector General. If a termination for cause is subsequently challenged in a court of law and the challenging party prevails, the termination will be deemed to be a termination for convenience effective 30 days from the date of the original written notice of termination for cause was sent to the challenging party; no further notice will be required.

E. **Termination for Non-Appropriation.** This Agreement will terminate immediately in the event of non-appropriation of funds sufficient to maintain this Agreement without the requirement of notice and the City will not be liable for any amounts beyond the funds appropriated and encumbered for this Agreement.

F. **Notice.** The City shall promptly notify the Subrecipient, in writing, of its determination and the reasons for the termination together with the date on which the termination shall take effect. Upon termination, the City retains the right to recover any improper expenditures from the Subrecipient and the Subrecipient shall return to the City any improper expenditures no later than thirty (30) days after the date of termination. The City may, at its sole discretion, allow Subrecipient to retain or be reimbursed for costs reasonably incurred prior to termination, that were not made in anticipation of termination and cannot be canceled provided that said costs meet the provisions of this agreement, 2 CFR Part 200, Subpart E, Cost Principles, and any other applicable state or Federal statutes, regulations or requirements.

G. **Remedies for Non-Compliance.** If the Subrecipient fails to comply with federal statutes, regulations or the terms and conditions of a Federal award, the Department or the City may impose additional conditions, as described in § 200.207 Specific conditions. If the Department or the City determines that noncompliance cannot be remedied by imposing additional conditions, then either may take one or more of the following actions, as appropriate in the circumstances:

1. Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
3. Wholly or partly suspend or terminate the Federal award.
4. Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
5. Withhold further Federal awards for the project or program.
6. Take other remedies that may be legally available.

ARTICLE VI - MAINTENANCE AND MONITORING OF RECORDS

A. Maintenance of Records. The Subrecipient agrees to maintain all records of all expenditures of funds provided to it by the City in accordance with 2 CFR § 200.334 for **three (3) years** from the official date of the closeout of the grant. If any litigation, claims, or audits begin prior to the expiration of the three-year period, then the records must be maintained until all litigation, claims, and audit findings involving the records have been resolved and final action taken. Records are to be maintained separately for each project undertaken by the Subrecipient, and the records for each project will be maintained by the Subrecipient in such a manner so that the funding sources used in each project will be accounted for separately. The aforementioned classification of funds expended will be further itemized by the “funding year” associated with the funds. The Subrecipient hereby agrees to maintain, for the City’s review, all records relating to the creation, development and set-up of CDBG projects, and the expenditure of CDBG funds, itemized for each CDBG-funded project undertaken.

B. Monitoring of Records. The Subrecipient acknowledges the responsibility of the City to monitor its performance and all records relating to projects implemented by the Subrecipient with CDBG funds. The Subrecipient hereby acknowledges its responsibility to provide the City, upon reasonable demand, with all records relating to CDBG-funded projects implemented by the Subrecipient, and hereby agrees to assist the City in reviewing projects undertaken by the Subrecipient with CDBG funds. The aforementioned records will be made available at times reasonable to both the Subrecipient and the City, and the Subrecipient's records will be reviewed by the City no less than annually.

ARTICLE VII - MONITORING OF SUBRECIPIENT PERFORMANCE

A. Monitoring. The City shall monitor the performance of the Subrecipient as necessary and in accordance with regulations on Subrecipient Monitoring and Management, 2 CFR 200.330 – 2 CFR 200.332, to ensure Subrecipient compliance with all of the requirements of this Agreement, including the timeframes and performance goals associated with the activities, as well as procurement. Substandard performance as determined by the Grantee will constitute noncompliance with this agreement. If action to correct such substandard performance is not taken by the Subrecipient within thirty (30) days after being notified by the Grantee, the Grantee may impose additional conditions on the Subrecipient and its use of funds consistent with 2 CFR 200.207, suspend or terminate this agreement, or initiate other remedies for noncompliance as appropriate and permitted under 2 CFR 200.338.

B. Reporting. The Subrecipient shall submit regular monthly progress and financial reports to the City.

C. Failure to Perform or Breach. If the Subrecipient: 1) fails to perform according to the Agreement, 2) breaches the Agreement, or 3) does not comply with Federal Regulations governing the project, the City will notify the Subrecipient. If there is a continued lack of performance or lack of curing of breach or non-compliance after notification and a reasonable time period to cure (as determined by the City in the given instance), then the City may declare the Subrecipient in default and may pursue any appropriate remedies available under the Agreement and/or any applicable law. In the event of a notification of default, the City will invoice the defaulting Subrecipient for any increase in costs and other damages sustained by the City. Furthermore, the Subrecipient acknowledges its obligation to repay the City the funds that are identified with the period of non-compliance. The Subrecipient acknowledges that the amount of repayment are not necessarily commensurate with the period of non-compliance, and amount repayment could be up to the total amount of compensation disbursed.

ARTICLE VIII - INDEMNITY

A. In general. To the fullest extent permitted by law, the Subrecipient will indemnify, defend, and hold harmless the City, its agents, employees, officials, insurers, self-insurance funds, and assigns (collectively, the “**Indemnified Parties**”) from and against claims, demands, suits, and judgments of sums of money accruing against the Indemnified Parties: for loss of life or injury or damage to persons or property arising from or relating to any act or omission or the operation of the Subrecipient, its agents or employees while engaged in or in connection with the discharge or performance of any Services under this Agreement; and for any and all claims and/or liens for labor, services, or materials furnished to the Subrecipient in connection with the performance of work under this Agreement and for any and all claims and/or liens for labor, services, or materials furnished to the Subrecipient in connection with the performance of work under this Agreement

B. Limitation. The Subrecipient's indemnity does not extend to any loss arising from the negligence or willful misconduct of any of the Indemnified Parties, provided that neither the Subrecipient nor any of its agents or employees contributed to such gross negligence or willful misconduct.

C. Independent Duty. The Subrecipient has an immediate and independent obligation to, at the City's option: (a) defend the City from or (b) reimburse the City for its costs incurred in the defense of any claim that actually or potentially falls within this indemnity, even if: (1) the allegations are or may be groundless, false, or fraudulent; or (2) the Subrecipient is ultimately absolved from liability.

D. Expenses. Notwithstanding any provision to the contrary, the Subrecipient shall bear the expenses including, but not limited to, the City's reasonable attorney fees and expenses, incurred by the City in enforcing this indemnity.

ARTICLE IX - INSURANCE

A. Minimum Insurance Requirements

1. Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the Contractor will maintain the following insurance in full force and effect for the duration of the work under this Agreement. Evidence of coverage shall be provided prior to the start of any activities/work, in conjunction with the Contractor's scope of work under the Agreement.
2. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.
3. Minimum Requirements:
 - a. Workers' Compensation & Employers Liability Insurance in compliance with the Louisiana Workers' Compensation Act(s). Statutory and Employers Liability Insurance with limits of not less than \$1,000,000.
 - b. Commercial General Liability Insurance including contractual liability insurance, products and completed operations, personal & advertising injury, bodily injury, property damage, and any other type of liability for which this Agreement applies with limits of liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate.
 - c. Automobile Liability Insurance with a combined single limit of liability of not less than \$500,000 per accident for bodily injury and property damage. Insurance shall include all owned, non-owned and hired vehicles.

- d. Professional (Errors & Omission) Liability - As professional services are required under the contract, insurance appropriate to the contractor's profession, with limits of liability of not less than \$1,000,000 per occurrence or claim / \$2,000,000 policy aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement.
4. Policy shall be kept in force and uninterrupted for a period of three (3) years beyond policy expiration. If coverage is discontinued for any reason during this three (3) year term, Contractor must procure and evidence full extended reporting period (ERP) coverage.
5. Contractors shall be able to meet the above referenced specific policy limits of liability through a combination of primary and umbrella /excess coverage.
6. The obligations for the Contractor to procure and maintain insurance shall not be constructed to waive or restrict other obligations. It is understood that neither failure to comply nor full compliance with the foregoing insurance requirements shall limit or relieve the Contractor from any liability incurred as a result of their activities/operations in conjunction with the Contractors obligations and/or Scope of Work.
7. Additional Insured Status: The Contractor and all Subcontractors (where applicable) will provide, and maintain current, a Certificate of Insurance naming the City of New Orleans, its departments, political subdivisions, officers, officials, employees, and volunteers are to be covered as "Additional Insureds" on the CGL policy with respect to liability arising out of the performance of this agreement, General liability insurance coverage can be provided in the form of an endorsement to the Contractors insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).
8. Contractor shall require and verify that all Subcontractors maintain insurance and coverage limits meeting all the requirements stated herein or the Sub-contractor liability shall be covered by the Contractor. The Certificate of Insurance, as evidence of all required coverage, should name the City of New Orleans Risk Manager as Certificate Holder and be delivered via U.S. Mail to New Orleans Health Department, 1300 Perdido Street; Suite 8E18, New Orleans, LA 70112, with a copy forwarded to Risk Management Division, 1300 Perdido Street, 9E06 – City Hall, New Orleans LA 70112.
9. The Additional Insured box shall be marked "Y" or Commercial General Liability coverage. The Subrogation Waiver Box must be marked "Y" for Workers Compensation/Employers Liability and Property.
10. Primary Coverage: For any claims related to this agreement, the Contractors insurance coverage shall be primary insurance as respects the City, its departments, political subdivisions, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be non-contributing to the Contractors coverage.
11. Claims Made Policies: If applicable, the retroactive date must be shown and must be before the date of the agreement or the beginning of work. If the coverage is canceled or

non-renewed, and not replaced with another claims-made policy, Contractor must purchase “extended reporting” coverage for minimum of 3 years after the termination of this agreement.

12. Waiver of Subrogation: The Contractor and its insurers agree to waive any right of subrogation which any insurer may acquire against the City by virtue of the payment of any loss under insurance required by this agreement.
13. Notice of Cancellation: Each insurance policy required above shall not be canceled, expire, or altered except without prior notice to the City of no less than 30 days.
14. Acceptability of Insurers: Insurance is to be placed with insurers licensed and authorized to do business in the State of Louisiana with a current A.M. Best’s rating of no less than A: VII, unless otherwise acceptable to the City.
15. Notice: The Contractor will provide the City’s Risk Manager (at City of New Orleans Attn: Risk Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112- Ref.: CEA) the following documents, within 10 calendar days of the City’s request: Copies of all policies of insurance, including all policies, forms, and endorsements; Substitute insurance coverage acceptable to the City within 30 calendar days if any insurance company providing any insurance with respect to this Agreement is declared bankrupt, becomes insolvent, loses the right to do business in Louisiana, or ceases to meet the requirements of this Agreement.
16. Special Risks or Circumstances: The City of New Orleans shall reserve the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer coverage, or other circumstances.
17. Without notice from the City, the Contractor will: Replenish any policy aggregate limit that is impaired before commencement of any work or continuation of any work under this Agreement.

ARTICLE X – LIVING WAGES

A. Definitions. Unless otherwise expressly provided in this Agreement, Capitalized terms used but not defined herein, shall have the definition attributed to them in Article VIII, Section 70-802 of the City Code.

B. Compliance. To the fullest extent permitted by law, the Subrecipient agrees to abide by City Code Sections 70-801, *et seq.*, which requires, in pertinent part, the following:

1. Payment of an hourly wage to Covered Employees equal to the amounts defined in the City Code (“**Living Wage**”);
2. Receipt of at least seven (7) days per year of compensated leave for Covered Employees, as required by Section 70-807 of the City Code; and

3. Post notice in a prominent place regarding the applicability of the Living Wage Ordinance in every workplace in which Covered Employees are working that is within the Covered Employer's custody and control, as required by Section 70-810 of the City Code.

C. **Living Wage.** In accordance with the Living Wage Ordinance, Living Wage shall be as follows:

1. \$13.25 per hour for any work performed on or before December 31, 2022;
2. \$15.00 per hour for any work performed on or before December 31, 2023; and
3. \$15.00 per hour plus any adjustment provided in subsection D below for any work performed during calendar year 2024 or thereafter.

D. **Adjusted Living Wage.** In accordance with Section 70-806(2) of the City Code, the Living Wage shall be annually adjusted for inflation, as defined by the Consumer Price Index calculated by the U.S. Bureau of Labor Statistics as applied to the South Region, except that in no instance shall the Living Wage be adjusted downward. The first adjustment shall become effective on January 1, 2024 using the Consumer Price Index figures provided for the preceding year, and thereafter on an annual basis.

E. **Sub-Subrecipient Requirements.** As required by Section 70-804 of the City Code, the Subrecipient, beneficiary, or other Covered Employer, prior to entering into a subcontract, shall notify sub-subrecipients in writing of the requirements and applicability of Article VIII – The Living Wage Ordinance (“**Article**”). City subrecipients and beneficiaries shall be deemed responsible for violations of this Article by their sub-subrecipients.

F. **Reporting.** On or before January 31st and upon request by the City, the Subrecipient shall identify (a) the hourly wage earned by the lowest paid Covered Employee and (b) the number of days of compensated leave received by Covered Employees earning less than 130% of the then-prevailing wage during the current term of the Agreement, and provide the identified information to the following:

Office of Workforce Development
Living Wage - Compliance
1340 Poydras Street – Suite 1800
New Orleans, Louisiana 70112

G. **Compliance Monitoring.** Covered Employers under this Agreement are subject to compliance monitoring and enforcement of the Living Wage requirements by the Office of Workforce Development (the “**OWD**”) and/or the Chief Administrative Office (“**CAO**”). Covered Employers will cooperate fully with the OWD and/or the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements. Steps and actions include, but are not limited to, requirements that: (i) the Subrecipient will cooperate fully with the OWD and the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements; (ii) the Subrecipient agrees that the OWD and the CAO and their designees, in the performance of

their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Subrecipient, payroll records and employee paychecks; and (ii) that the City may audit such records of the Subrecipient as he or she reasonably deems necessary to determine compliance with the Living Wage standards.

H. Remedies. If the Subrecipient fails to comply with the Living Wage requirements during the term of the Agreement, said failure may result in termination of the Agreement or the pursuit of other remedies by the City, including, but not limited to, the penalties and enforcement mechanisms set forth in Section 70-811 of the City Code.

ARTICLE XI - DISADVANTAGED BUSINESS ENTERPRISE (“DBE”) PROGRAM

A. In General. The Subrecipient agrees to abide by the City Code Sections 70-456, *et seq.*, to use its best efforts to carry out all applicable requirements of the City’s DBE Program for the administration of this Agreement, as set forth in the City Code and any applicable rules adopted thereunder. The City’s Office of Supplier Diversity (“OSD”) oversees the DBE Program and assigns a DBE Compliance Officer (“DBECO”) to ensure compliance.

B. Monitoring. To ensure compliance with DBE requirements during the term of this Agreement, the DBECO will monitor the Subrecipient’s use of DBE sub-subrecipients (“DBE Entities”) through the following actions:

1. Job site visits;
2. Electronic payment tracking via the Contract Compliance Monitoring System or other means as approved by the OSD;
3. Routine audits of contract payments to all sub-subrecipients;
4. Reviewing of records and reports; and/or
5. Interviews of selected personnel.

The DBECO may schedule inspections and on-site visits with or without prior notice to the Subrecipient or DBE Entities.

C. Cooperation. The Subrecipient shall:

1. Designate an individual as the “DBE Liaison” who will monitor the Subrecipient’s DBE participation as well as document and maintain records of “Good Faith Efforts” with DBE Entities.
2. Execute written contracts with DBE Entities that meet the applicable DBE goals.
 - a. The Subrecipient shall provide the DBECO with copies of said contracts within 30 days from the date this Agreement is fully executed between the City and the Subrecipient.

- b. The Subrecipient shall agree to promptly pay sub-subrecipients, including DBE Entities, in accordance with law.
- 3. Establish and maintain the following records for review upon request by the OSD:
 - a. Copies of written contracts with DBE Entities and purchase orders;
 - b. Documentation of payments and other transactions with DBE Entities;
 - c. Appropriate explanations of any changes or replacements of DBE Entities, which may include a record of "Post-Award Good Faith Efforts" for each certified firm that the Subrecipient does not use in accordance with the approved DBE participation submission; and
 - d. Any other records required by the OSD.

The Subrecipient is required to maintain such records for 5 years after completion or closeout of this Agreement. Such records are necessary to determine compliance with their DBE obligations.

- 4. Post monthly payments and submit regular reports to the DBECO as required via the online "Contract Compliance Monitoring System" or other means approved by the OSD.
 - a. The Subrecipient shall submit the initial report outlining DBE participation within 30 days from the date of notice to proceed (or equivalent document) issued by the City to the Subrecipient. Thereafter, "DBE Utilization" reports shall be due on or before the fifteenth day of each month until all DBE subcontracting work is completed.
 - b. Reports are required even when no activity has occurred in a monthly period.
 - c. If the established percentage is not being met, the monthly report shall include a narrative description of the progress being made in DBE participation.
 - d. The Subrecipient may also be required to attach or upload copies of canceled checks or bank statements that identify payer, payee, and amount of transfer to verify payment information as indicated on the form.
- 5. Conform to the established percentage as approved by the OSD.
 - a. The total dollar amount of the Agreement shall include approved change orders and amendments. For a requirements contract, the total dollar amount shall be based in actual quantities ordered.
 - b. No changes to the established percentage and DBE Entities submitted on DBE Compliance Form-1 shall be allowed without approval by the OSD.
 - c. The City will not adjust the contract for any increase in cost due to replacement of DBE Entities.

D. Post-Award Modification. The OSD may grant a post-award modification request if:

1. For a reason beyond the Subrecipient's control, the Subrecipient is unable to use the certified DBE entity submitted on DBE Compliance Form-1 to perform the specified work. The Subrecipient must notify the OSD of the intent for removal and substitution of a certified DBE immediately upon determination of that the DBE submitted on Compliance Form -1 is unable to perform the specified work. In such case, the Subrecipient shall use and document "Good Faith Efforts" to find a similarly qualified and certified DBE entity to perform such specified work. The same criteria used for establishing "Good Faith Efforts" in maximizing the participation of DBE Entities prior to awarding the Agreement will also apply to the substitution of DBE sub-subrecipients during the performance of the Agreement; or
2. The Subrecipient reasonably believes that, due to a change of scope, execution of the work in accordance with the directions from the City is unlikely to meet the established percentage or terms. In such case, the Subrecipient shall use and document "Good Faith Efforts" to achieve a reasonable amount of DBE participation on the remaining work on the Agreement.

ARTICLE XII - NON-DISCRIMINATION

A. Equal Employment Opportunity. In all hiring or employment made possible by, or resulting from this Agreement, the Subrecipient (1) will not be discriminate against any employee or applicant for employment because of race, color, religion, sex, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the Subrecipient's employees are treated during employment without regard to their race, color, religion, sex, 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, sex, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry.

B. Non-Discrimination. In the performance of this Agreement, the Subrecipient will not discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex, gender, sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any employee of the City working with the Subrecipient in any of the Subrecipient's operations within Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Subrecipient. The Subrecipient agrees to comply with and abide by all applicable federal, state and local laws relating to non-discrimination, including, without limitation, Title VI of the

Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

C. Incorporation into Subcontracts. The Subrecipient will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all sub-Subrecipients to comply with those provisions.

D. Termination for Breach. The City may terminate this Agreement for cause if the Subrecipient fails to comply with any obligation in this Article, which failure is a material breach of this Agreement.

ARTICLE XIII - INDEPENDENT ENTITY

A. Independent Entity Status. The Subrecipient is an independent entity and shall not be deemed an employee, servant, agent, partner, or joint venture of the City and will not hold itself or any of its employees, sub-Subrecipients or agents to be an employee, partner, or agent of the City.

B. Exclusion of Worker's Compensation Coverage. The City will not be liable to the Subrecipient, as an independent entity as defined in La. R.S. 23:1021(6), for any benefits or coverage as provided by the Workmen's Compensation Law of the State of Louisiana. Under the provisions of La. R.S. 23:1034, any person employed by the Subrecipient will not be considered an employee of the City for the purpose of Worker's Compensation coverage.

C. Exclusion of Unemployment Compensation Coverage. The Subrecipient, as an independent entity, is being selected by the City under this Agreement for hire and defined in La. R.S. 23:1472(12)(E) and neither the Subrecipient nor anyone employed by it will be considered an employee of the City for the purpose of unemployment compensation coverage, which coverage same being hereby expressly waived and excluded by the parties, because: (a) the Subrecipient has been and will be free from any control or direction by the City over the performance of the services covered by this contract; (b) the services to be performed by the Subrecipient are outside the normal course and scope of the City's usual business; and (c) the Subrecipient has been independently engaged in performing the services required under this Agreement prior to the date of this Agreement.

D. Waiver of Benefits. The Subrecipient, as an independent entity, will not receive from the City any sick and annual leave benefits, medical insurance, life insurance, paid vacations, paid holidays, sick leave, pension, or Social Security for any services rendered to the City under this Agreement.

ARTICLE XIV – FORCE MAJEURE

A. Event. An event of Force Majeure will include any event or occurrence not reasonably foreseeable by the City at the execution of this Agreement, which will include, but not be limited

to, abnormally severe and unusual weather conditions or other acts of God (including tropical weather events, tornados, hurricanes, and flooding); declarations of emergency; shortages of labor or materials (not caused by City); riots; terrorism; acts of public enemy; war; sabotage; cyber-attacks, threats, or incidents; epidemics or pandemics; court or governmental order; or any other cause whatsoever beyond the reasonable control of City, provided such event was not caused by the negligence or misconduct of City, by the failure of City to comply with applicable laws, or by the breach of this Agreement.

B. Notice. To seek the benefit of this Article, the City must provide notice in writing to the Subrecipient stating: (1) an event triggering this Article has occurred; (2) the anticipated effect of the Force Majeure event on performance; and (3) the expected duration of the delay, if the Agreement is being suspended

C. Effect.

1. Upon the occurrence of a Force Majeure event, for which the City has provided required notice, the City may, at its sole discretion:

a. Suspend this Agreement for a duration to be set by the City, not to exceed 90 days. During such time of suspension, the Parties will not be liable or responsible for performance of their respective obligations under this Agreement, and there will be excluded from the computation of such period of time any delays directly due to the occurrence of the Force Majeure event. During any such period of suspension, the Subrecipient must take all commercially reasonable actions to mitigate against the effects of the Force Majeure event and to ensure the prompt resumption of performance when so instructed by the City; or

b. Terminate this Agreement, either immediately or after one or more periods of suspension, effective on notice to Subrecipient and without any further compensation due.

2. Notwithstanding Section C(1) above, the obligations relating to making payments when due (for services or materials already provided) and those obligations specified to survive in the Agreement will be unaffected by any suspension or termination.

ARTICLE XV - NOTICE

A. In General. Except for any routine communication, any notice, demand, communication, or request required or permitted under this Agreement will be given in writing and delivered in person or by certified mail, return receipt requested as follows:

1. **To the City:**

Director, New Orleans Health Department
1300 Perdido Street; Suite 8E18
New Orleans, LA 70112
&
City Attorney
City of New Orleans

1300 Perdido Street, Suite 5E03
New Orleans, LA 70112

2. To the Subrecipient:

Resilience Force
LaTanja Silvester
1411 Canal Street
New Orleans, LA 70112

B. Effectiveness. Notices are effective when received, except any notice that is not received due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date of the first attempted delivery.

C. Notification of Change. Each party is responsible for notifying the other in writing that references this Agreement of any changes in its address(es) set forth above.

ARTICLE XVI – INCOPORATED DOCUMENTS

A. In general. The following documents are incorporated into this Agreement:

1. Budget, Exhibit A; and
2. Compliance Provisions for Agreements with Subrecipients from Non-HUD Federal Grants, Exhibit B.

B. Direct Conflict. If any Exhibit directly conflicts, in whole or in part, with this Agreement, the terms and conditions of the Agreement will control except as provided by law.

C. Difference in Standard. If any Exhibit differs, in whole or in part, with this Agreement in terms of requirements, standards, timelines, etc., then the more stringent requirement, the higher standard, and the longer timeline, etc., shall prevail, unless the Parties mutually agree otherwise.

ARTICLE XVII - ADDITIONAL PROVISIONS

A. Amendment. No amendment of or modification to this Agreement shall be valid unless and until executed in writing by the duly authorized representatives of both parties to this Agreement.

B. Assignment. This Agreement and any part of the Subrecipient's interest in it are not assignable or transferable without the City's prior written consent.

C. Audit and Other Oversight. The Subrecipient will abide by all provisions of City Code § 2-1120, including without limitation City Code § 2-1120(12), which requires the Subrecipient to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests is a material breach of the Agreement. In signing this Agreement, SUBRECIPIENT agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

D. Choice of Law. This Agreement will be construed and enforced in accordance with the laws of the State of Louisiana without regard to its conflict of laws provisions.

E. Compliance with City's Hiring Requirements - Ban the Box.

1. The Subrecipient agrees to adhere to the City's hiring requirements contained in City Code Sections 2-8(d) and 2-13(a)-(f). Prior to executing this Agreement, the Subrecipient must provide a sworn statement attesting to its compliance with the City's hiring requirements or stating why deviation from the hiring requirements is necessary.

2. Failure to maintain compliance with the City's hiring requirements throughout the term of the Agreement, or to provide sufficient written reasons for deviation, is a material breach of this Agreement. Upon learning of any such breach, the City will provide the Subrecipient notice of noncompliance and allow the Subrecipient 30 days to come into compliance. If, after providing notice and 30 days to cure, the the Subrecipient remains noncompliant, the City may move to suspend payments to the Subrecipient, void the Agreement, or take any such legal action permitted by law or this Agreement.

3. This section will not apply to any agreements excluded from the City's hiring requirements by City Code Sections 2-8(d) or (g). Should a court of competent jurisdiction find any part of this section to be unenforceable, the section should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law, or if reformation is not possible, the section should be fully severable and the remaining provisions of the Agreement will remain in full force and effect.

4. The Subrecipient will incorporate the terms and conditions of this Article into all sub-contracts, by reference or otherwise, and will require all sub-Subrecipients to comply with those provisions.

F. Construction of Agreement. Neither party will be deemed to have drafted this Agreement. This Agreement has been reviewed by the Parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the Parties. No term of this Agreement shall be construed or resolved in favor of or against the City or the Subrecipient on the basis of which party drafted the uncertain or ambiguous language. The headings and captions of this Agreement are provided for convenience only and are not intended to have effect in the construction or interpretation of this Agreement. Where appropriate, the singular includes the plural and neutral words and words of any gender shall include the neutral and other gender.

G. Convicted Felon Statement. The Subrecipient complies with City Code § 2-8(c) and no principal, member, or officer of the Subrecipient has, within the preceding 5 years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

H. Cost Recovery. In accordance with Section 2-8.1 of the Municipal Code entitled "Cost re-

covery in contracts, cooperative endeavor agreements, and grants,” to the maximum extent permitted by law, the Subrecipient shall reimburse the City or disgorge anything of value or economic benefit received from the City if the Subrecipient fails to meet its contractual obligations.

I. Employee Verification. The Subrecipient swears that (i) it is registered and participates in a status verification system to verify that all employees in the State of Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue, during the term of this Agreement, to utilize a status verification system to verify the legal status of all new employees in the State of Louisiana; and (iii) it shall require all sub-Subrecipients to submit to the Subrecipient a sworn affidavit verifying compliance with items (i) and (ii) above. Any violation of the provisions of this paragraph may subject this Agreement to termination, and may further result in the Subrecipient being ineligible for any public contract for a period of 3 years from the date the violation is discovered. The Subrecipient further acknowledges and agrees that it shall be liable for any additional costs incurred by the City occasioned by the termination of this Agreement or the loss of any license or permit to do business in the State of Louisiana resulting from a violation of this provision. The Subrecipient will provide to the City a sworn affidavit attesting to the above provisions if requested by the City. The City may terminate this Agreement for cause if the Subrecipient fails to provide such the requested affidavit or violates any provision of this paragraph.

J. Entire Agreement. This Agreement, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.

K. Jurisdiction. The Subrecipient consents and yields to the jurisdiction of the State Civil Courts of the Parish of Orleans and formally waives any pleas or exceptions of jurisdiction on account of the residence of the Subrecipient.

L. Limitations of the City’s Obligations. The City has no obligations not explicitly set forth in this Agreement or any incorporated documents or expressly imposed by law.

M. No Third-Party Beneficiaries. This Agreement is entered into for the exclusive benefit of the parties and the parties expressly disclaim any intent to benefit anyone not a party to this Agreement.

N. Non-Exclusivity. This Agreement is non-exclusive and the Subrecipient may provide services to other clients. The City may engage the services of others for the provision of some or all of the work to be performed under this Agreement.

O. Non-Solicitation Statement. The Subrecipient has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement. The Subrecipient has not paid or agreed to pay any person, other than a bona fide employee working for it, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Agreement.

P. Non-Waiver. The failure of either party to insist upon strict compliance with any provision of this Agreement, to enforce any right or to seek any remedy upon discovery of any default or breach of the other party at such time as the initial discovery of the existence of such noncompliance, right, default or breach shall not affect or constitute a waiver of either party's right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.

Q. Ownership Interest Disclosure. The Subrecipient will provide the City with a sworn affidavit listing all natural or artificial persons with an ownership interest in the Subrecipient and stating that no other person holds an ownership interest in The Subrecipient via a counter letter. For the purposes of this provision, an "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. If the Subrecipient fails to submit the required affidavit, the City may, after 30 days' written notice to the Subrecipient, take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.

R. Ownership of Records. The Subrecipient shall maintain ownership of all data collected and all products of work prepared, created or modified by the Subrecipient in the performance of this Agreement, including without limitation any and all notes, tables, graphs, reports, files, computer programs, source code, documents, records, disks, original drawings or other such material, regardless of form and whether finished or unfinished, but excluding the Subrecipient's personnel and administrative records and any tools, systems, and information used by the Subrecipient to perform the services under this Agreement, including computer software (object code and source code), know-how, methodologies, equipment, and processes and any related intellectual property (collectively, "Work Product"). The Subrecipient shall also maintain all right, title and interest in any Work Product, including without limitation the right to secure and maintain any copyright, trademark, or patent of Work Product in the Subrecipient's name. However, the Subrecipient acknowledges that the purpose of the Project is for the benefit of the City of New Orleans, and therefore the Subrecipient shall grant the City a no-cost perpetual license to utilize all Work Product in a manner to further the purpose of the Project, provided that the City takes all reasonable precautions to protect the Subrecipient's intellectual property and proprietary interests of the the Subrecipient, subject to all applicable public records laws. The Subrecipient shall also be able present or publish materials deriving from its Work Product at its sole discretion, provided that the Subrecipient provide the City with an advance copy for review and feedback at least seven (7) days prior to presentation or publication.

S. Prohibition of Financial Interest in Agreement. No elected official or employee of the City shall have a financial interest, direct or indirect, in this Agreement. For purposes of this provision, a financial interest held by the spouse, child, or parent of any elected official or employee of the City shall be deemed to be a financial interest of such elected official or employee of the City. Any willful violation of this provision, with the expressed or implied knowledge of the Subrecipient, shall render this Agreement voidable by the City and shall entitle the City to

recover, in addition to any other rights and remedies available to the City, all monies paid by the City to the Subrecipient pursuant to this Agreement without regard to the Subrecipient's otherwise satisfactory performance of the Agreement.

T. Prohibition on Political Activity. None of the funds, materials, property, or services provided directly or indirectly under the terms of this Agreement shall be used in the performance of this Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.

U. Remedies Cumulative. No remedy set forth in the Agreement or otherwise conferred upon or reserved to any party shall be considered exclusive of any other remedy available to a party. Rather, each remedy shall be deemed distinct, separate and cumulative and each may be exercised from time to time as often as the occasion may arise or as may be deemed expedient.

V. Severability. Should a court of competent jurisdiction find any provision of this Agreement to be unenforceable as written, the unenforceable provision should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is not possible, the unenforceable provision shall be fully severable and the remaining provisions of the Agreement remain in full force and effect and shall be construed and enforced as if the unenforceable provision was never a part the Agreement.

W. Special Conditions for Agreements with Subrecipients from Non-HUD Federal Grants. The "Compliance Provisions for Direct Grantee – Agreements with Subrecipients from Non-HUD Federal Grants," is attached as Exhibit "B" to this Agreement and expressly incorporated in the Agreement.

X. Sub-Subrecipient Reporting. The Subrecipient will provide a list of all natural or artificial persons who are retained by the Subrecipient at the time of the Agreement's execution and who are expected to perform work as sub-Subrecipients in connection with the Subrecipient's work for the City. For any sub-Subrecipient proposed to be retained by the Subrecipient to perform work on the Agreement with the City, the Subrecipient must provide notice to the City within 30 days of retaining that sub-Subrecipient. If the Subrecipient fails to submit the required lists and notices, the City may, after thirty 30 days' written notice to the Subrecipient take any action it deems necessary, including, without limitation, causing the suspension of any payments, until the required lists and notices are submitted.

Y. Survival of Certain Provisions. All representations and warranties and all obligations concerning record retention, inspections, audits, ownership, indemnification, payment, remedies, jurisdiction, and choice of law shall survive the expiration, suspension, or termination of this Agreement and continue in full force and effect.

Z. Terms Binding. The terms and conditions of this Agreement are binding on any heirs, successors, transferees, and assigns.

ARTICLE XVIII - ELECTRONIC SIGNATURE AND DELIVERY

The Parties agree that a manually signed copy of this Agreement and any other document(s) attached to this Agreement delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. No legally binding obligation shall be created with respect to a party until such party has delivered or caused to be delivered a manually signed copy of this Agreement.

[SIGNATURES CONTAINED ON NEXT PAGE.]

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the City and the Subrecipient, through their duly authorized representatives, execute this Agreement.

CITY OF NEW ORLEANS

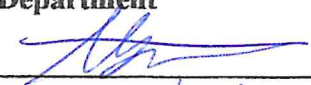


LATOYA CANTRELL, MAYOR

Executed on this 20th of January, 2023

FORM AND LEGALITY APPROVED:

Law Department

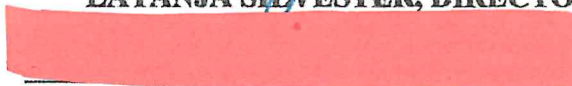
By: 

Printed Name: Andrew Gregorich

RESILIENCE FORCE

BY: 

LATANJA SILVESTER, DIRECTOR



FEDERAL TAX I.D.

01/09/23
DATE

[EXHIBITS A – B CONTAINED ON FOLLOWING PAGES]

Exhibit A – Resilience Force 2022 Budget

	Proposed	Awarded 2021	Award Budget 2022
Personnel	\$1,369,770.00	\$ 684,885.00	\$ 684,885.00
Fringe Benefits	\$ 213,765.00	\$ 106,882.50	\$ 106,882.50
Travel	\$ 36,475.00	\$ 18,237.50	\$ 18,237.50
Supplies	\$ 3,250.00	\$ 1,625.00	\$ 1,625.00
Other	\$ 58,740.00	\$ 29,370.00	\$ 29,370.00
Indirect Costs	\$ 163,000.00	\$ 81,500.00	\$ 81,500.00
	\$1,845,000.00	\$ 922,500.00	\$ 922,500.00

**COMPLIANCE PROVISIONS
FOR
AGREEMENTS WITH CONTRACTS
FUNDED WITH NON-HUD FEDERAL GRANTS**

1. EQUAL EMPLOYMENT OPPORTUNITY
2. STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
3. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS
4. DEBARMENT, SUSPENSION, AND INELIGIBILITY
5. FEDERAL LABOR STANDARDS PROVISIONS
6. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT
7. BYRD ANTI-LOBBYING AMENDMENT
8. PROCUREMENT OF RECOVERED MATERIALS.
9. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO
SURVEILLANCE SERVICES OR EQUIPMENT.
10. DOMESTIC PREFERENCES FOR PROCUREMENTS.
11. LIMITED ENGLISH PROFICIENCY
12. ENHANCEMENT OF CONTRACTOR PROTECTION FROM REPRISAL FOR
DISCLOSURE OF CERTAIN INFORMATION
13. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

As applicable:

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

During the performance of this contract, the Sub-recipient agrees as follows:

- A. The Sub-recipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Sub-recipient 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 Sub-recipient 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 Sub-recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Sub-recipient, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.
- C. The Sub-recipient 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 Sub-recipient's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- D. The Sub-recipient 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 Sub-recipient 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 Sub-recipient'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 Sub-recipient 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 Sub-recipient 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 Sub-recipient or vendor. The Sub-recipient 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 Sub-recipient becomes involved in, or is threatened with, litigation with a Sub-recipient or vendor as a result of such direction by the Department, the Sub-recipient may request the United States to enter into such litigation to protect the interest of the United States.

2. **STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS**

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

A. As used in these specifications:

- (1) "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- (2) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

- (3) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- (4) "Minority" includes:
 - (a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (b) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South America or other Spanish Culture or origin, regardless of race);
 - (c) Asian and Pacific Islander (all persons having origins in any of the original people of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (d) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- B. When the Sub-recipient, or any sub-recipient, at anytime, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract, in excess of \$10,000, the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
- C. If the Sub-recipient is participating (pursuant to 41 CFR 60 4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Sub-recipients must be able to demonstrate their participation in compliance with the provisions of any such Hometown Plan. Each Sub-recipient or Sub-recipient participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Sub-recipients or sub-recipients toward a goal in an approved Plan does not excuse any covered Sub-recipient's or sub-recipient's failure to take good faith efforts to achieve the Plan goals and timetables.
- D. The Sub-recipient shall implement the specific affirmative action standards provided In paragraphs G(1) through G(16) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Sub-recipient should reasonably be able to achieve in each construction trade in which it has employees

in the covered area. Covered construction Sub-recipients performing contracts in geographical areas where they do not have a federal or federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Sub-recipient is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

- E. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Sub-recipient has a collective bargaining agreement, to refer either minorities or women shall excuse the Sub-recipient's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- F. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Sub-recipient during the training period, and the Sub-recipient must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- G. The Sub-recipient shall take specific affirmative action to ensure equal employment opportunity. The evaluation of the Sub-recipient's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Sub-recipient shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - (1) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Sub-recipient's employees are assigned to work. The Sub-recipient, where possible, will assign two or more women to each construction project. The Sub-recipient shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the Sub-recipient's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - (2) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Sub-recipient or its unions have employment opportunities available, and maintain a record of the organization's responses.
 - (3) Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization

and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Sub-recipient by the union or, if referred, not employed by the Sub-recipient, this shall be documented in the file with the reason therefore, along with whatever additional actions the Sub-recipient may have taken.

- (4) Provide immediate written notification to the Director when the union or unions with which the Sub-recipient has a collective bargaining agreement have not referred to the Sub-recipient a minority person or woman sent by the Sub-recipient, or when the Sub-recipient has other information that the union referral process has impeded the Sub-recipient's efforts to meet its obligations.
- (5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly includes minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Sub-recipient's employment needs, especially those programs funded or approved by the Department of Labor. The Sub-recipient shall provide notice of these programs to the sources compiled under G(2) above.
- (6) Disseminate the Sub-recipient's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Sub-recipient in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on a bulletin board accessible to all employees at each location where construction work is performed.
- (7) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foreman, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- (8) Disseminate the Sub-recipient's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing

the Sub-recipient's EEO policy with other Sub-recipients and Sub-recipients with whom the Sub-recipient does or anticipates doing business.

- (9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Sub-recipient's recruitment area and employment needs. Not later than one month prior to the date for acceptance of applications for apprenticeship or other training by any recruitment source, the Sub-recipient shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- (10) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a Sub-recipient's work force.
- (11) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60 3.
- (12) Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- (13) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Sub-recipient's obligations under these specifications are being carried out.
- (14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- (15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Sub-recipients and suppliers, including circulation of solicitation to minority and female Sub-recipient associations and other business associations.
- (16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Sub-recipient's EEO policies and affirmative action obligations.

- H. Sub-recipients are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (G(1) through G(16)). The efforts of a Sub-recipient association, joint Sub-recipient-union, Sub-recipient-community, or other similar group of which the Sub-recipient is a member and participant, may be asserted as fulfilling any one or more of its obligations under G(1) through G(16) of these specifications provided that the Sub-recipient actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Sub-recipient's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Sub-recipient. The obligation shall not be a defense for the Sub-recipient's non-compliance.
- I. A single goal for minorities and a separate single goal for women has been established. The Sub-recipient, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Sub-recipient may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Sub-recipient has achieved its goals for women generally, the Sub-recipient may be in violation of the Executive Order if a specific minority group of women is underutilized).
- J. The Sub-recipient shall not use the goals and timetables or affirmative action standards to discriminate against any persons because of race, color, religion, sex, or national origin.
- K. The Sub-recipient shall not enter into any subcontract with any person or firm debarred from government contracts pursuant to E.O. 11246.
- L. The Sub-recipient shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to E.O. 11246, as amended.
- M. The Sub-recipient, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph G of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Sub-recipient fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60 4.8.
- N. The Sub-recipient shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the government and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number

where assigned, social security number, race, sex, status (e.g., mechanic, apprenticeship trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Sub-recipients shall not be required to maintain separate records.

- O. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application or requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

3. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS

(applicable to contracts and subcontracts exceeding \$100,000)

The Sub-recipient and all sub-recipients 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 Sub-recipients and sub-recipients shall furnish to the owner, the following:

- A. A stipulation by the Sub-recipient or sub-recipients, 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 Sub-recipient 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 there under.
- 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 Sub-recipient 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 Sub-recipient will take such action as the government may direct as a means of enforcing such provisions.

4. DEBARMENT, SUSPENSION, AND INELIGIBILITY

The Sub-recipient represents and warrants that it and its sub-recipients are not debarred, suspended, or placed in ineligibility status under the provisions of 2 CFR 200.213 (government debarment and suspension regulations).

5. FEDERAL LABOR STANDARDS PROVISIONS

The Sub-recipient shall abide by the requirements of the Federal Labor Standards Provisions (form HUD-4010) as follows.

**Federal Labor Standards Provisions
U.S. Department of Housing and Urban Development
Office of Labor Relations**

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Sub-recipient and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section l(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Sub-recipient and its sub-recipients

at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the Sub-recipient and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the Sub-recipient, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Sub-recipient shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Sub-recipient does not make payments to a trustee or other third person, the Sub-recipient may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the Sub-recipient, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Sub-recipient to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Sub-recipient under this contract or any other Federal contract with the same prime Sub-recipient, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Sub-recipient so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the Sub-recipient or any contractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Sub-recipient, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Sub-recipient, disburse such amounts withheld for and on account of the Sub-recipient or Sub-recipient to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the Sub-recipient during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the Sub-recipient shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Sub-recipients employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The Sub-recipient shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the Sub-recipient will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime Sub-recipient is responsible for the submission of copies of payrolls by all sub-recipients. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Sub-recipient or Sub-recipient or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR 5.5 (a)(3)(i) and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the Sub-recipient or Sub-recipient to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Sub-recipient or contractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Sub-recipient or Sub-recipient fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Sub-recipient, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Sub-recipient as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Sub-recipient is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or sub-recipient's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Sub-recipient will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour

Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Sub-recipient will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The Sub-recipient shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The Sub-recipient or Sub-recipient will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 of this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the sub-recipients to include these clauses in any lower tier subcontracts. The prime Sub-recipient shall be responsible for the compliance by any Sub-recipient or lower tier Sub-recipient with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a Sub-recipient and a Sub-recipient as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Sub-recipient (or any of its sub-recipients) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the Sub-recipient certifies that neither it (nor he or she) nor any person or firm who has an interest in the Sub-recipient's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Sub-recipient or any contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No Sub-recipient or Sub-recipient contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the Sub-recipient and any Sub-recipient responsible therefore shall be liable for the unpaid wages. In addition, such Sub-recipient and Sub-recipient shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Sub-recipient or contractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours

and Safety Standards Act which is held by the same prime Sub-recipient such sums as may be determined to be necessary to satisfy any liabilities of such Sub-recipient or contractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The Sub-recipient or contractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the sub-recipients to include these clauses in any lower tier subcontracts. The prime Sub-recipient shall be responsible for compliance by any Sub-recipient or lower tier contractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable only where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Sub-recipient shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

(3) The Sub-recipient shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each sub-recipient. The Sub-recipient shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

6. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

7. BYRD ANTI-LOBBYING AMENDMENT

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used 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. Each tier must also disclose any lobbying

with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

8. PROCUREMENT OF RECOVERED MATERIALS.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. 2 CFR § 200.323

9. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. 2 CFR § 200.216.

10. DOMESTIC PREFERENCES FOR PROCUREMENTS.

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for 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.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber. 2 CFR § 200.322.

11. LIMITED ENGLISH PROFICIENCY

The Subrecipient agrees to take all reasonable actions to communicate with persons who have Limited English Proficiency (LEP) to ensure that such persons have meaningful access and an equal opportunity to participate in the program(s) and/or services funded under this Agreement.

12. ENHANCEMENT OF CONTRACTOR PROTECTION FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION

Subrecipient is hereby notified that they are required to: inform their employees working on any federal award that they are subject to the whistleblower rights and remedies of the program; inform their employees in writing of employee whistleblower protections under 41 U.S.C §4712 in the predominant native language of the workforce; and include such requirements in any agreement made with a subcontractor or subgrantee.

The Subrecipient shall require that the language of the certifications above be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly

13. 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.