

K20-1170

1 **LOAN AGREEMENT**
2 **BY AND BETWEEN**
3 **THE CITY OF NEW ORLEANS**
4 **AND**
5 **OZANAM INN**

6 **CDBG CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY**
7 **(CARES) ACT FOR**
8 **ACQUISTION OF PROPERTY**

9 **CDBG-CV01/ DUNS # 92-779-5898**

10
11 **THIS LOAN AGREEMENT** (the “**Agreement**”) is made and entered into by and
12 between the City of New Orleans, herein represented by LaToya Cantrell, Mayor (the “**City**”) and
13 Ozanam Inn, a Louisiana non-profit corporation, represented by Clarence Adams, Sr., its
14 Executive Director (the “**Subrecipient**”) to accomplish the Community Development Block Grant
15 project entitled, "CDBG-CV01, Ozanam Inn Shelter Expansion," Project Number CDBG-CV01.
16 The City and the Subrecipient are sometimes each referred to as a “**Party**,” and collectively
17 referred to as the “**Parties**.” The Agreement is effective as of the 17th of December, 2020
18 (the “**Effective Date**”).

19
20 **RECITALS**

21 **WHEREAS**, the City has received approval of Community Development Block Grant
22 Coronavirus, Aid, Relief, and Economic Security (CARES Act) (Pub. L. 116-136) funds from the
23 U. S. Department of Housing and Urban Development (HUD) appropriations 2020 (Pub. L. 116-
24 94) and fiscal year 2019 grants under HUD Appropriation Act 2019 (Pub. L. 116-6). to prevent,
25 prepare for and respond to the coronavirus known as COVID-19, pursuant to the authority of Title
26 I of the Housing and Community Development Act of 1974, (the “**ACT**”), as amended (42 USC
27 5301 et seq.), to develop viable urban communities including decent housing and suitable living
28 environments and expanding economic opportunities, principally for persons of low and moderate
29 income;

1 **WHEREAS**, the activities specified are eligible Community Development activities as
2 indicated in the federal regulations **24 CFR 570.201(c)**, which provide for acquisition,
3 construction, or improvements to a public facility;

4 **WHEREAS**, City desires to meet the HUD National Objectives of benefiting principally
5 low- and moderate-income persons (area benefit) according to federal regulation **24 CFR**
6 **570.208(a)(1)** through the funding of the Project;

7 **WHEREAS**, the Subrecipient will acquire or purchase with funds awarded under this
8 Agreement the property located at 2239 Poydras Street, New Orleans, La, designated as Lot SM#-
9 A on the Survey, dated December 19, 2019 (the "Property"). The improvements on the Property
10 shall be used as a shelter for homeless persons of Orleans Parish (the "Property
11 Facility"). Renovation costs will be accomplished with other funding. The two-story building
12 will house the shelter and administrative office;

13 **WHEREAS**, Subrecipient warrants to City and all parties at interest that it has the expertise
14 to provide the services in the form of the Project;

15 **WHEREAS**, the City, in reliance upon Subrecipient's warranty, has agreed to provide
16 funding for Subrecipient's services to be rendered for the Project in accordance with the terms and
17 conditions of this Agreement;

18 **WHEREAS**, the Subrecipient and the City, through the Office of Community
19 Development ("**OCD**"), have agreed to implement specific CDBG-funded activities in accordance
20 with CDBG program regulations;

21 **WHEREAS**, the Subrecipient understands that any funding the City provides under this
22 Agreement is conditional upon the completion of an environmental review;

23 **WHEREAS**, this Agreement shall serve as a binding agreement and commitment to fund
24 between the City and the Subrecipient; and

25 **NOW, THEREFORE**, the City and the Subrecipient, for the considerations and under the
26 conditions set forth herein do hereby agree as follows:

27 **ARTICLE I -- SUBRECIPIENT'S OBLIGATIONS**

28 The Subrecipient agrees to take on the following obligations:

29 **A. NOFA Application.** The Subrecipient agrees to comply with the terms and
30 conditions of the Subrecipient's response to the Notice of Funding Availability ("**NOFA**")

1 application and the application itself. The responses to the NOFA application and the application
2 itself are made a part of the Agreement and incorporated via reference, including the Project
3 Description and the Budget and Cost Control Statement.

4 **B. Statement of Work.** Provide the services and activities specified in the **Contract**
5 **Analysis Document and Project Description and Reporting Document for CDBG Public**
6 **Facility Projects** marked as *Attachment A*, a copy of which is attached to this Agreement and
7 made a part hereof for all purposes. The Subrecipient agrees to use the CDBG funds provided
8 hereunder to acquire the property located at 2239 Poydras Street (the “**Property**”) for the sole use
9 as a public facility homeless shelter (the “**Property Facility**”). See the full **Legal Description** of
10 the Property in *Attachment B*, which is attached herein and incorporated into the Agreement.

11 **C. Other documents.** The Property, and the services to be provided therein, will be subject
12 to a Regulatory Agreement (the “**CDBG Regulatory Agreement**”) for the period of service. The
13 City requires a Secured Promissory Note (the “**Note**”) and Multiple-Indebtedness Mortgage (the
14 “**Mortgage**”) as security for the funding of the Property. (Collectively, this Agreement, the CDBG
15 Regulatory Agreement, Note, and Mortgage constitute the “**Loan Documents.**”) The
16 Subrecipients agrees to enter into and comply with all of these Loan Documents.

17 **D. Standards.** The Subrecipient, and any legal person performing work on its behalf, will
18 perform all work under this Agreement in accordance with professional standards for architecture
19 and engineering, standards for construction, and providing services to homeless persons.

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

23 **F. Compliance with CDBG Regulations and HUD Notices.**

24 1. **In general.** Comply with the federal regulations published in Volume 24, Part 570,
25 of the *Code of Federal Regulations* (24 CFR 570), as well as all federal regulations and
26 requirements incorporated therein by reference, whether specifically discussed herein or
27 not.

28 2. **Uniform Administrative Requirements.** Comply with the applicable Uniform
29 Administrative Requirements as described in 2 CFR 200, with exceptions listed in 24
30 CFR 570.502.

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

3 **4. Other Program Requirements.** Comply with other program requirements 24
4 CFR §570.600 - 570.615 inclusive, except §570.604.

5 **5. Notices.** Comply with all applicable Notices and directives promulgated by the
6 U.S. Department of Housing and Urban Development.

7 **G. In General.**

8 1. Submit plans and specifications to the Office of Community Development,
9 Construction Unit, for review and approval prior to advertising for bid, if necessary.

10 2. [Intentionally omitted.]

11 3. Notify the City in writing if other funding becomes available for acquisition and
12 renovation of the Project public facilities.

13 4. Agrees to utilize the Project Facility and the facilities thereon only for the services
14 approved by the City. The Subrecipient must obtain prior written approval from City for
15 any other use.

16 5. Provide all necessary information and documentation to City as it relates to this
17 Agreement.

18 6. Provide renovation activities in accordance with specifications approved by the City.

19 7. Engage the services of a licensed architect, as applicable, who shall prepare the plans
20 and specifications, and who, in conjunction with the Office of Community Development,
21 shall inspect the improvements on the Property on behalf of City and the Subrecipient.

22 8. Provide documentation to the City through certified Board minutes that the
23 Subrecipient's Board of Directors approved this acquisition and subsequent renovation and
24 provisions of services.

25 9. Administer and manage the renovation process through an architectural firm and the
26 Subrecipient's Board of Directors.

27 10. Review and submit for approval by the City all change orders and additional work
28 as applicable to the project.

29 **H. Eligible Costs.** The Subrecipient shall use CDBG funds only for the payment of costs
30 associated with eligible CDBG activities as identified in §570.201-§570.206 and budgeted in

1 accordance with the provisions of Section G, below.

2 **I. Prohibited Activities.** The Subrecipient shall ensure that none of the funds
3 provided to Subrecipient to implement a CDBG-assisted project will be used to fund any activity
4 prohibited by CDBG regulations, as outlined in §570.207.

5 **J. Project Selection and Set-up.** The Subrecipient agrees to the following:

6 1. Site and Neighborhood Standards. The Subrecipient will comply with the site
7 and neighborhood standards described in 24 CFR §891.125 when choosing a project
8 location.

9 2. Compliance with Consolidated Plan. The Subrecipient shall ensure that the
10 proposed project complies with strategies outlined in the City's current Consolidated Plan
11 (CP).

12 3. Environmental Review. The Subrecipient shall request from OCD and obtain a
13 written determination that the project has been subjected to an "environmental review," in
14 accordance with 24 CFR 58, and that there are no environmental issues that would prohibit
15 implementation of the project as proposed. The Subrecipient shall not proceed with any
16 physical development without first receiving an environmental clearance notice and a
17 Notice to Proceed from OCD.

18 4. Subsidy Layering. The Subrecipient further agrees to provide necessary
19 documentation and information to the City to perform any required Subsidy Layering
20 Reviews.

21 5. Uniform Relocation and Real Properties Acquisition Act (URA). The Subrecipient
22 agrees to comply with the requirements of the URA in accordance with §570.457.

23 **K. Projects Involving Faith-Based Organizations.** The Subrecipient shall abide by 24
24 CFR 5.109 of the HUD regulations regarding faith-based organizations.

25 **L. Lead-Based Paint Testing and Abatement.** The Subrecipient acknowledges that
26 housing assisted with CDBG funds constitutes "HUD-associated housing" for the purpose of the
27 Lead-Based Paint Poisoning Prevention Act and agrees to meet all requirements of that Act and
28 §570.608.

1 **M. Project Completion.** The Subrecipient shall notify the City in writing of the substantial
2 completion of each project. Upon receipt of a notice of substantial completion, the City will
3 conduct an inspection of the property and provide the Subrecipient with any conditions to correct.

4 **N. Reversion of Assets.**

5 1. Upon expiration of this Agreement, the Subrecipient shall transfer to
6 the City any CDBG funds on hand at the time of expiration and any accounts receivable
7 attributable to the use of CDBG funds.

8 2. Any real property under the Subrecipient's control that was acquired or improved in
9 whole or in part with CDBG funds in excess of \$25,000 must be used to meet one of the national
10 objectives in § 570.208 (formerly § 570.901) for the duration of the Period of Service; otherwise,
11 the Subrecipient shall pay to the City an amount equal to the current market value of the property
12 less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition
13 of, or improvement to, the property. The payment is program income to the recipient. (No payment
14 is required after the Period of Service is completed.)

15 Notwithstanding or limiting the rights of the City detailed in Article IX, for the avoidance of doubt,
16 nothing in this Article I, Paragraph N shall be deemed or construed as requiring a reversion of title
17 to the Property or the Property Facility upon the expiration of this Agreement, which title shall
18 remain vested in the Subrecipient.

19
20 **O. Breach of Contract.** If the Subrecipient or a Program Beneficiary who benefits from a
21 CDBG-assisted project does not comply with: 1) federal regulations governing CDBG-assisted
22 projects, 2) the terms of this Agreement, or 3) the terms of the CDBG Regulatory Agreement, and
23 the Subrecipient fails to cure non-compliance within thirty (30) days after written notice from the
24 City to Subrecipient, then this failure to cure non-compliance constitutes an Event of Default, as
25 detailed in Article IX. The Subrecipient acknowledges its obligation, in an Event of Default, to
26 repay the City the CDBG funds that are identified with noncompliance, in an amount determined
27 solely by the City. The amount of the obligation to repay is not necessarily pro-rated to the period
28 or scope of non-compliance, and therefore, Subrecipient acknowledges it may need to repay back
29 all funds and not only a portion.

1 P. The administrative office of the Subrecipient is 2239 Poydras Street, New Orleans, LA
2 70112.

3 Q. **Key Personnel.** The Subrecipient identifies the following key personnel to provide the
4 services:

5 1. **Project Administration and Operations:**

6 a. Clarence Adams, Sr., Executive Director

7 2. **Change to Key Personnel:** The Subrecipient shall notify the City in writing of
8 any change of the above listed "Key Personnel." The City retains the right to reject any
9 such substitution within 30 days of receipt of written notice of substitution.

10
11 **ARTICLE II - REPRESENTATIONS AND WARRANTIES**

12 A. The Subrecipient represents and warrants to the City that:

13 1. The Subrecipient, through its duly authorized representative, has the full power and
14 authority to enter into and execute this Agreement;

15 2. The Subrecipient has and will maintain the requisite expertise, qualifications, staff,
16 materials, equipment, licenses, permits, consents, registrations, and certifications in place and
17 available for the performance of all work required under this Agreement;

18 3. The Subrecipient is bonded, if required by law, and fully and adequately insured for
19 any injury or loss to its employees and any other person resulting from the actions or omissions
20 of the Subrecipient, its employees, or its sub-subrecipients in the performance of this Agreement;

21 4. The Subrecipient is not under any obligation to any other person that is inconsistent
22 or in conflict with this Agreement, or that could prevent, limit, or impair the Subrecipient's
23 performance of this Agreement;

24 5. The Subrecipient has no knowledge of any facts that could prevent, limit, or impair
25 the performance of this Agreement, except as otherwise disclosed to the City and incorporated
26 into this Agreement;

27 6. The Subrecipient is not in breach of any federal, state, or local statute, regulation, or
28 code applicable to the Subrecipient or its operations;

1 7. Any rate of compensation charged for the performance of services under this
2 Agreement are no higher than those charged to the Subrecipient's most favored customer for the
3 same or substantially similar services;

4 8. The Subrecipient has read and fully understands this Agreement, and is executing this
5 Agreement willingly and voluntarily; and

6 9. All of the representations and warranties in this Article and elsewhere in this
7 Agreement are true and correct as of the date of execution of this Agreement by the Subrecipient,
8 and the execution of this Agreement by the Subrecipient's representative constitutes a sworn
9 statement, under penalty of perjury, by the Subrecipient as to the truth of the foregoing
10 representations and warranties.

11 12 ARTICLE III – THE CITY'S OBLIGATIONS

13 The City agrees to take on the following obligations:

14 **A. Project Funding.** The City will provide up to Three Million Dollars Even (\$3,000,000.00)
15 to the Subrecipient for eligible project costs in the form of an Office of Community Development
16 (OCD) Forgivable Loan, subject to repayment terms detailed in Article IV, for services provided
17 in conjunction with this Agreement as per the attached **Budget & Cost Control Statement** which
18 are attached herein, marked as *Attachment C*, and made part of this Agreement.

19 **B. Provision of Technical Assistance.** The City agrees to provide technical assistance or
20 assist Subrecipient to obtain technical assistance, as requested and necessary, which will aid
21 Subrecipient in performing its functions under this Agreement.

22 **C. Provision of Forms and Documents.** The City will provide forms and documents for use
23 in carrying out activities under this Agreement. Review and certify, as applicable, all documents
24 regarding program assistance that shall be provided by the Subrecipient.

25 26 ARTICLE IV -- DURATION AND TERMINATION

27 **A. Duration.** The term of this Agreement shall commence upon the Effective Date and
28 terminate upon the expiration of the Period of Service. All indemnification obligations of the

1 Subrecipient and all other provisions in this Agreement which provide they shall survive at
2 termination of this Agreement shall remain in full force and effect, notwithstanding such
3 termination.

4 **B. Extension.** This Agreement may be extended with additional funding for the activities
5 described in the NOFA provided that the Subrecipient has met or exceeded the requirements of
6 this Agreement.

7 **C. Termination for Cause.** The City shall have the right to terminate this Agreement for
8 cause, effective thirty days after written notice of Subrecipient's material noncompliance, if such
9 noncompliance persists throughout such period. Notwithstanding the terms of Article IX, in the
10 event that the City determines that the Subrecipient has breached this Agreement, the City may
11 give the Subrecipient notice of the default causing the breach and provide a reasonable time and
12 opportunity for the Subrecipient to cure the default.

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

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

26 **F. Remedies for Non-Compliance.** If the Subrecipient fails to comply with federal
27 statutes, regulations or the terms and conditions of a Federal award, the HUD or the City may
28 impose additional conditions, as described in § 200.207 Specific conditions. If HUD or the
29 City determines that noncompliance cannot be remedied by imposing additional conditions, then
30 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 V – REPAYMENT TERMS

A. Repayment Terms.

1. The Subrecipient must own the Property for the duration of the service period, which is ten years from: (i) the issuance of the Certificate of Occupancy, and (ii) the beginning of the City-approved services detailed in the CAD (the “**Period of Service**”). Should the Subrecipient transfer the Property during the Period of Service to an entity that does not assume the rights, responsibilities, and obligations in this Agreement, the full balance must be repaid immediately to the City. The Property cannot be sold for less than the appraisal value as of the date of sale unless the full balance is paid in full at closing.

2. Subrecipient understands and acknowledges that the funds provided shall be used exclusively for services and activities specified in the Contract Analysis Document and Project Description and Reporting Document for CDBG Public Facility Projects and shall not be used to cover any other overhead or general operating expenses of Subrecipient.

3. The funds disbursed under this Agreement shall be secured in the form of a Secured Promissory Note and Mortgage with a term co-terminus with the Use Restrictions for ten (10)

1 years from the date of the completion of the construction of the Project Facility, as detailed in
2 the Regulatory Agreement executed by and between the City and Subrecipient. The first
3 anniversary date of the Loan shall be: (i) one year after the improvements to the Property
4 Facility are completed as evidenced by the date of issuance of the certificate of use and
5 occupancy by the Department of Safety and Permits of the City of New Orleans, and (ii) the
6 full commencement of the City-approved services detailed in the CAD. On each anniversary
7 date of the Loan, a sum of not more than Three Hundred Thousand Dollars Even (\$300,000.00)
8 will be forgiven from the then outstanding principal balance of the Loan securing the funds,
9 subject however, to the condition that should for any reason the Subrecipient sell, alienate, or
10 otherwise convert the Project into a use ineligible for a Community Development Block Grant
11 or deviating from its expressly approved use, then the outstanding principal balance of the
12 Loan will become immediately due in full, payable in cash to the City.

13 4. Furthermore, it is expressly understood and agreed upon by Subrecipient that City
14 may withhold part or all of forgiven portion provided under this Agreement in order to settle
15 any questioned expenditures or ineligible costs incurred by Subrecipient under this Agreement
16 or by Subrecipient in operation of performance of any previous contract involving the
17 Community Development Block Grant (CDBG) Program operated by Subrecipient, which
18 City and/or the U. S. Department of Housing and Urban Development (HUD) may deem
19 ineligible or unallowable relative to the said previous contract(s), provisions, and/or rules and
20 regulations applicable to the CDBG Program.

21
22 **B. Miscellaneous.**

23 1. **Maturity.** The Loan shall mature on the Maturity Date (as defined in the Note).

24 2. **Discretion to Extend Period of Service.** It is specifically understood, agreed and
25 acknowledged by Subrecipient that if Subrecipient or the Project at any time fall out of
26 compliance with the requirements stipulated in the CDBG Regulatory Agreement, and/or other
27 Loan Documents, the City has the right and option in addition to, and not to the exclusion of
28 any of its other remedies provided for herein or in the other Loan Documents (including the
29 right to accelerate the Maturity Date of the Loan), to extend the Period of Service by a period
30 of time equal to or greater than any period of non-compliance. It is further understood and
31 agreed that the burden of proving compliance with (and providing documentation and evidence
32 of compliance with) the requirements stipulated in the CDBG Regulatory Agreement and other
33 Loan Documents is on Subrecipient.

1 **3. Security.** Repayment of the Loan and Subrecipient's other obligations under this
2 Agreement and the CDBG Regulatory Agreement shall be secured by the mortgage lien on
3 and security interest in the Mortgaged Property described in the Mortgage.

4 **4. Note.** The Loan shall be evidenced by the Note.
5

6 **ARTICLE VI – THE SUBRECIPIENT'S LIMITATIONS** 7

8 **A. Due on Sale or Transfer.**

9 1. The Subrecipient hereby covenants and agrees not to sell, transfer, or otherwise
10 dispose of the Project, or any portion thereof, without obtaining the prior written consent of the
11 City, which consent shall be in the City's sole but reasonable discretion. Absent the City's written
12 consent and subject to the terms of this Section A, 100% of the Indebtedness, including without
13 limitation, payment of all principal and accrued and unpaid interest, is due upon any sale or
14 refinancing of the Project. The City may, in its sole but reasonable discretion, allow the transferee
15 to assume the remaining Indebtedness, and/or may accept less than 100% of the amounts then due,
16 but such waiver will not constitute forgiveness of any Indebtedness.

17 **ARTICLE VII -- SOURCES AND USES OF FUNDS**

18 **A. Contract Amount.** The funds provided to Subrecipient under this Agreement are
19 contingent upon HUD approval and are for the implementation of the CDBG-funded housing
20 program or project described above in Article I and elsewhere herein. **No payments, however,**
21 **will be made prior to the completion of an Environmental Review.** The Subrecipient
22 understands that the Budget and Cost Control Statement is a generalized estimate of the cost(s)
23 of one or more projects to be subsequently set-up in accordance with this Agreement. The
24 Subrecipient understands that the cost of all individually set-up projects shall not exceed the
25 above contract amount plus other project sources, and that each project shall not exceed OCD's
26 established construction cost limits, unless waived.

27 **B. Use of Funds.** The funds shall be utilized for the sole purpose of acquisition costs for
28 a homeless shelter that will provide shelter services to the public in strict accordance with the
29 Community Development regulations to provide services to residents of which at least 51% are
30 of low and moderate income.

31 **C. Request for Disbursement of Funds.** In accordance with 24 CFR 85.21 or

1 §570.502(b)(3)(i), as applicable, Subrecipient will not request disbursement of funds in
2 connection with the implementation of a CDBG-funded project until the funds are needed for
3 payment of eligible costs. The amount of each request must be limited to the amount needed for
4 the actual eligible project cost expended or anticipated. All pay requests must be submitted on
5 the OCD Cost Control Statement form available from OCD, and properly supported with
6 documentation.

7 a. **Conditions to be Met Prior to the Disbursement of any Draws.** Prior to the
8 disbursement of any draws, the following conditions must be satisfied in the sole and absolute
9 discretion of the City:

10 1. The City shall have received executed originals of all of the Loan Documents
11 (including a Loan disbursement statement), in form and substance acceptable to the City.

12 2. Commencement of construction of the Project has occurred or will occur within
13 sixty (60) days after the date of Closing which shall be evidenced by the issuance of the notice to
14 proceed.

15 3. The City shall have received from the Subrecipient a copy of the construction
16 budget and line item breakdown of Total Development Costs, including hard and soft costs, along
17 with a sources and uses of funds in the amount of the Total Development Costs, a draw schedule
18 and estimated development timing assumptions.

19 4. The City shall have received certificates of insurance as to Builder's Risk and
20 Hazard Insurance in completed value form with extended coverage in the amount of the full value
21 of the Project, as completed, but which shall, in any case, include such insurance coverage
22 sufficient to meet the standards established in Part V, Section 106 of the Fannie Mae U.S. Guide,
23 effective November 3, 2003, as amended from time to time. Such certificates of insurance shall
24 be issued by a company satisfactory to the City, duly endorsed to show the interest of the City
25 under a standard non-contributing mortgagee clause addressed to the City. The policy shall also
26 provide that such policy will not be canceled without thirty (30) days' notice to the City.
27 Subrecipient agrees that the City shall have the right to take any action necessary to continue said
28 insurance in full force and effect including, but not limited to, paying premiums. Any funds

1 advanced to continue the policies in full force and effect shall be considered as Draw Requests
2 hereunder and shall bear interest from the date of disbursement at the Default Rate and payment
3 of said funds and interest shall be secured by the Mortgage.

4 **b. Reversion of Funds.** The Subrecipient agrees that the funding provided hereunder must
5 be committed to specific projects and expended within the time periods established by the CDBG
6 regulations or said funding may be withdrawn by the City.

7
8 **ARTICLE VIII – RESTRICTIONS ON USE**

9 **A. Nonrecourse Loan.**

10 1. Notwithstanding anything to the contrary contained in this Agreement, neither
11 Subrecipient nor any of its managing or investor members or affiliates shall have any personal
12 liability under the Loan Documents for the repayment of the Indebtedness or for the performance
13 of any other obligations of Subrecipient under the Loan Documents, and the City's only recourse
14 for the satisfaction of the Indebtedness, and the performance of such obligations shall be to exercise
15 its rights and remedies with respect to the Mortgaged Property and any other collateral held by the
16 City as security for the Indebtedness and to enforce any guarantees. This limitation on
17 Subrecipient's liability shall not limit or impair the City's enforcement of its rights against any and
18 all Guarantors guaranteeing any indebtedness or obligations of Subrecipient.

19 2. Subrecipient shall become personally liable to the City for the repayment of any portion of
20 the Loan then outstanding equal to any loss or damage suffered by the City as a result of:

21 a. failure of Subrecipient to pay to the City upon demand, after an Event of Default,
22 all rents, revenues and profits from the operation of the Project to which the City is entitled
23 under the Mortgage, and the amount of all security deposits collected by Subrecipient from
24 tenants then in residence; or

25 b. failure of Subrecipient to apply all insurance proceeds and condemnation proceeds
26 as required by the Loan Documents; or

27 c. failure of Subrecipient to comply with the requirements in the Mortgage relating to
28 the delivery of books and records, statements, schedules and reports; or

1 d. failure of Subrecipient to pay all deductibles required under any of the insurance
2 policies required to be maintained under the Article on Insurance of this Agreement.

3 3. Subrecipient shall become personally liable to the City for the repayment of the
4 Loan amount then outstanding plus default interest at the Default Rate from the date of default,
5 due upon the occurrence of any of the following events:

6 a. misappropriation of Loan proceeds by Subrecipient; or

7 b. fraud or any written material misrepresentation by Subrecipient or any officer,
8 agent, director, partner, member or employee of Subrecipient in connection with the
9 Application, the Loan Documents, or any request by the City; or

10 c. Subrecipient's acquisition of any property or operation of any business not
11 permitted by the Mortgage; or

12 d. or a Transfer that is an Event of Default under the Mortgage or CDBG Regulatory
13 Agreement; or

14 e. failure of Subrecipient to commence construction of the Project within sixty (60)
15 months of the date of Closing; subject to force majeure delays; or

16 f. Subrecipient's failure to maintain compliance with the CDBG Regulatory
17 Agreement in the City's sole and reasonable discretion; or

18 g. Subrecipient's failure to pay the City the amount due under Article IV.

19 4. To the extent that Subrecipient has personal liability under this Article, the City may
20 exercise its rights against Subrecipient personally without regard to whether the City has exercised
21 any rights against the Mortgaged Property or any other security, or pursued any rights against any
22 Guarantor, or pursued any other rights available to the City under the Loan Documents or
23 applicable law.

24 **B. CDBG Regulatory Agreement.**

1 1. As a condition to disbursement of Loan proceeds, the Subrecipient will be required to
2 execute and deliver to the City the CDBG Regulatory Agreement. The CDBG Regulatory
3 Agreement shall be recorded by the Subrecipient in the Orleans Parish Land Records Office,
4 and shall be subordinate only to those liens and encumbrances agreed to by the City, in its sole
5 discretion.

6 2. CDBG Regulatory Agreement shall have a stated term of ten (10) years.

7 3 It is specifically understood and agreed by the Subrecipient that the CDBG Regulatory
8 Agreement will not be terminated upon either i) a pre-payment of the Loan by the Subrecipient,
9 or ii) there has been noncompliance by the Subrecipient and the Project with the requirements
10 stipulated the CDBG Regulatory Agreement and other Loan Documents during the
11 Affordability Period.

12 13 **ARTICLE IX – DEFAULTS AND REMEDIES**

14 **A. Events of Default.** The following shall each constitute an event of default under this Agreement
15 (each an “**Event of Default**”, and, collectively, “**Events of Default**”):

16 1. If the Subrecipient fails to make any payments due to the City under the Note, or
17 the other Loan Documents as and when due, and such failure continues for a period of ten (10)
18 days following written notice of such failure of payment to Subrecipient and Guarantor (if
19 applicable) listed in this Agreement;

20 2. If Subrecipient fails to comply with any regulations governing the award and use
21 of CDBG funds, including, but not limited to, 24 CFR Part 570, or fails to comply with any of
22 the terms and conditions or covenants contained this Agreement or any of the Loan Documents
23 applicable to Subrecipient, and such failure continues for a period of thirty (30) days following
24 written notice thereof to Subrecipient and any Guarantor listed in this Agreement;

25 3. If at any time any warranty or representation made by Subrecipient in any Loan
26 Document, instrument, agreement, certification or communication submitted by Subrecipient
27 to the City is determined by the City in its sole and reasonable discretion to be materially false,
28 misleading, or incorrect;

1 4. If any other default occurs under the Loan Documents, and such default is not cured
2 within the applicable cure period set forth in such Loan Document, or if there is no cure period
3 set forth therein, then within thirty (30) days following the date of written notice of such default
4 to Subrecipient listed in Article on Notice of this Agreement.

5 5. If Subrecipient or any Guarantor defaults under any of the Senior Mortgage Loan
6 Documents, if applicable, and fails to cure the same within the time periods granted in such
7 Senior Mortgage Loan Documents subject to the terms of the Subordination Agreement;

8 6. If Subrecipient defaults under any other loan, promissory note, project based rental
9 assistance contract, loan agreement, mortgage, indenture, regulatory agreement, security
10 agreement, assignment or other agreement between Subrecipient (or any Guarantor) and the
11 City, and such failure is not cured within any grace or cure period granted therein; or

12 7. The occurrence of any of the events specified in Article VIII above; or

13 8. Subrecipient or the Project falls out of compliance with the requirements stipulated
14 in CDBG Regulatory Agreement and the other Loan Documents or fails upon request by the
15 City to provide sufficient documentation to demonstrate compliance with the CDBG
16 Regulatory Agreement and the other Loan Documents; or

17 9. Subrecipient sells, transfers or otherwise disposes of the Project, or any portion
18 thereof, or refinances any of the Senior Loans, without obtaining the prior written consent of
19 the City except as otherwise provided herein.

20 **B. No Waiver.** Failure of the City to declare an Event of Default under this Agreement shall
21 not constitute a waiver of any rights by the City. Any waiver of an Event of Default or forbearance
22 by the City in exercising any right or remedy under this Loan Agreement or any other Loan
23 Document or otherwise afforded by applicable law, shall not be a waiver of any other Event of
24 Default or preclude the exercise or failure to exercise of any other right or remedy. Furthermore,
25 the City's election to cure any Subrecipient default shall in no event be construed as a waiver of
26 rights with respect to any other default, past or present. The acceptance by the City of payment of
27 all or any part of the Indebtedness after the due date of such payment, or in an amount which is

1 less than the required payment, shall not be a waiver of the City's right to require prompt payment
2 when due of all other payments on account of the Indebtedness or to exercise any remedies for any
3 failure to make prompt payment. The City's receipt of any condemnation awards or insurance
4 proceeds shall not operate to cure or waive any Event of Default.

5 **C. Remedies.** Upon the occurrence of any Event of Default, the City shall be entitled to
6 terminate this Agreement, enforce Subrecipient's obligations pursuant to specific performance or
7 withhold any further funding and/or exercise all rights and remedies available to it under the terms
8 of this Agreement, the other Loan Documents, and applicable state and federal law, including
9 without limitation, taking any, all, one or some of the following actions in any order it deems
10 appropriate: (a) accelerate the payment of the Note and the Indebtedness; (b) commence
11 appropriate legal and equitable action to foreclose the Mortgage and collect all such amounts due
12 the City as a result of the default; (c) exercise any one or more of the actions contained in 24 CFR
13 Parts 84.62(a)(1-5), 85.43 and 85.44; (d) impose sanctions as enumerated in Section 9.0 of the
14 2019 CDBG-DR Program Description; (e) require the full reimbursement of all funds advanced
15 by the City to the Subrecipient, with default interest at the Default Rate from the date of such
16 default; (f) issue a letter of warning that advises the Subrecipient of the deficiency and notifies the
17 Subrecipient that additional action will be taken if the deficiency is not corrected or is repeated;
18 (g) advise the Subrecipient that additional information or assurances will be required before
19 acceptance of one or more of the certifications required for future CDBG projects; (h) notify the
20 Subrecipient of suspension or termination of funds for the violation of a specific activity; (i) advise
21 the Subrecipient to reimburse the Loan in any amount improperly expended; (j) refrain from
22 extending any further assistance to the Subrecipient until such time as the Project and the
23 Subrecipient are in full compliance; (l) require that Subrecipient replace the Project manager; (m)
24 withhold funding to Subrecipient and its Affiliates on other CDBG awards; (n) deny any and all
25 future applications by Subrecipient and its Affiliates on future CDBG programs implemented by
26 the City; (o) require such corrective actions as may be specified by the City from time to time; or
27 (p) ignore any period of time for which Subrecipient and the Project have been in compliance and
28 require compliance for a period equal to any interim period of noncompliance. All remedies shall
29 be deemed cumulative and, to the extent permitted by law, the election of one or more remedies
30 shall not be construed as a waiver of any other remedy the City may have available to it.

1 **D. Notice of Default.** The Subrecipient shall promptly notify the City in writing of any
2 condition or event known to the Subrecipient which constitutes an Event of Default under the Note,
3 this Agreement, or any of the other Loan Documents or which, with or without the giving of notice
4 or the lapse of time or both, would constitute any such Event of Default, and of any litigation or
5 threatened litigation.

6
7 **ARTICLE X -- PROGRAM INCOME PROVISIONS**

8 The Subrecipient understands that after completion of the Agreement any funds derived
9 from the sale of CDBG-assisted property shall be considered program income. Determination of
10 program income shall be made in accordance with §570.426, 570.504, and with 570.509(c). No
11 Program income shall be spent without the City's prior approval and must be placed in a segregated
12 account and not be comingled with any other funds. Upon receipt of the funds, a report shall be
13 submitted to the City setting forth the source of the income, the amounts collected, and the balance
14 on hand. The Subrecipient shall remit the Program Income to the City immediately upon request.

15
16 **ARTICLE XI – ACCOUNTING & FINANCIAL TERMS AND CONDITIONS**

17 The Subrecipient agrees to comply with all applicable provisions of **General Terms and**
18 **Conditions, Accounting and Financial Management Procedures**, which is marked *Attachment*
19 *D*, which is attached hereto and made a part hereof for all purposes.

20
21 **ARTICLE XII – STATEMENT OF ELIGIBILITY**

22 Attached is a **Statement of Eligibility** for this project which is designated as *Attachment*
23 *F*, which is attached hereto and made a part of the Agreement.

24
25 **ARTICLE XIII - MAINTENANCE AND MONITORING OF RECORDS**

26 **A. Maintenance of Records.** The Subrecipient agrees to maintain all records of all
27 expenditures of CDBG funds provided to it by the City in accordance with §570.506 for **five years**
28 from the official date of the closeout of the federal funding. Records are to be maintained
29 separately for each project undertaken by the Subrecipient, and the records for each project will

1 be maintained by the Subrecipient in such a manner so that the funding sources used in each project
2 will be accounted for separately. The aforementioned classification of funds expended will be
3 further itemized by the “funding year” associated with the funds. The Subrecipient hereby agrees
4 to maintain, for the City’s review, all records relating to the creation, development and set-up of
5 CDBG projects, and the expenditure of CDBG funds, itemized for each CDBG-funded project
6 undertaken.

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

15 16 **ARTICLE XIV - MONITORING OF SUBRECIPIENT PERFORMANCE**

17 **A. Monitoring.** The City shall monitor the performance of the Subrecipient as necessary and
18 in accordance with regulations on Subrecipient Monitoring and Management, 2 CFR 200.330 – 2
19 CFR 200.332, to ensure Subrecipient compliance with all of the requirements of this Agreement,
20 including the timeframes and performance goals associated with the activities, as well as
21 procurement. Substandard performance as determined by the City will constitute noncompliance
22 with this Agreement. If action to correct such substandard performance is not taken by the
23 Subrecipient within 60 days after being notified by the City, the City may impose additional
24 conditions on the Subrecipient and its use of CDBG-DR funds consistent with 2 CFR 200.207,
25 suspend or terminate this agreement, or initiate other remedies for noncompliance as appropriate
26 and permitted under 2 CFR 200.338.

27 **B. Monthly Reporting Requirement.** The Subrecipient agrees to provide OCD
28 Neighborhood Services & Facilities, 1340 Poydras Street, 10th Floor, New Orleans, Louisiana on
29 the 10th working day of each month, one copy of the information described and requested in the

1 **Monthly Reporting Requirements**, as may be amended, designated as *Attachment G*, which is
2 attached hereto and made part of this Agreement. The Subrecipient further agrees to provide the
3 OCD Fiscal Unit, 1340 Poydras Street, 10th Floor, New Orleans, Louisiana on the 10th working
4 day of each month, one original Monthly Reporting Requirement.

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

17 18 **ARTICLE XV -- JURISDICTION**

19 The undersigned Subrecipient does further hereby consent and yield to jurisdiction of the
20 State Civil Courts of the Parish of Orleans and does hereby formally waive any pleas of jurisdiction
21 on account of the residence elsewhere of the undersigned Subrecipient.

22 23 **XVI -- AUDIT AND OTHER OVERSIGHT**

24 It is agreed that the Subrecipient or applicant will abide by all provisions of City Code §2-
25 1120, including but not limited to City Code §2-1120(12), which requires the Subrecipient to
26 provide the Office of Inspector General with documents and information as requested. Failure to
27 comply with such requests shall constitute a material breach of the contract. In signing this
28 contract, the Subrecipient agrees that it is subject to the jurisdiction of the Orleans Parish Civil
29 District Court for purposes of challenging a subpoena.

1 **ARTICLE XVII -- CONVICTED FELON STATEMENT**

2 The Subrecipient swears that it complies with Section 2-8 (c) of the Code of the City of
3 New Orleans. No Subrecipient principal, member, or officer has, within the preceding 5 years,
4 been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft
5 of public funds, bribery, or falsification or destruction of public records.
6

7 **ARTICLE XVIII -- NON-SOLICITATION STATEMENT**

8 The Subrecipient swears that it has not employed or retained any company or person, other
9 than a bona fide employee working solely for him, to solicit or secure the subject contract. The
10 Subrecipient has not paid or agreed to pay any person, other than a bona fide employee working
11 for him, any fee, commission, percentage, gift, or any other consideration contingent upon or
12 resulting from the subject contract.
13

14 **ARTICLE XIX -- INDEMNITY**

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

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

28 **C. Independent Duty.** The Subrecipient has an immediate and independent obligation to, at
29 the City's option: (a) defend the City from or (b) reimburse the City for its costs incurred in the
30 defense of any claim that actually or potentially falls within this indemnity, even if: (1) the

1 allegations are or may be groundless, false, or fraudulent; or (2) the Subrecipient is ultimately
2 absolved from liability.

3 **D. Expenses.** Notwithstanding any provision to the contrary, the Subrecipient shall bear the
4 expenses including, but not limited to, the City's reasonable attorney fees and expenses, incurred
5 by the City in enforcing this indemnity.
6

7 **ARTICLE XX -- INSURANCE**

8 **A. In general.** Except as otherwise noted, at all times during this Agreement or the
9 performance of work required by this Agreement, the Subrecipient will maintain the following
10 insurance in full force and effect for the duration of the work under this Agreement. Evidence of
11 coverage shall be provided prior to the start of any activities/work, in conjunction with the
12 Subrecipient's scope of work under the Agreement.

13 If the Subrecipient maintains broader coverage and/or higher limits than the minimums
14 shown above, the City requires and shall be entitled to the broader coverage and/or the higher
15 limits maintained by the Subrecipient. Any available insurance proceeds in excess of the
16 specified minimum limits of insurance and coverage shall be available to the City.
17

18 **B. Minimum Requirements.**

- 19 1. Workers' Compensation & Employers Liability Insurance in compliance with the
20 Louisiana Workers' Compensation Act(s). Statutory and Employers Liability Insurance
21 with limits of not less than \$1,000,000.
22
- 23 2. Commercial General Liability Insurance including contractual liability insurance,
24 products and completed operations, personal & advertising injury, bodily injury, property
25 damage, and any other type of liability for which this Agreement applies with limits of
26 liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate.
27
- 28 3. Automobile Liability Insurance with a combined single limit of liability of not less than
29 \$1,000,000 per accident for bodily injury and property damage. Insurance shall include
30 all owned, non-owned and hired vehicles.
31
- 32 4. Crime Insurance (Fidelity Bond) to include but not limited to employee dishonesty,
33 computer crime, misappropriation of funds, forgery or alteration with limits of not less
34 than \$125,000.
35
- 36 5. Umbrella/Excess Liability – Umbrella/Excess policies must Follow Form of the
37 underlying policies.

1 Important: Subrecipients shall be able to meet the above referenced specific policy limits of
2 liability through a combination of primary and umbrella /excess coverage.

3 6. The obligations for the Subrecipient to procure and maintain insurance shall not be
4 constructed to waive or restrict other obligations. It is understood that neither failure to
5 comply nor full compliance with the foregoing insurance requirements shall limit of
6 relieve the Subrecipient from any liability incurred as a result of their
7 activities/operations in conjunction with the Subrecipients obligations and/or Scope of
8 Work. Subrecipient shall be responsible for any losses, expenses, damages, claims and/or
9 suits of any kind which exceed the Subrecipients limits of liability that arise from the
10 performance of work under the Contract.

11 12 **C. Other Requirements.**

13
14 1. Additional Insured Status: The Subrecipient and all Sub-Subrecipients (where
15 applicable) will provide, and maintain current, a Certificate of Insurance naming the City of New
16 Orleans, its departments, political subdivisions, officers, officials, employees, and volunteers as
17 "Additional Insureds" on the CGL and AL policies with respect to liability arising out of the
18 performance of this agreement. Additional Insured status can be provided in the form of an
19 endorsement to the Subrecipients insurance (at least as broad as ISO Form CG 20 10 11 85 or
20 both CG 20 10 and CG 20 37 forms if later revisions used). The Additional Insured box shall be
21 marked "Y" for Commercial General Liability and Auto Liability coverage. The Subrogation
22 Waiver Box must be marked "Y" for Workers Compensation/Employers Liability and Property.

23
24 2. In the event the Subrecipient is required by a Lender or other Third Party to
25 procure and maintain additional insurance coverage, the City of New Orleans shall be listed as an
26 additional insured or loss payee under said policies.

27 3. Subrecipient shall require and verify that all Sub-Subrecipients maintain
28 insurance and coverage limits meeting all the requirements stated herein or the Sub-Subrecipient
29 liability shall be covered by the Subrecipient. The Certificate of Insurance, as evidence of all
30 required coverage, should name the City of New Orleans Risk Manager as Certificate Holder and
31 be delivered via U.S. Mail to 1300 Perdido Street, 9E06 – City Hall, New Orleans LA 70112.

32
33 4. Primary Coverage: For any claims related to this agreement, the Subrecipients
34 insurance coverage shall be primary insurance as respects the City, its departments, political
35 subdivisions, officers, officials, employees, and volunteers. Any insurance or self-insurance
36 maintained by the City shall be non-contributing to the Subrecipients coverage.

37
38 5. Claims Made Policies: If applicable, the retroactive date must be shown and must
39 be before the date of the agreement or the beginning of work. If the coverage is canceled or non-

1 renewed, and not replaced with another claims-made policy, Subrecipient must purchase
2 "extended reporting" coverage for minimum of 3 years after the termination of this agreement.
3

4 6. Waiver of Subrogation: The Subrecipient and its insurers agree to waive any right
5 of subrogation which any insurer may acquire against the City by virtue of the payment of any
6 loss under insurance required by this Agreement, with the exception of cases arising solely out of
7 the City's gross negligence or willful misconduct.
8

9 7. Notice of Cancellation: Each insurance policy required above shall not be
10 canceled, expire or altered except without prior notice to the City of no less than 30 days.
11

12 8. Acceptability of Insurers: Insurance is to be placed with insurers licensed and
13 authorized to do business in the State of Louisiana with a current A.M. Best's rating of no less
14 than A: VII, unless otherwise acceptable to the City.
15

16 9. Notice: The Subrecipient will provide the City's Risk Manager (at City of New
17 Orleans Attn: Risk Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112- Ref.:
18 CEA) the following documents, within 10 calendar days of the City's request: Copies of all
19 policies of insurance, including all policies, forms, and endorsements. Substitute insurance
20 coverage acceptable to the City within 30 calendar days if any insurance company providing any
21 insurance with respect to this Agreement is declared bankrupt, becomes insolvent, loses the right
22 to do business in Louisiana, or ceases to meet the requirements of this Agreement.
23

24 10. Special Risks or Circumstances: The City of New Orleans shall reserve the right
25 to modify these requirements, including limits, based on the nature of the risk, prior experience,
26 insurer coverage, or other circumstances.
27

28 11. The City acknowledges and agrees that, notwithstanding the foregoing, Ozanam
29 participates in a self-insurance program administered by Catholic Mutual Group, which will
30 provide a certificate of coverage consistent with the foregoing.
31

32 **ARTICLE XXI -- NON-DISCRIMINATION**

33 **A. Equal Employment Opportunity.** In all hiring or employment made possible by, or
34 resulting from this Agreement, the Subrecipient (1) will not be discriminate against any employee
35 or applicant for employment because of race, color, religion, sex, gender, age, physical or mental
36 disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable,
37 will take affirmative action to ensure that the Subrecipient's employees are treated during

1 employment without regard to their race, color, religion, sex, gender, age, physical or mental
2 disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall
3 apply to, but not be limited to the following: employment, upgrading, demotion or transfer,
4 recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of
5 compensation, and selection for training, including apprenticeship. All solicitations or
6 advertisements for employees shall state that all qualified applicants will receive consideration for
7 employment without regard to race, color, religion, sex, gender, age, physical or mental disability,
8 national origin, sexual orientation, creed, culture, or ancestry.

9 **B. Non-Discrimination.** In the performance of this Agreement, the Subrecipient will not
10 discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion,
11 national origin, ancestry, age, sex, gender, sexual orientation, gender identity, domestic partner
12 status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any
13 employee of the City working with the Subrecipient in any of Subrecipient's operations within
14 Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges,
15 services, or membership in all business, social, or other establishments or organizations operated
16 by the Subrecipient. The Subrecipient agrees to comply with and abide by all applicable federal,
17 state and local laws relating to non-discrimination, including, without limitation, Title VI of the
18 Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with
19 Disabilities Act of 1990.

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

23 **D. Termination for Breach.** The City may terminate this Agreement for cause if the
24 Subrecipient fails to comply with any obligation in this Article, which failure is a material breach
25 of this Agreement; provided Subrecipient is given written notice of such non-compliance and a
26 thirty (30) day period during which to cure it.

27 28 **ARTICLE XXII -- INDEPENDENT ENTITY**

29 **A. Independent Entity Status.** The Subrecipient is an independent entity and shall not be
30 deemed an employee, servant, agent, partner, or joint venture of the City and will not hold itself

1 or any of its employees, sub-Sub-recipients or agents to be an employee, partner, or agent of the
2 City.

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

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

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

21 22 **ARTICLE XXIII - DRUG-FREE WORKPLACE ACT**

23 The Subrecipient agrees to comply with the provisions of the Drug-Free Workplace Act of
24 1988 (42 U.S.C. 701) and certifies that it will provide a drug-free workplace. The Subrecipient
25 further certifies that he or she will not engage in the unlawful manufacture, distribution,
26 dispensing, possession or use of a controlled substance in conducting any activity with the grant.

27 **ARTICLE XXIV – LIVING WAGE**

28 **A. Definitions.** Unless otherwise expressly provided in this Agreement, Capitalized terms
29 used but not defined herein, shall have the definition attributed to them in Article VIII, Section 70-
30 802 of the City Code.

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

- 3 1. Payment of an hourly wage to Covered Employees equal to the amounts defined in
4 the City Code (“**Living Wage**”);
- 5 2. Receipt of at least seven (7) days per year of compensated leave for Covered
6 Employees, as required by Section 70-807 of the City Code; and
- 7 3. Post notice in a prominent place regarding the applicability of the Living Wage
8 Ordinance in every workplace in which Covered Employees are working that is
9 within the Covered Employer's custody and control, as required by Section 70-810
10 of the City Code.

11 **C. Current Living Wage.** In accordance with the Living Wage Ordinance, the current
12 Living Wage per the Consumer Price Index data is equal to \$11.19. The Subrecipient shall be
13 responsible for confirming the Current Living Wage by visiting [https://www.nola.gov/economic-](https://www.nola.gov/economic-development/workforce-development/)
14 [development/workforce-development/](https://www.nola.gov/economic-development/workforce-development/).

15 **D. Adjusted Living Wage.** In accordance with Section 70-806(2) of the City Code, the
16 Subrecipient acknowledges and agrees that the Living Wage may be increased during the term of
17 the Agreement. Any City contract or City financial assistance agreement (a) extending from one
18 calendar year into the next or (b) with a term of longer than one year, inclusive of any renewal
19 terms or extensions, shall require the Covered Employer to pay the Covered Employee an Adjusted
20 Living Wage, accounting for the annual Consumer Price Index adjustment. The indexing
21 adjustment shall occur each year on July 1st using the Consumer Price Index figures provided
22 for the calendar year ended December 31st of the preceding year, and thereafter on an annual
23 basis.

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

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

34 Office of Workforce Development
35 Living Wage - Compliance
36 1340 Poydras Street – Suite 1800
37 New Orleans, Louisiana 70112
38

39 **G. Compliance Monitoring.** Covered Employers under this Agreement are subject to
40 compliance monitoring and enforcement of the Living Wage requirements by the Office of
41 Workforce Development (the “**OWD**”) and/or the Chief Administrative Office (“**CAO**”).
42 Covered Employers will cooperate fully with the OWD and/or the CAO and other City employees

1 and agents authorized to assist in the administration and enforcement of the Living Wage
2 requirements. Steps and actions include, but are not limited to, requirements that: (i) the
3 Subrecipient will cooperate fully with the OWD and the CAO and other City employees and agents
4 authorized to assist in the administration and enforcement of the Living Wage requirements; (ii)
5 the Subrecipient agrees that the OWD and the CAO and their designees, in the performance of
6 their duties, shall have the right to engage in random inspections of job sites and to have access to
7 the employees of the Subrecipient, payroll records and employee paychecks; and (ii) that the City
8 may audit such records of the Subrecipient as he or she reasonably deems necessary to determine
9 compliance with the Living Wage standards.

10 **H. Remedies.** If the Subrecipient fails to comply with the Living Wage requirements
11 during the term of the Agreement, said failure may result in termination of the Agreement or the
12 pursuit of other remedies by the City, including, but not limited to, the penalties and enforcement
13 mechanisms set forth in Section 70-811 of the City Code.
14

15 **ARTICLE XXV – FORCE MAJEURE**

16 **A. Event.** An event of Force Majeure will include any event or occurrence not
17 reasonably foreseeable by the City at the execution of this Agreement, which will include, but not
18 be limited to, abnormally severe and unusual weather conditions or other acts of God (including
19 tropical weather events, tornados, hurricanes, and flooding); declarations of emergency; shortages
20 of labor or materials (not caused by City); riots; terrorism; acts of public enemy; war; sabotage;
21 cyber-attacks, threats, or incidents; epidemics or pandemics; court or governmental order; or any
22 other cause whatsoever beyond the reasonable control of City, provided such event was not caused
23 by the negligence or misconduct of City, by the failure of City to comply with applicable laws, or
24 by the breach of this Agreement.

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

29 **C. Effect.**

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

- 32 a. Suspend this Agreement for a duration to be set by the City, not to exceed 90
33 days. During such time of suspension, the Parties will not be liable or
34 responsible for performance of their respective obligations under this
35 Agreement, and there will be excluded from the computation of such period of
36 time any delays directly due to the occurrence of the Force Majeure event.
37 During any such period of suspension, the Subrecipient must take all
38 commercially reasonable actions to mitigate against the effects of the Force

1 Majeure event and to ensure the prompt resumption of performance when so
2 instructed by the City; or

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

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

10 **ARTICLE XXVI - DISADVANTAGED BUSINESS ENTERPRISE ("DBE") PROGRAM**

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

16 **B. Monitoring.** To ensure compliance with DBE requirements during the term of this
17 Agreement, the DBECO will monitor the Subrecipient's use of DBE sub-Subrecipients/suppliers
18 ("**DBE Entities**") through the following actions:

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

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

27 **C. Cooperation.** The Subrecipient shall:

- 28 1. Designate an individual as the "DBE Liaison" who will monitor the Subrecipient's
29 DBE participation as well as document and maintain records of "Good Faith
30 Efforts" with DBE Entities.
31 2. Execute written contracts with DBE Entities that meet the applicable DBE goals.
32 a. The Subrecipient shall provide the DBECO with copies of said contracts
33 within 30 days from the date this Agreement is fully executed between the
34 City and the Subrecipient.
35 b. The Subrecipient shall agree to promptly pay sub-Subrecipients, including
36 DBE Entities, in accordance with law.
37 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;
- d. Any other records required by the OSD.

The Subrecipient is required to maintain such records for 3 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:

- a. 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

b. 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 XXVII -- 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:

To the City: Marjorianna Willman
Director of Housing Policy and Community Development
City of New Orleans
1340 Poydras Street, Suite 1000
New Orleans, LA 70112

And: City Attorney
City of New Orleans
1300 Perdido Street, 5E03
New Orleans, LA 70112

To the Subrecipient: Ozanam Inn
843 Camp Street
New Orleans, LA 70130
Attn: Clarence Adams

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.

1 **ARTICLE XXVIII – INCORPORATED DOCUMENTS**

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

- 3 1. Contract Analysis Document, Attachment A
4 2. Legal Description, Attachment B
5 3. Budget & Cost Control Statement, Attachment C
6 4. General Terms and Conditions, Subgrantee Accounting and Financial Management
7 Procedures, Attachment D
8 5. [Intentionally omitted] Attachment E
9 6. Statement of Eligibility, Attachment F,
10 7. Monthly Reporting Requirements, Attachment G
11 8. HUD Compliance Provisions, Attachment H.

12 **B. Conflict.** If any Attachment conflicts, in whole or in part, with this Agreement, the terms
13 and conditions of the Attachment will control except as provided by law.
14

15 **ARTICLE XXIX -- ADDITIONAL PROVISIONS**

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

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

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

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

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

- 30 1. The Subrecipient agrees to adhere to the City's hiring requirements contained in City
31 Code Sections 2-8(d) and 2-13(a)-(f). Prior to executing this Agreement, Subrecipient
32 must provide a sworn statement attesting to its compliance with the City's hiring
33 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 Subrecipient 30 days to come into compliance. If, after providing notice and 30 days to cure, the Subrecipient remains noncompliant, the City may move to suspend payments to 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 subcontracts, by reference or otherwise, and will require all sub-Sub-recipients to comply with those provisions.

F. Conflicting Employment. To ensure that the Subrecipient's efforts do not conflict with the City's interests, and in recognition of the Subrecipient's obligations to the City, the Subrecipient will decline any offer of other employment if its performance of this Agreement is likely to be adversely affected by the acceptance of the other employment. The Subrecipient will promptly notify the City in writing of its intention to accept the other employment and will disclose all possible effects of the other employment on the Subrecipient's performance of this Agreement. The City will make the final decision whether the Subrecipient may accept the other employment.

G. 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

1 Agreement. Where appropriate, the singular includes the plural and neutral words and words of
2 any gender shall include the neutral and other gender.

3 **H. Cost Recovery.** In accordance with Section 2-8.1 of the Municipal Code entitled “Cost
4 recovery in contracts, cooperative endeavor agreements, and grants,” to the maximum extent
5 permitted by law, the Subrecipient shall reimburse the City or disgorge anything of value or
6 economic benefit received from the City if the Subrecipient fails to meet its contractual obligations.

7 **I. Employee Verification.** The Subrecipient swears that it has no employees and shall have
8 no employees during the term of this Agreement. In the event that Subrecipient does have
9 employees, the following shall apply: (i) it is registered and participates in a status verification
10 system to verify that all employees in the State of Louisiana are legal citizens of the United States
11 or are legal aliens; (ii) it shall continue, during the term of this Agreement, to utilize a status
12 verification system to verify the legal status of all new employees in the State of Louisiana; and
13 (iii) it shall require all sub-Subrecipients to submit to the Subrecipient a sworn affidavit verifying
14 compliance with items (i) and (ii) above. Any violation of the provisions of this paragraph may
15 subject this Agreement to termination, and may further result in the Subrecipient being ineligible
16 for any public contract for a period of 3 years from the date the violation is discovered. The
17 Subrecipient further acknowledges and agrees that it shall be liable for any additional costs
18 incurred by the City occasioned by the termination of this Agreement or the loss of any license or
19 permit to do business in the State of Louisiana resulting from a violation of La. R.S. 38:2212.10.
20 The Subrecipient will provide to the City a sworn affidavit attesting to the above provisions if
21 requested by the City. The City may terminate this Agreement for cause if the Subrecipient fails
22 to provide such the requested affidavit or violates any provision of this paragraph.

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

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

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

1 **M. No Grant of Vested Rights.** This Agreement shall not be construed as granting or assuring
2 or vesting any land use, zoning, development approvals, permission or rights with respect to
3 property owned by the Subrecipient.

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

7 **O. Non-Exclusivity.** This Agreement is non-exclusive and the Subrecipient may provide
8 services to other clients, subject to the City's approval of any potential conflicts with the
9 performance of this Agreement and the City may engage the services of others for the provision
10 of some or all of the work to be performed under this Agreement.

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

17 **Q. Ownership of Records.** Upon final payment, all data collected and all products of work
18 prepared, created or modified by Subrecipient in the performance of this Agreement, including
19 without limitation any and all notes, tables, graphs, reports, files, computer programs, source
20 code, documents, records, disks, original drawings or other such material, regardless of form and
21 whether finished or unfinished, but excluding the Subrecipient's personnel and administrative
22 records, and any tools, systems, and information used by the Sub-recipient to perform the services
23 under this Agreement, including computer software (object code and source code), know-how,
24 methodologies, equipment, and processes and any related intellectual property (collectively,
25 "Work Product") will be the exclusive property of City, and the City will have all right, title and
26 interest in any Work Product, including without limitation the right to secure and maintain any
27 copyright, trademark, or patent of Work Product in the City's name. No Work Product may be
28 reproduced in any form without the City's express written consent. The City may use and
29 distribute any Work Product for any purpose the City deems appropriate without the
30 Subrecipient's consent and for no additional consideration to the Subrecipient.

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

9 **S. Prohibition of Financial Interest in Agreement.** No elected official or employee of
10 the City shall have a financial interest, direct or indirect, in this Agreement. For purposes of this
11 provision, a financial interest held by the spouse, child, or parent of any elected official or
12 employee of the City shall be deemed to be a financial interest of such elected official or
13 employee of the City. Any willful violation of this provision, with the expressed or implied
14 knowledge of Subrecipient, shall render this Agreement voidable by the City and shall entitle
15 the City to recover, in addition to any other rights and remedies available to the City, all monies
16 paid by the City to Subrecipient pursuant to this Agreement without regard to Sub-recipient's
17 otherwise satisfactory performance of the Agreement.

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

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

26 **V. Severability.** Should a court of competent jurisdiction find any provision of this
27 Agreement to be unenforceable as written, the unenforceable provision should be reformed, if
28 possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is
29 not possible, the unenforceable provision shall be fully severable and the remaining provisions of
30 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. Solidary Liability. If the Subrecipient consists of more than one natural persons and/or entities, the liability of each of them for the Subrecipient's obligations under the Loan Documents shall be solidary.

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 Sub-recipient's work for the City. For any sub-Subrecipient proposed to be retained by the Sub-recipient 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, insurance, payment, remedies, jurisdiction, program income, affordability and affirmative marketing requirements, and choice of law shall survive the expiration, suspension, or termination of this Agreement and continue in full force and effect.

Z. Special Conditions for HUD Contracts. The **HUD Compliance Provisions** marked as *Attachment G* to this Agreement, are expressly incorporated in the Agreement.

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

BB. Assistance to Those with 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 programs(s) and/or services funded under this Agreement.

ARTICLE XXX -- AGREEMENT IS BINDING

This Agreement shall serve as a binding agreement between the City and the Subrecipient.

1
2 **ARTICLE XXXI -- ELECTRONIC SIGNATURE AND DELIVERY**

3 The Parties agree that a manually signed copy of this Agreement and any other document(s)
4 attached to this Agreement delivered by email shall be deemed to have the same legal effect as
5 delivery of an original signed copy of this Agreement. No legally binding obligation shall be
6 created with respect to a party until such party has delivered or caused to be delivered a manually
7 signed copy of this Agreement. For consideration and under the conditions set forth above, , agrees
8 to develop the Project as contemplated herein.

9
10 **ARTICLE XXXII – COUNTERPARTS**

11 This Agreement may be executed in one or more counterparts, each of which shall be
12 deemed to be an original copy of this Agreement, but all of which, when taken together, shall
13 constitute one and the same agreement.

14
15 **[SIGNATURES CONTAINED ON NEXT PAGE.]**

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

1 **IN WITNESS WHEREOF**, the City hereto, through duly authorized representative, has
2 executed this Agreement to be effective as of the Effective Date.

3 **CITY OF NEW ORLEANS**

4 **BY:** _____

5 *Lt. Cantrell*
6 **LATOYA CANTRELL, MAYOR**

7 Executed on this 17th of December, 2020
8

9 **FORM AND LEGALITY APPROVED:**

10 **Law Department**

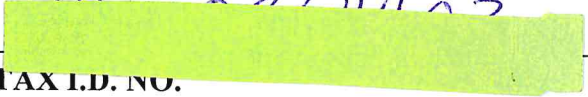
11 **By:** _____

12 **Printed Name:** _____

13 *Max V. Camp*
 Max V. Camp

1
2 **IN WITNESS WHEREOF**, the Subrecipient hereto, through duly authorized
3 representatives, has executed this Agreement to be effective as of the Effective Date.

4
5 **OZANAM INN**

6
7 **BY:** 
8 _____
9 **CLARENCE ADAMS, SR., EXECUTIVE DIRECTOR**
10 _____
11 **FEDERAL TAX I.D. NO.** 

12
13
14 **[ATTACHMENTS A – H ON THE FOLLOWING PAGES]**
15

TABLE OF ATTACHMENTS

Attachment A	Contract Analysis Document
Attachment B	Legal Description
Attachment C	Budget & Cost Control Statement
Attachment D	Terms and Conditions, Accounting & Financial Management
Attachment E	[Intentionally omitted.]
Attachment F	Statement of Eligibility
Attachment G	Monthly Reporting Requirements
Attachment H	HUD Compliance Provisions