

**LOAN AGREEMENT
BY AND BETWEEN
THE CITY OF NEW ORLEANS
AND
LAKE FOREST MANOR, LLC
FOR
AFFORDABLE HOUSING RENTALS**

THIS LOAN AGREEMENT (the “**Agreement**”) is made and entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the “**City**”) and Lake Forest Manor, LLC, represented by Michael Tubre (the “**Subrecipient**”), to accomplish the implementation of a **Disaster Community Development Block Grant (D-CDBG)**-funded rental program and referenced as **D-CDBG2019-009**. The City and the Subrecipient are sometimes each referred to as a “**Party**,” and collectively, as the “**Parties**.” The Agreement is effective on this ____ of _____, 2020 (the “**Effective Date**”).

RECITALS

WHEREAS, the City released a Notice of Funding Availability (“**NOFA**”) for the preliminary commitment of \$7,000,000.00 of HOME, CDBG, or NHIF funds for the new construction or acquisition/rehabilitation development of multifamily affordable housing developments in Orleans Parish;

WHEREAS, in the aftermath of Hurricanes Katrina and Rita, the United States Congress, through Public Laws 109-148, and 109-234, appropriated funds to the U.S. Department of Housing and Urban Development (“HUD”) Community Development Block Grant (“CDBG”) Program for use through the State of Louisiana for disaster recovery; and

WHEREAS, the State of Louisiana OCD, as administrator of the CDBG Disaster Recovery Program, made available to the City up to ten million, three hundred eighty-two

1 thousand, eight hundred thirty-three dollars even (\$10,382,833.00) in CDBG disaster recovery
2 funds;

3 **WHEREAS**, the City has agreed to provide to the Subrecipient a loan (the “**Loan**”) for the
4 development, rehabilitation, replacement, restoration and/or construction of a **200**-unit multifamily
5 residential rental project (the “**Project**”) located on certain immovable property in Orleans Parish,
6 Louisiana, as more fully described in Property Description, detailed below;

7 **WHEREAS**, the Disaster CDBG funds provided hereunder are furnished to the City
8 through the State of Louisiana (CFDA#14.228) as provided under the provision of Title I of the
9 Housing and Community Development Act of 1974, as amended (the “**Act**”), to develop viable
10 urban communities including decent housing and suitable living environments and expanding
11 economic opportunities, principally for persons of low and moderate income;

12 **WHEREAS**, the City desires to improve the quality of the housing stock available to its
13 citizens;

14 **WHEREAS**, the City desires to comply with the HUD National Objective as specified in
15 24 CFR 570.200(a)(2), of benefitting low- and moderate-income families by funding this project
16 through the act of rehabilitation of property, which is an eligible housing activity under 24 CFR
17 570.208(a)(3);

18 **WHEREAS**, the Disaster CDBG Program is listed in the Catalog of Federal Domestic
19 Assistance (CFDA) and is assigned CFDA number 14.228;

20 **WHEREAS**, the Subrecipient is an organization serving the housing needs of the
21 community, and has demonstrated the desire and ability to provide decent, safe and sanitary
22 housing, which is affordable to low-income households;

23 **WHEREAS**, the Subrecipient and the City, through the Office of Community
24 Development (“**OCD**”), have agreed to implement specific Disaster CDBG-funded activities in
25 accordance with Disaster CDBG program regulations;

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

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

1 **WHEREAS**, the Parties desire to enter into this Agreement in order to: (i) evidence the
2 terms and conditions of the Loan, and the security therefore; (ii) ensure compliance by the
3 Subrecipient with the 2019 CDBG-DR Program Description; and (iii) govern the disbursement of
4 the Loan and the use of such funds by the Subrecipient;

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

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

8 The Subrecipient agrees to take on the following obligations:

9 **A. NOFA Application.** The Subrecipient agrees to comply with the terms and conditions of
10 the Subrecipient's response to the Notice of Funding Availability ("NOFA") application and the
11 application itself. The responses to the NOFA application and the application itself are made a part
12 of the Agreement and incorporated via reference, including the Project Description and the Budget
13 and Cost Control Statement.

14 **B. Statement of Work: Provision of Housing Development Services.** The Subrecipient
15 agrees to use the Disaster CDBG funds provided hereunder to rehabilitate a total of two hundred
16 multi-family affordable rental housing units (the "Property"). All two hundred of the rental units
17 will be subject to a **Regulatory Agreement** for the period of affordability and the tenants of which
18 must meet income-eligibility standards. The City requires a Secured Promissory Note (the "**Note**")
19 and Multiple-Indebtedness Mortgage (the "**Mortgage**") as security for the funding of the Property.
20 (Collectively, this Agreement, the Regulatory Agreement, Note, and Mortgage constitute the
21 "**Loan Documents**.")

22 **C. Compliance with Disaster CDBG Regulations and HUD Notices.** The Subrecipient
23 agrees to comply with the federal regulations published in Volume 24, Part 570, of the *Code of*
24 *Federal Regulations* (24 CFR 570), as well as all federal regulations and requirements
25 incorporated therein by reference, whether specifically discussed herein or not. The Disaster
26 CDBG regulations are incorporated herein by reference and are a part of this Agreement.
27 References to 24 CFR 570 are found throughout the remainder of this document in the following
28 formats: §570.xxx and 24 CFR XXX. The Subrecipient also agrees to comply with all applicable

1 Notices and directives promulgated by HUD.

2 **D. Income Requirements.** The Subrecipient agrees to comply with the Disaster CDBG
3 income requirements as outlined in §570.3 *Income* (1), by ensuring that units assisted with Disaster
4 CDBG funds will only be occupied by Disaster CDBG income-eligible households, whose income
5 does not exceed 80 percent of the median family income for the New Orleans Metropolitan
6 Statistical Area (“MSA”). When requested, but at least on an annual basis, the Subrecipient must
7 provide the City with demographic information on all Disaster CDBG Program applicants, which
8 demonstrates compliance with the above income limitations.

9 **E. Eligible Costs.** The Subrecipient shall use Disaster CDBG funds only for the payment of
10 costs associated with eligible Disaster CDBG activities as identified in §570.201-§570.206 and
11 budgeted in accordance with the provisions of Section G, below.

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

15 **G. Project Selection and Set-up.** The Subrecipient agrees to the following:

- 16 i. Site and Neighborhood Standards. The Subrecipient will comply with the site and
17 neighborhood standards described in 24 CFR §891.125 when choosing a project
18 location.
- 19 2. Compliance with Consolidated Plan. The Subrecipient shall ensure that the proposed
20 project complies with the housing strategies outlined in the City's current
21 Consolidated Plan (CP).
- 22 3. Environmental Review. The Subrecipient shall request from OCD and obtain a
23 written determination that the project has been subjected to an "environmental
24 review," in accordance with 24 CFR 58, and that there are no environmental issues
25 that would prohibit implementation of the project as proposed. **The Subrecipient**
26 **shall not proceed with any physical development without first receiving an**
27 **environmental clearance notice and a Notice to Proceed from OCD.**
- 28 4. Income Eligibility. The Subrecipient will determine income eligibility for all

households to be assisted with Disaster CDBG funds as outlined in §570.506(b)(4), prior to such household's occupancy of completed Disaster CDBG-assisted units.

5. Subsidy Layering. The Subrecipient further agrees to provide necessary documentation and information to the City to perform any required Subsidy Layering Reviews.

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

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

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

J. Affirmative Marketing Requirements. The Subrecipient acknowledges its responsibility to employ affirmative marketing procedures and requirements in all Disaster CDBG-assisted housing. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons from all racial, ethnic, and gender groups in the housing market area identified with available housing assisted with Disaster CDBG-funds and are outlined below. [See 24 CFR part 5.150-5.180]. For Rental Projects, the Subrecipient shall inform the general rental public about the availability of housing units rehabilitated and comply with the affirmative marketing of vacant Disaster CDBG Units (as defined in the Regulatory Agreement between the City and Subrecipient dated as of the date hereof) under a Disaster CDBG funded program as follows:

1. Subrecipient shall inform the City of any units that become vacant throughout the duration of the any City imposed affordability period associated with the property.
2. The owner may use commercial media and other community organizations to solicit tenants. If the general circulation print medium is used to advertise rental unit vacancies,

1 at least one advertisement must also be placed in the Louisiana Weekly, which has a
2 significant circulation in the minority community.

- 3 3. Copies of placed ads or other types of documentation outlining activities that increase
4 general public awareness of the availability of rental housing units are to be forwarded to
5 OCD within 30 days after such activities are undertaken. If violations of the City's
6 Affirmative Marketing Policies are discovered, corrective actions will be required
7 immediately.
- 8 4. Subrecipient is to complete A Notice of Rental Unit Vacancy with a copy forwarded to
9 OCD at least 30 days in advance of anticipated vacancy or as soon as the vacancy is known.
- 10 5. A Tenant Survey Form is to be completed for each existing and each new tenant and a copy
11 forwarded to OCD. For new tenants the form should be transmitted within 30 days after
12 occupancy. For existing tenants, the form must be submitted with the Application for
13 Financial Assistance. OCD will in turn inform existing tenants of relocation benefits
14 available to them in the event that they are temporarily relocated or permanently displaced.
- 15 6. The Fair Housing Equal Opportunity ("FHEO") logo is to be used in all advertisements
16 for solicitation of tenants.
- 17 7. The FHEO sign is to be posted conspicuously on properties during the rehabilitation phase
18 of a CDBG funded project and remain in place until all required rehabilitation is completed
19 and for a period of 30 days thereafter.

20 **K. Project Completion.** The Subrecipient shall notify the City in writing of the substantial
21 completion of each project. Upon receipt of a notice of substantial completion, the City will
22 conduct an inspection of the property and provide the Subrecipient with any conditions to receive
23 final payment of Disaster CDBG funds.

24 **L. Maintenance of Records.** Subrecipient agrees to maintain records of all expenditures of
25 Disaster CDBG funds provided to it by the City in accordance with §570.506. Records are to be
26 maintained separately for each project undertaken by Subrecipient, and the records for each project
27 will be maintained by Subrecipient in such a manner so that the funding sources used in each
28 project will be accounted for separately [e.g. HOME, CDBG, NHIF, etc.] The aforementioned
29 classification of funds expended will be further itemized by the "funding year" associated with the

1 funds. Subrecipient hereby agrees to maintain, for the City's review, all records relating to the
2 creation, development, and set-up of Disaster CDBG projects, and the expenditure of Disaster
3 CDBG funds, itemized for each Disaster CDBG-funded project undertaken.

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

12 **N. Reversion of Assets.** Upon expiration of this Agreement, the Subrecipient shall
13 transfer to the City any CDBG funds on hand at the time of expiration and any accounts receivable
14 attributable to the use of CDBG funds. Any real property under the Subrecipient's control that was
15 acquired or improved in whole or in part with CDBG funds in excess of \$25,000 is either:

16 1. Used to meet one of the national objectives in § 570.208 (formerly § 570.901) for the
17 period of affordability; or

18 2. Not used in accordance with subsection 1 above, in which event the Subrecipient shall
19 pay to the City an amount equal to the current market value of the property less any portion of
20 the value attributable to expenditures of non-CDBG funds for the acquisition of, or
21 improvement to, the property. The payment is program income to the recipient. (No payment
22 is required after the period of time specified in paragraph (b)(7)(i) of this section.)

23 24 **ARTICLE II – THE CITY'S OBLIGATIONS**

25 The City agrees to take on the following obligations:

26 **A. Project Funding.** The City will provide up to One Million Five Hundred Thousand Dollars
27 even (\$1,500,000.00) to the Subrecipient for eligible project costs in the form of an Office of
28 Community Development (OCD) Loan, subject to repayment terms detailed in Article IV. The
29 Subrecipient must own the Property for the duration of the affordability period, which is thirty-
30 five (35) years. Should the Property transfer ownership 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.

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

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

D. Facilitate Payment Requests. The City will process payment requests for eligible costs for all Disaster CDBG-funded projects approved under the terms of this Agreement as per the individual project budgets set up in accordance with Section I(G), above.

ARTICLE III -- DURATION AND TERMINATION

A. Duration. The term of this Agreement shall commence upon the Effective Date and terminate upon payment in full of the Indebtedness. All indemnification obligations of the Subrecipient and all other provisions in this Agreement which provide they shall survive a termination of this Agreement shall remain in full force and effect, notwithstanding such termination.

B. Option to Extend. The City shall have the option to extend the duration of this Agreement by providing written notice to extend at least 30 days prior to the termination date of this Agreement.

C. Termination for Cause. The City shall have the right to terminate this Agreement for cause, effective thirty days after written notice of Subrecipient's material noncompliance, if such noncompliance persists throughout such period. In the event that the City determines that the Subrecipient has breached this Agreement, the City may give the Subrecipient notice of the default causing the breach and provide a reasonable time and opportunity for the Sub-recipient to cure the default.

1 **ARTICLE IV – REPAYMENT TERMS**

2 **A. Repayment Term.**

3 1. **Annual Installments; Place of Payment.** The Loan shall be repaid in annual
4 installments (each, an “**Annual Installment**”) on or before April 1 (the “**Payment Date**”) of
5 each calendar year of the Term (the “**Payment Date**”) in an amount equal to the second 50%
6 of Surplus Cash with the balance due on the Maturity Date, in accordance with the terms of the
7 Lien Priority Payment Schedule (“**Payment Schedule**”), which is incorporated into this
8 Agreement by reference, as set forth as Exhibit D in that certain loan agreement between LHC
9 and the Borrower of even date herewith. Loans will become due upon the earlier of (a) the
10 Maturity Date; (b) sale or refinancing of the property; or (c) acceleration as the result of material
11 noncompliance with the terms of the Loan. Payments shall be made in immediately available
12 US funds to the order to the City, as detailed in the Article XVII, or such other place as may be
13 designated by written notice to Subrecipient from or on behalf of the City.

14 2. **Payment from Surplus Cash.** Each Annual Installment shall be paid solely from
15 Surplus Cash to the extent Surplus Cash is generated from the operation of the Project. The
16 amount of each Annual Installment shall be equal to the second 50% of Surplus Cash, in
17 accordance with the Payment Schedule. Notwithstanding the requirement of repayment from
18 Surplus Cash, the Loan shall not be construed as a joint venture, partnership or other association
19 between the Subrecipient and the City, other than a debtor/creditor relationship. The City’s
20 right to be paid from Surplus Cash shall terminate at such time as the principal and interest
21 amounts due on the Note are paid in full. If Surplus Cash is negative in any year during the
22 Term of the Loan, no Annual Installment shall be due for that year, but interest shall continue
23 to accrue at the Interest Rate on the principal balance of the Note.

24 **B. Audit of Surplus Cash.**

25 1. **Determination of Surplus Cash.** Annually, within one hundred twenty (120) days after
26 the end of Subrecipient’s fiscal year, Subrecipient shall provide Lender with an audited
27 schedule of Surplus Cash for the previous fiscal year, certified to be true and correct by
28 Subrecipient’s chief financial officer. Lender will review Subrecipient’s schedule and will
29 notify Subrecipient whether it agrees with Subrecipient’s determination or whether it has
30 calculated a different Surplus Cash value, which determination shall be made in Lender’s
31 sole but reasonable discretion. Lender shall conduct its determination of Surplus Cash
32 based solely on the Loan Documents without regards to the determination of any other
33 lender.

34 2. **Operating Account and Accounting Requirements.** The Subrecipient shall establish an
35 Operating Account. During the term of the Loan:

1 a. All cash received by the Subrecipient shall be deposited to the Operating Account,
2 except for (1) proceeds of the Senior Loan and all other development period sources of
3 funds (limited, however, to the amounts included in the Subrecipient's final Cost
4 Certification provided for Lender's subsidy layering review); and (2) tenant security
5 deposits.

6 b. All discounts, rebates, commissions or other payments in connection with the
7 Project shall be credited to the Project and shall be deposited to the Operating Account
8 even if such payments are made to the management agent, the Subrecipient or any Affiliate.

9 c. Prior to the calculation of Surplus Cash, the only expenditures that may be made
10 from the Operating Account are (1) Project Operating Expenses; (2) deposits to any
11 reserves and escrows that are specifically permitted by Lender; and (3) debt service
12 payments on the Senior Loan.

13 d. Expenditures that may not be made from the Operating Account prior to the
14 calculation of Surplus Cash include, without limitation, Non-Operating Expenses. Non-
15 Operating Expenses may be paid from Surplus Cash remaining in the operating account
16 after determination of the Annual Installment.

17 Subrecipient agrees that these Operational and Accounting Requirements shall be binding
18 on the Subrecipient, and that the Subrecipient has provided these Operational and Accounting
19 Requirements to all other parties providing funds to the Project. The provisions of these
20 Operational and Accounting Requirements shall apply, notwithstanding any provision to the
21 contrary in the Subrecipient's Organizational Documents and notwithstanding any provision to the
22 contrary in the Subrecipient's agreements with any investor or with any other lender.

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

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

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

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

1
2 **ARTICLE V – THE SUBRECIPIENT’S LIMITATIONS**
3

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

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

13 2. Notwithstanding the foregoing to the contrary, provided that the Subrecipient
14 delivers notice to the City of any such change:

15 a. the pledge to a limited partner by a general partner of the general partner's
16 interest in the Organizational Documents as security for the performance of all of the
17 general partner's obligations under the Organizational Documents shall not constitute a
18 refinancing for purposes of this Agreement or the Loan Documents;

19 b. a sale, transfer, pledge, encumbrance or other disposition of any Investor
20 interests in Subrecipient shall not require the City's consent nor constitute a sale of the
21 Project for the purposes of this Section A, so long as the transferee is an entity controlled
22 by or under the common control of The Richman Group Affordable Housing Corporation.;
23 and

24 c. the change in the general partner of the Subrecipient as general partner of
25 the Subrecipient in accordance with the terms of the Organizational Documents shall not
26 require City consent nor constitute a sale of the Project for the purposes of this Section A.

27 Notwithstanding the foregoing provisions in this Section A, a transfer by the Investor of its
28 Investor interests in the Subrecipient to any successor which is an affiliate of such entity or to the
29 general partner of the Subrecipient is hereby expressly permitted and accepted by the City and
30 shall not constitute a prohibited transfer hereunder or under any other Loan Document.

31 **ARTICLE VI -- SOURCES AND USES OF FUNDS**

32 **A. Contract Amount.** The funds provided to Subrecipient under this Agreement are
33 contingent upon HUD approval and are for the implementation of the Disaster CDBG-funded
34 housing program or project described above in Article I and elsewhere herein. No payments,
35 however, will be made prior to the completion of an Environmental Review. The Subrecipient

1 understands that the Budget and Cost Control Statement is a generalized estimate of the cost(s) of
2 one or more projects to be subsequently set-up in accordance with this Agreement. The
3 Subrecipient understands that the cost of all individually set-up projects shall not exceed the above
4 contract amount plus other project sources, and that each project shall not exceed OCD's
5 established construction cost limits, unless waived. The individual project cost line items on each
6 set-up may not be in complete agreement with the allocation of line item costs indicated on
7 Attachment VI.

8 **B. Request for Disbursement of Funds.** In accordance with 24 CFR 85.21 or
9 §570.502(b)(3)(i), as applicable, Subrecipient will not request disbursement of funds in connection
10 with the implementation of a Disaster CDBG-funded project until the funds are needed for
11 payment of eligible costs. The amount of each request must be limited to the amount needed for
12 the actual eligible project cost expended or anticipated. All pay requests must be submitted on the
13 OCD Cost Control Statement form available from OCD, and properly supported with
14 documentation.

15 **C. Conditions to be Met Prior to the Disbursement of any Draws.** Prior to the
16 disbursement of any draws, the following conditions must be satisfied in the sole and absolute
17 discretion of the City:

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

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

23 3. The City shall have received the financial statements of all Guarantors and a
24 certificate from each Guarantor evidencing adequate liquid capital to satisfy the City that the
25 obligations of the Guarantor under the Guaranty of Nonrecourse Carveouts and Guaranty
26 Agreement are adequately secured.

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

5 5. The City shall have received certificates of insurance as to Builder's Risk and
6 Hazard Insurance in completed value form with extended coverage in the amount of the full value
7 of the Project, as completed, but which shall, in any case, include such insurance coverage
8 sufficient to meet the standards established in Part V, Section 106 of the Fannie Mae U.S. Guide,
9 effective November 3, 2003, as amended from time to time. Such certificates of insurance shall
10 be issued by a company satisfactory to the City, duly endorsed to show the interest of the City
11 under a standard non-contributing mortgagee clause addressed to the City. The policy shall also
12 provide that such policy will not be canceled without thirty (30) days' notice to the City.
13 Subrecipient agrees that the City shall have the right to take any action necessary to continue said
14 insurance in full force and effect including, but not limited to, paying premiums. Any funds
15 advanced to continue the policies in full force and effect shall be considered as Draw Requests
16 hereunder and shall bear interest from the date of disbursement at the Default Rate and payment
17 of said funds and interest shall be secured by the Mortgage.

18 **D. Extension.** This Agreement may be extended with additional funding for the activities
19 described in the NOFA provided that the Subrecipient has met or exceeded the requirements of
20 this Agreement.

21 **E. Reversion of Funds.** Subrecipient agrees that the funding provided hereunder must be
22 committed to specific projects and expended within the time periods established by the Disaster
23 CDBG regulations or said funding may be withdrawn by the City.

24 **F. Tasks and Schedule of Work.** The Schedule of Work is incorporated into the Project
25 Schedule, Attachment VII, and incorporated into this Agreement.

26
27 **ARTICLE VII – RESTRICTIONS ON USE**

28 **A. Nonrecourse Loan.**

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

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

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

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

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

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

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

a. misappropriation of Loan proceeds by Subrecipient; or

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

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

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

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

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

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

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

B. CDBG Regulatory Agreement.

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

2. CDBG Regulatory Agreement shall have a stated term of thirty (30) years.

3. It is specifically understood and agreed by the Subrecipient that the CDBG Regulatory Agreement will not be terminated upon a pre-payment of the Loan by the Subrecipient if there has been noncompliance by the Subrecipient and the Project with the requirements stipulated the CDBG Regulatory Agreement and other Loan Documents during the Compliance Period.

ARTICLE VIII – DEFAULTS AND REMEDIES

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

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

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

3. If at any time any warranty or representation made by Subrecipient in any Loan Document, instrument, agreement, certification or communication submitted by Subrecipient

1 to the City is determined by the City in its sole and reasonable discretion to be materially false,
2 misleading, or incorrect;

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

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

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

14 7. The occurrence of any of the events specified in Article VII above; or

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

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

22 **B. Cure by Investor, Guarantor or the City.** The City agrees to provide written notice of
23 an Event of Default to any Investor or Guarantor listed in Article XXI of this Agreement and to
24 allow Investor or Guarantor the opportunity to cure any default of Subrecipient on behalf of
25 Subrecipient and to the same extent as Subrecipient. Subrecipient agrees that the City shall be
26 entitled to rely upon and to accept any offer of cure made by any such Investor or Guarantor.

27 **C. No Waiver.** Failure of the City to declare an Event of Default under this Agreement shall
28 not constitute a waiver of any rights by the City. Any waiver of an Event of Default or forbearance
29 by the City in exercising any right or remedy under this Loan Agreement or any other Loan
30 Document or otherwise afforded by applicable law, shall not be a waiver of any other Event of
31 Default or preclude the exercise or failure to exercise of any other right or remedy. Furthermore,
32 the City's election to cure any Subrecipient default shall in no event be construed as a waiver of
33 rights with respect to any other default, past or present. The acceptance by the City of payment of
34 all or any part of the Indebtedness after the due date of such payment, or in an amount which is
35 less than the required payment, shall not be a waiver of the City's right to require prompt payment
36 when due of all other payments on account of the Indebtedness or to exercise any remedies for any

1 failure to make prompt payment. The City's receipt of any condemnation awards or insurance
2 proceeds shall not operate to cure or waive any Event of Default.

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

29 **E. Notice of Default.** The Subrecipient shall promptly notify the City in writing of any
30 condition or event known to the Subrecipient which constitutes an Event of Default under the Note,
31 this Agreement, or any of the other Loan Documents or which, with or without the giving of notice
32 or the lapse of time or both, would constitute any such Event of Default, and of any litigation or
33 threatened litigation.

34 35 ARTICLE IX -- PROGRAM INCOME PROVISIONS

36 [Intentionally deleted.]

1
2 **ARTICLE X – ACCOUNTING & FINANCIAL TERMS AND CONDITIONS**

3 The Subrecipient agrees to comply with the **Accounting and Financial Conditions of**
4 **Agreement**, marked as **Attachment II**, and incorporated into this Agreement.

5
6 **ARTICLE XI -- REPORTING REQUIREMENTS**

7 The Subrecipient agrees to provide to OCD Affordable Housing Bureau by the fifth
8 working day of each month, two copies of the **Monthly Reporting Requirements**, marked as
9 **Attachment III** and incorporated into this Agreement. The Subrecipient also agrees to comply
10 with the **Compliance Unit Reporting Requirements**, as applicable, marked as **Attachment IV**,
11 and incorporated into this Agreement, in accordance with the processes, procedures and schedules
12 set forth by the OCD Compliance Unit.

13 **ARTICLE XII -- JURISDICTION**

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

17
18 **ARTICLE XIII -- AUDIT AND OTHER OVERSIGHT**

19 It is agreed that the Subrecipient or applicant will abide by all provisions of City Code §2-
20 1120, including but not limited to City Code §2-1120(12), which requires the Subrecipient to
21 provide the Office of Inspector General with documents and information as requested. Failure to
22 comply with such requests shall constitute a material breach of the contract. In signing this
23 contract, the Subrecipient agrees that it is subject to the jurisdiction of the Orleans Parish Civil
24 District Court for purposes of challenging a subpoena.

25
26 **ARTICLE XIV -- CONVICTED FELON STATEMENT**

27 The Subrecipient swears that it complies with Section 2-8 (c) of the Code of the City of
28 New Orleans. No Subrecipient principal, member, or officer has, within the preceding 5 years,
29 been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft

1 of public funds, bribery, or falsification or destruction of public records.

2
3 **ARTICLE XV -- NON-SOLICITATION STATEMENT**

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

9
10 **ARTICLE XVI -- INDEMNITY**

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

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

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

29 **D. Expenses.** Notwithstanding any provision to the contrary, the Subrecipient shall bear the

1 expenses including, but not limited to, the City's reasonable attorney fees and expenses, incurred
2 by the City in enforcing this indemnity.

4 ARTICLE XVII -- INSURANCE

5 At all times during this Agreement or the performance of work required by this Agreement,
6 the Subrecipient will maintain the following insurance in full force and effect for the duration of
7 the work under this Agreement:

8 **A. Minimum Requirements:**

- 9 **1. Umbrella Liability:** Umbrella liability insurance with limits of liability excess
10 of employer's liability insurance and commercial general liability insurance in
11 the amount of not less than \$3,000,000.00.
- 12 **2. Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01
13 or similar acceptable to the City, covering CGL on an "occurrence" basis, including
14 products and completed operations, property damage, bodily injury and personal &
15 advertising injury with limits no less than **\$1,000,000** per occurrence. If a general
16 aggregate limit applies, either the general aggregate limit shall apply separately to
17 this project/location or the general aggregate limit shall be twice the required
18 occurrence limit.
- 19 **3. Employee Dishonesty (Fidelity Bond/Crime Insurance):** Subrecipient shall
20 maintain Employee Dishonesty coverage and coverages for property in the care,
21 custody and control of the Subrecipient. Coverage limits shall not be less than the
22 amount of the contract with the City; provided, however, that if Subrecipient has no
23 employees, whether full time or part time or whether permanent or temporary, then
24 such Employee Dishonesty (Fidelity Bond/Crime Insurance) may be maintained by
25 Subrecipient's property manager, which is initially Latter & Blum Property Management,
26 LLC, rather than Subrecipient.
- 27
28 **4. Workers' Compensation:** as required by the State of Louisiana, with Statutory
29 Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per
30 accident for bodily injury or disease; provided, however, that if Subrecipient has no
31 employees, whether full time or part time or whether permanent or temporary,
32 then such Workers' Compensation insurance may be maintained by Subrecipient's
33 property manager, which is initially GCHP Management, LLC, rather than
34 Subrecipient.
35

1 **B. Other Insurance Provisions.** The insurance policies are to contain, or be endorsed to
2 contain, the following provisions:

- 3 1. Additional Insured Status. **The Subrecipient will provide, and maintain current,**
4 **a Certificate of Insurance naming The City of New Orleans, its departments,**
5 **political subdivisions, officers, officials, employees, and volunteers are to be**
6 **covered as “Additional Insureds”** on the CGL policy with respect to liability
7 arising out of the performance of this agreement. General liability coverage can be
8 provided in the form of an endorsement to the Subrecipient’s insurance (at least as
9 broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later
10 revisions used, or current appropriate form). The Certificate of Insurance, as
11 evidence of all required coverage, should name the City of New Orleans Risk
12 Manager as Certificateholder and be delivered via U.S. Mail to 1300 Perdido Street,
13 9E06—City Hall, New Orleans, LA 70112.
- 14 2. Primary Coverage. For any claims related to this contract, **the Subrecipient’s**
15 **insurance coverage shall be primary** insurance as respects the City, its
16 departments, political subdivisions, officers, officials, employees, and volunteers.
17 Any insurance or self-insurance maintained by the City shall be non- contributing
18 to the Subrecipient’s coverage.
- 19 3. Claims Made Policies. If applicable, the retroactive date must be shown and must
20 be before the date of the contract or the beginning of work. If the coverage is
21 canceled or non-renewed, and not replaced with another claims-made policy,
22 Subrecipient must purchase “extended reporting” coverage for minimum of 5 years
23 after the termination of this agreement.
- 24 4. Waiver of Subrogation. **The Subrecipient and its insurers agree to waive any**
25 **right of subrogation** which any insurer may acquire against the City by virtue of
26 the payment of any loss under insurance required by this contract.
- 27 5. Notice of Cancellation. Each insurance policy required above shall provide that
28 **coverage shall not be canceled, except with prior notice to the City as**
29 **Additional Insured of no less than 30 days.**
- 30 6. Acceptability of Insurers. Insurance is to be placed with **insurers licensed and**
31 **authorized to do business in the State of Louisiana with a current A.M. Best’s**
32 **rating of no less than A:VII**, unless otherwise acceptable to the City.

33 **C.** The Subrecipient will provide the City’s Risk Manager (at City of New Orleans Attn: Risk
34 Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112) within 10 calendar days of the
35 Effective Date and at any other time at the City’s request the following documents:

- 36 1. Proof of coverage for each policy of insurance required by this Agreement;
37 2. Copy of the fully executed Agreement;

1 3. Copies of all policies of insurance, including all policies, forms, and endorsements;
2 and

3 4. Statements disclosing any policy aggregate limit.

4 D. Without notice from the City, the Subrecipient will:

5 1. Replenish any policy aggregate limit that is impaired before commencement of any
6 work or continuation of any work under this Agreement;

7 2. Substitute insurance coverage acceptable to the City within 30 calendar days if any
8 insurance company providing any insurance with respect to this Agreement is
9 declared bankrupt, becomes insolvent, loses the right to do business in Louisiana,
10 or ceases to meet the requirements of this Agreement; and

11 3. Notify the City's Risk Manager in writing within 48 hours of its receipt of any
12 notice of non-renewal, cancellation, or reduction in coverage or limits affecting any
13 policy of insurance maintained under this Agreement.

14 E. The Subrecipient shall also require insurance to be maintained by any construction
15 Subrecipients ("**Construction Subrecipients**") hired by the Subrecipient to perform the repairs
16 and renovations ("**Work**") that are the subject of this Agreement. Insurance shall be purchased
17 and maintained in the name of the Construction Subrecipient and shall contain the flowing limits
18 and coverage extensions and, if necessary, an umbrella or excess liability policy.

19 1. Worker's Compensation:

- 20 a. State Act - Louisiana Statutory Requirements; Provide Other States coverage;
21 b. Employer's Liability with Minimum acceptable limits of \$1,000,000;
22 c. Waiver of Subrogation to include both written and oral contracts in favor of
23 The City of New Orleans, its elected and appointed officials, agents,
24 directors, servants, employees, volunteers, and any other entities who may
25 require waivers by specific contract;
26 d. Alternate Employer endorsement in favor of The City of New Orleans, its
27 elected and appointed officials, agents, directors, servants, volunteers, and
28 employees;
29 e. Thirty (30) days prior written notice of cancellation, non-renewal or adverse
30 material change.

31 2. General Liability:

32 a. Commercial General Liability Form CG 00 01, or pre-approved form
33 providing equivalent coverage, including Personal Injury and Advertising
34 Injury; minimal acceptable per occurrence limits as follows:

35 i.\$2,000,000 for projects valued under \$5,000,000;

36 ii.\$4,000,000 for projects valued from \$5,000,000 to \$10,000,000;

37 iii.\$5,000,000 for projects valued from \$10,000,001 to \$25,000,000;

38 iv.\$10,000,000 for projects valued over \$25,000,000.

- b. Products/Completed Operations Aggregate Limit; minimal acceptable aggregate limit to follow from the above project values acceptable;
- c. Any applicable aggregate limit shall be at minimum twice the occurrence limit;
- d. Coverage to be written on a per project aggregate basis;
- e. Additional Insured endorsement Forms #CG 20 10 and Form #CG 20 37, in favor of The City of New Orleans, its elected and appointed officials, agents, directors, servants, employees and volunteers;
- f. Waiver of Transfer of Rights of Recovery Against Others to Us to include both written and oral contracts in favor of The City of New Orleans, its elected and appointed officials, agents, directors, servants, employees, and volunteers;
- g. Thirty (30) days prior written notice of cancellation, non-renewal or adverse material change;
- h. Care, Custody or Control of Property of Others;
- i. Coverage to be provided for explosion, collapse and underground property damage (x,c,u);
- j. Independent Subrecipients; and
- k. Contractual Liability
- l. The general liability policy shall not exclude any standardized coverage included in the required basic form or limit Contractual Coverage for the Work in any way that would prohibit or limit the reporting of any claim or suit and the subsequent defense and indemnity that would normally be provided by the policy.

3. Builder's Risk

- a. The Subrecipient shall purchase and maintain, or cause the Construction Subrecipient to purchase and maintain, Builder's Risk insurance upon the entire Work at the site to the full insurable value thereof.
- B. The policy shall not contain a co-insurance requirement. The Construction Subrecipient shall purchase the policy with the City as the Additional Insured and maintain an "all risk" builder's risk coverage on a replacement cost basis, including flood on the entire Work. These policies must at a minimum cover for such amount of the Work as is determined by the Engineer and/or Architect.
- C. This insurance shall include, the Construction Subrecipient, SubSub-recipients, Sub-SubSub-recipients, and/or vendors deemed appropriate by the Subrecipient shall also be Named Insureds, and shall insure against the perils of fire, flood, and extended coverage and shall include, "all risk", insurance for physical damage including, without duplication of coverage, theft, mysterious disappearance, changes or extremes of temperature and/or humidity, operation of ordinance or law in an amount of ten percent (10%) of the project price, not

1 to exceed \$1,000,000; mechanical breakdown or electrical injury, testing as
2 appropriate for the type of project, earthquake and/or other earth movement,
3 pile driving, debris removal, damage to any Work-related personal property in
4 the open resulting from a non-excluded peril, vandalism and malicious
5 mischief. Bidder shall include in bid, costs to determine required flood
6 elevations.

7 **D.** If not covered under the "all risk" insurance or otherwise provided in the
8 Contract, the Construction Subrecipient shall effect and maintain similar
9 insurance on portions of the Work stored off the site when such portions of the
10 Work are to be included in any applications for payment and such procedures
11 have been approved by the City.

12 **E.** The property insurance shall include the fees of the Engineer and/or
13 Architect necessary to be incurred in repairs or reconstruction of the work to be
14 conducted under the Contract.

15 **F.** The Builder's Risk insurance shall be written and provided such that any
16 portions of a building or site vacated by homeowner or tenant to accommodate
17 the Work are protected and covered by the terms of the insurance. The insurance
18 shall not be cancelled or permitted to lapse because of such vacancy.

19 **G.** Coverage is to provide for use and/or occupancy, without qualification, of
20 any and all portions of the Work, or the premises where the Work is being
21 conducted, whether the Work has been accepted by homeowner or not.

22 **H.** The Subrecipient shall obtain consent of the insurance company that no
23 action will be taken with respect to partial occupancy or use that would cause
24 cancellation, lapse or reduction of insurance.

25 **I.** Coverage for Builder's Risk Soft Cost is to be included in the policy.
26

27 **ARTICLE XVIII -- NON-DISCRIMINATION**

28 **A. Equal Employment Opportunity.** In all hiring or employment made possible by, or
29 resulting from this Agreement, the Subrecipient (1) will not be discriminate against any employee
30 or applicant for employment because of race, color, religion, sex, gender, age, physical or mental
31 disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable,
32 will take affirmative action to ensure that the Subrecipient's employees are treated during
33 employment without regard to their race, color, religion, sex, gender, age, physical or mental
34 disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall
35 apply to, but not be limited to the following: employment, upgrading, demotion or transfer,
36 recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of
37 compensation, and selection for training, including apprenticeship. All solicitations or
38 advertisements for employees shall state that all qualified applicants will receive consideration for

1 employment without regard to race, color, religion, sex, gender, age, physical or mental disability,
2 national origin, sexual orientation, creed, culture, or ancestry.

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

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

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

21 ARTICLE XIX -- INDEPENDENT ENTITY

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

27 **B. Exclusion of Worker's Compensation Coverage.** The City will not be liable to the
28 Subrecipient, as an independent entity as defined in La. R.S. 23:1021(6), for any benefits or

1 coverage as provided by the Workmen's Compensation Law of the State of Louisiana. Under the
2 provisions of La. R.S. 23:1034, any person employed by the Sub-recipient will not be considered
3 an employee of the City for the purpose of Worker's Compensation coverage.

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

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

17 18 **ARTICLE XX - DRUG-FREE WORKPLACE ACT**

19 The Subrecipient agrees to comply with the provisions of the Drug-Free Workplace Act of
20 1988 (42 U.S.C. 701) and certifies that it will provide a drug-free workplace. The Subrecipient
21 further certifies that he or she will not engage in the unlawful manufacture, distribution,
22 dispensing, possession or use of a controlled substance in conducting any activity with the grant.

23 24 **ARTICLE XXI -- NOTICE**

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

28 To the City: Marjorianna Willman

1 Director of Housing Policy and Community Development
2 City of New Orleans
3 1340 Poydras Street, Suite 1000
4 New Orleans, LA 70112

5 And: City Attorney
6 City of New Orleans
7 1300 Perdido Street, 5E03
8 New Orleans, LA 70112

9 To the Subrecipient: Michael Tubre'
10 Managing Member
11 Lake Forest Manor, LLC
12 100 Harbor Circle
13 New Orleans, LA 70126

14 And:
15 USA Lake Forest Manor LLC
16 c/o The Richman Group Affordable Housing Corporation
17 777 West Putnam Avenue
18 Greenwich, CT 06830
19 Attention: Joanne D. Flanagan, Esq.

20
21 **B. Effectiveness.** Notices are effective when received, except any notice that is not received
22 due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date
23 of the first attempted delivery.

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

26 27 **ARTICLE XXII – INCORPORATED DOCUMENTS**

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

- 29 1. Contract Analysis Document, Attachment I,
30 2. Accounting and Financial Conditions, Attachment II,
31 3. Monthly Reporting Requirements form, Attachment III,
32 4. Compliance Unit Reporting Requirements, Attachment IV,
33 5. HUD Provisions, Attachment V,

6. Budget & Cost Controls Schedules, Attachment VI
7. OCD Fiscal and Compliance Unit, Attachment VII,
8. Project Schedule, Attachment VIII, and
9. List of Properties, Attachment IX,

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

ARTICLE XXIII -- ADDITIONAL PROVISIONS

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

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

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

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

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

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

1 this Agreement.

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

8 d. The Subrecipient will incorporate the terms and conditions of this Article into all
9 subcontracts, by reference or otherwise, and will require all sub-Sub-recipients to
10 comply with those provisions.

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

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

27 **H. Employee Verification.** The Subrecipient swears that it has no employees and shall have
28 no employees during the term of this Agreement. In the event that Subrecipient does have
29 employees, the following shall apply: (i) it is in compliance with La. R.S. 38:2212.10, and is
30 registered and participates in a status verification system to verify that all employees in the State

1 of Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue, during
2 the term of this Agreement, to utilize a status verification system to verify the legal status of all
3 new employees in the State of Louisiana; and (iii) it shall require all subSubrecipients to submit to
4 the Subrecipient a sworn affidavit verifying compliance with items (i) and (ii) above. Any violation
5 of the provisions of this paragraph may subject this Agreement to termination, and may further
6 result in the Subrecipient being ineligible for any public contract for a period of 3 years from the
7 date the violation is discovered. The Subrecipient further acknowledges and agrees that it shall be
8 liable for any additional costs incurred by the City occasioned by the termination of this Agreement
9 or the loss of any license or permit to do business in the State of Louisiana resulting from a
10 violation of La. R.S. 38:2212.10. The Subrecipient will provide to the City a sworn affidavit
11 attesting to the above provisions if requested by the City. The City may terminate this Agreement
12 for cause if the Subrecipient fails to provide such the requested affidavit or violates any provision
13 of this paragraph.

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

18 **J. Limitations of the City's Obligations.** The City has no obligations not explicitly set forth
19 in this Agreement or any incorporated documents or expressly imposed by law.

20 **K. Living Wage.** To the fullest extent permitted by law, the Subrecipient agrees to abide by
21 City Code sections 70-801, *et seq.*, which requires payment of a wage to covered employees equal
22 to the amounts defined in the Code ("**Living Wage**"). If the Subrecipient fails to comply with the
23 requirements of the Living Wage during the term of the Agreement, said failure may result in
24 termination of the Agreement or the pursuit of other remedies by the City.

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

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

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

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

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

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

28 **R. Ownership Interest Disclosure.** The Subrecipient shall provide a sworn affidavit listing
29 all persons, natural or artificial, with an ownership interest in the Subrecipient and stating that no

1 other person holds an ownership interest in the Sub-recipient via a counter letter. For the purposes
2 hereof, an "ownership interest" shall not be deemed to include ownership of stock in a publicly
3 traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a
4 publicly traded corporation. If the Subrecipient fails to submit the required affidavits, the City
5 may, after 30 days' written notice to the prime Subrecipient, take such action as may be necessary
6 to cause the suspension of any further payments until such the required affidavits are submitted.

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

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

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

24 **V. Severability.** Should a court of competent jurisdiction find any provision of this
25 Agreement to be unenforceable as written, the unenforceable provision should be reformed, if
26 possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is
27 not possible, the unenforceable provision shall be fully severable and the remaining provisions of
28 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, payment, remedies, jurisdiction, and choice of law shall survive the expiration, suspension, or termination of this Agreement and continue in full force and effect.

Z. Special Conditions for HUD Contracts. The "HUD Compliance Provisions" marked as Attachment V to this Agreement, are expressly incorporated in the Agreement and will be effective, notwithstanding any provision of the Agreement or any incorporated documents, to the contrary, upon the City's notice to the Subrecipient that the City intends to seek reimbursement from the CDBG Program in connection with the work to be performed under this Agreement.

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

BB. Additional Attachments. Subrecipient acknowledges that the Budget and Cost Control Statement, marked as Attachment VI, and OCD Fiscal and Compliance Unit – Policies and Procedures, marked as Attachment VII, Project Schedule, marked as Attachment VIII, Property Description, Attachment IX, are attached to and made part of this Agreement.

CC. Assistance to Those with Limited English Proficiency. The Subrecipient agrees

1 to take all reasonable actions to communicate with persons who have Limited English Proficiency
2 (LEP) to ensure that such persons have meaningful access and an equal opportunity to participate
3 in the programs(s) and/or services funded under this Agreement.
4

5 **ARTICLE XXIV -- RECORDATION OF REGULATORY AGREEMENT**

6 The Regulatory Agreement shall be provided by the City, and it shall be recorded as a deed
7 restriction for the "Period of Affordability" applicable to each project. This project will abide by
8 all rules applicable to a HOME project during its period of affordability, as found in 24 CFR Part
9 92, unless exempted by the City.
10

11 **ARTICLE XXV -- AGREEMENT IS BINDING**

12 This Agreement shall serve as a binding agreement and commitment to fund between the
13 City and the Subrecipient.
14

15 **ARTICLE XXVI -- ELECTRONIC SIGNATURE AND DELIVERY**

16 The Parties agree that a manually signed copy of this Agreement and any other document(s)
17 attached to this Agreement delivered by email shall be deemed to have the same legal effect as
18 delivery of an original signed copy of this Agreement. No legally binding obligation shall be
19 created with respect to a party until such party has delivered or caused to be delivered a manually
20 signed copy of this Agreement. For consideration and under the conditions set forth above, Lake
21 Forest Manor, LLC., agrees to develop the Project as contemplated herein.
22

23 **ARTICLE XXVII -- COUNTERPARTS**

24 This Agreement may be executed in one or more counterparts, each of which shall be
25 deemed to be an original copy of this Agreement, but all of which, when taken together, shall
26 constitute one and the same agreement.
27

28 **[SIGNATURES CONTAINED ON NEXT PAGE]**

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

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

3 **CITY OF NEW ORLEANS**

4 **BY:** _____

5 
6 **LATOYA CANTRELL, MAYOR**

7 Executed on this 13th of July, 2020

9 **FORM AND LEGALITY APPROVED:**

10 **Law Department**

11 **By:** _____

12 Printed Name: Andrew Gregorian

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

3
4
5 **Lake Forest Manor, LLC,**
6 **a Louisiana limited liability company**

7
8 By: LFM GP, LLC, a Louisiana limited liability company
9 Its: Managing Member

10
11 By: TWT Properties LLC, a Louisiana limited liability company
12 Its: Managing Member

13
14 By: _____
15 Michael W. Tubre, Managing Member

16
17 _____
18 **FEDERAL TAX I.D. NO.**
19

TABLE OF ATTACHMENTS

Attachment I	Contract Analysis Document
Attachment II	Accounting and Financial Conditions
Attachment III	Monthly Reporting Requirements
Attachment IV	Compliance Unit Reporting Requirements
Attachment V	HUD Provisions
Attachment VI	Budget and Cost Control Schedule
Attachment VII	OCD Fiscal and Compliance Unit – Policies and Procedures
Attachment VIII	Project Schedule
Attachment IX	List of Properties

CONTRACT ANALYSIS DOCUMENT

PROJECT DESCRIPTION

AND

BUDGET FORMS

FOR

CDBG RENTAL PROJECTS



FOR OCD USE ONLY:

DATE: May 29, 2020

CONTRACT NAME: Lake Forest Manor, LLC

CONTRACT NUMBER: D-CDBG2019-009

PROJECT INFORMATION SHEET

1. Project

Name: Lake Forest Manor

Program Category: CDBG Rental

Type of Service: Rental Housing Development

2. Awarded Agency

Name: *Lake Forest Manor, LLC*

Address: 100 Harbor Cir.

City, State, Zip: New Orleans, LA 70126

Telephone: (504) 373-5107 Fax: (504) 304-1693

3. Contact Person

Name: Michael Tubre

Address: 100 Harbor Cir.

City, State, Zip: New Orleans, LA 70126

Telephone: (504) 373-5107 Fax: (504) 304-1693

Email address: michael.tubre@tktmj.com

3A. Contact Person

Name: N/A

Address:

City, State, Zip:

Telephone: Fax: _____

Email address:

4. Executive Officer Name(s)

Name: N/A

Address:

City, State, Zip:

Telephone: Fax: _____

Email address:

5. Bookkeeper or Accountant

Name/Firm: Carr, Riggs & Ingram, LLC

Address: 111 Veterans Blvd., Suite 350

City, State, Zip: Metairie, LA 70005

Telephone: (985) 629-5542 Fax: (985) 629-5592

Email address: abantaa@cricpa.com

6. Agency Type (Check One)

Non-Profit Corporation

For Profit Corporation

Public Agency

City of New Orleans Department

Other (please specify)

X

7. Address(es) of Project:

Address	Number of Units
10101 Lake Forest Blvd., New Orleans, LA 70127	200

8. Program Funding

a. Program Income:

*Identify and list amounts of projected/current program income (if applicable):
(As a result of HUD/Office of Community Development funds)*

SOURCE	AMOUNT	TIME PERIOD
1. N/A		

2.		
3.		

***Program Income:** (24 CFR 570.503(a), (b)(3) and (7), and 570.504)

- The term “**program income**” means any gross income received by **the subrecipient** that was directly generated from the use of CDBG funds (24 CFR 570.500(a)). This includes, but is not limited to:
 - Proceeds from the sale or long-term lease of **real property purchased or improved** with CDBG funds.
 - Proceeds from the disposition of **equipment purchased** with CDBG funds.
 - Gross income from the **use or rental of property acquired** by the grantee or subrecipient with CDBG funds, less the costs incidental to the generation of such income.
 - Gross income from the **use or rental of property owned by the grantee or subrecipient that was constructed or improved** with CDBG funds, less any costs incidental to the generation of such income.
 - Payments of **principal and interest on loans made** using CDBG funds.
 - Proceeds from the **sale of loans made** with CDBG funds.
 - Proceeds from the **sale of obligations secured by loans made** with CDBG funds.
 - **Interest earned on program income**, pending the disposition of such program income.
 - **Funds collected through special assessments made against properties owned and occupied by households not of low- and moderate-income**, where such assessments are used to recover part or all of the CDBG portion of a public improvement.
 - **Please note that funds generated by a Developer and not returned to the City are not considered PI. Examples of PI for a Developer would include loan interest or loan repayments made to the City.**

b. Recommended/Anticipated Funding:

(Includes all other federal, state, and private funding to be used in the Development. If the funding is a loan, please provide us with the interest rate, loan type, and loan period.)

SOURCE	AMOUNT	LOAN/GRANT
Low-Income Housing Tax Credits	\$1,245,546.00	Other
Multi-Family Housing Revenue Bonds	\$22,000,000.00	Other
Housing Authority of New Orleans	\$31,176,000.00	Other
State of Louisiana, OCD	\$5,000.00.00	CBDG Cash-Flow Loan, 0% Interest
City of New Orleans, OCD	\$1,500,000.00	CBDG Cash-Flow Loan, 0% Interest

d. Shared Costs: In the space provided below please list any and all items sharing costs with the CBDG program. This information will allow Office of Community Development to determine the necessity of a cost allocation plan for your agency.

- Please note that this is only necessary if the Organization is receiving CBDG funds for costs other than Construction/Acquisition.

CATEGORY/COST ITEM	TOTAL AMOUNT	% CBDG	% OTHER
N/A			

STAFF

Fill in the table below listing the following:

- titles of persons who will be funded through this grant
 - if more than one employee with the same title and same percentage of time, please list only once and specify how many in the "number of each" column
 - the percentage (%) of time spent in rendering the services for that project.
- NOTE:** If there are employees with the same titles but work disproportionate percentages (%) of time, please list the title and the percentage (%) of time for each employee.
- Attach Job Description(s) for staff paid with CDBG Funds.
 - Please Note this section is only needed for Staff Costs paid by CDBG Funds

[illegible]

PROFESSIONAL/CONTRACTUAL SERVICES

Fill in the table below listing the following:

- name of person/firm providing professional/contractual services through this grant
- type of service rendered (e.g., accounting, legal, evaluation, etc.)
- the cost of the service to be provided.

NAME/FIRM	TYPE OF SERVICE	COST
TKTMJ, Inc.	Construction Contract	\$1,500,000.00

Please refer to the Bureau of Purchasing's Website <http://www.nola.gov/purchasing/> which outline all required procedures for compliance with the City of New Orleans's Federal Grant Procurement Policy for the formal procurement of any federally-funded goods, services, non-professional services, professional services or public works for the City of New Orleans. All procurements in which federal funds are contemplated or used must be conducted in accordance with federal procurement requirements.

PROJECT DESCRIPTION AND HISTORY

In the space provided below, describe the project to be implemented with CDBG funds. Describe the entire project and identify the specific component/components funded through CDBG.

A proposed substantial rehabilitation of the former "Forest Towers East Apartments" located at 10101 Lake Forest Boulevard in New Orleans, LA. The building was constructed in 1979 and has been shuttered ever since Hurricane Katrina in August 2005. The Existing Building is a +/- 179,224 GSF, 200-unit, 14 story high-rise for elderly only affordable housing located on a single Lot of Record consisting of 110,720 square feet or 2.54 acres. The total height of the existing building is approximately 140 feet above existing grade. All tenant Dwelling Units were 1 Bedroom/1 Bath, located on Floors 2-14. The first floor consisted of, but not necessarily limited to, Security Offices, Leasing Office, Lobby, Arts and Crafts Rooms, Laundry Counter, Dining Facility, Food Service and Back of House ancillary spaces such as Trash Room, Mechanical, Maintenance Shop and Electrical Vault. The 15th floor was Mechanical and the 16th Floor was the Elevator Machine Room. All 200 units will receive Project Based Vouchers from the Housing Authority of New Orleans.

CDBG funding from the City of New Orleans will be utilized for construction expenses towards the rehabilitation of the existing building.

OFFICE OF COMMUNITY DEVELOPMENT

LINE ITEM DETAIL PPB3

ORGANIZATION NAME: Lake Forest Manor, LLC

PROJECT NAME AND NUMBER:

DEPARTMENT:
OCD

PROGRAM:
CDBG

OPTION
CODE

ACCT.
NO.

LINE ITEM

REQUESTED
UNIT BUDGET

FOR OCD
USE ONLY

2150 - Professional Services -
Construction - Contractor Repairs (10101
Lake Forest Blvd.)

\$1,500,000.00

Briefly describe in each service category listed below the use of budgeted line item(s) listed on the PPB3.

2150 – Professional Services – Construction-Contractor Repairs (10101 Lake Forest Blvd.)

A proposed substantial rehabilitation of the former “Forest Towers East Apartments” located at 10101 Lake Forest Boulevard in New Orleans, LA. The building was constructed in 1979 and has been shuttered ever since Hurricane Katrina in August 2005. The Existing Building is a +/- 179,224 GSF, 200-unit, 14 story high-rise for elderly only affordable housing located on a single Lot of Record consisting of 110,720 square feet or 2.54 acres. The total height of the existing building is approximately 140 feet above existing grade. All tenant Dwelling Units were 1 Bedroom/1 Bath, located on Floors 2-14. The first floor consisted of, but not necessarily limited to, Security Offices, Leasing Office, Lobby, Arts and Crafts Rooms, Laundry Counter, Dining Facility, Food Service and Back of House ancillary spaces such as Trash Room, Mechanical, Maintenance Shop and Electrical Vault. The 15th floor was Mechanical and the 16th Floor was the Elevator Machine Room. All 200 units will receive Project Based Vouchers from the Housing Authority of New Orleans.

*General Comments: Should include information not discussed in the budget narrative such as cost allocation plan.
Example - your agency sharing the same office space with another program. Therefore, rent, utilities, etc. are shared.*

CLASSIFICATION OF EXPENDITURE AND LINEITEM NUMBERS

PERSONAL SERVICES (1000)

1010 Salaries
1011 Sick Leave
1020 Overtime
1021 Part-Time Payroll
1110 Mun. Employees' Retirement Plan
1200 Social Security Taxes (FICA)
1300 Group Hospital Insurance
1400 Workers Comp. Insurance
1600 Terminal Leave
1710 Auto Allowance
1720 Uniform Allowance
1730 Chauffeurs Licenses
1740 Tool Allowance
1760 Pay Increment
1790 Life Insurance
1900 Sick Leave

CONTRACTUAL SERVICES (2000)

2010 Advertising
2020 Cleaning and Waste Removal
2030 Contributions & Prizes
2040 Convention & Travel Expen.
2041 Conv. & Travel Reimb.
2050 Dues and Subscriptions
2060 Education
2080 Fees of Board Members
2090 Fees, Taxes, and Assessment
2091 Photograph Expense
2092 Conveyance Certificates
2093 Mortgage Certificates
2094 Recordation Wens Exp.
2095 Demolition Expense
2110 Ins-Liab & Prop Damage
2111 Adj Contact
2112 Stop Loss Policy
2113 Physical Dam Auto
2114 Gen Liab Claims Reserve
2115 Auto Claims Reserve
2120 Ins-Surety Bonds
2130 Postage Freight Express
2140 Printing and Binding
2150 Professional Services
2160 Rents & Leases-Land Bldg
2170 Rents & Leases Other Prop
2180 Motor Vehicle Rep General
2181 Motor Vehicle Rep PM Insp.
2182 Mtr Vehicle Rep-Component
2185 Repairs and Maintenance
2187 Loan Subsidy
2190 Telephone - Local
2210 Telephone - Long Distance & Tel.

1	2240	Utilities
2	2600	Miscellaneous
3	2800	Indirect Cost
4		
5	<u>SUPPLIES AND MATERIALS (3000)</u>	
6	3010	Books and Pamphlets
7	3020	Building Supplies
8	3030	Clothing
9	3040	Education Supplies
10	3050	Electrical Supplies
11	3060	Electronic Supplies
12	3070	Engineering Supplies
13	3080	Parts-Not Motor Vehicle
14	3110	Food Supplies
15	3120	Fuel-Not Motor Vehicle
16	3130	General Plant Supplies
17	3140	Hand Tools and Instrument
18	3150	Horticulture & Farm Supplies
19	3160	Household Supplies
20	3170	Ident Plates and Badges
21	3180	Janitor & Cleaning Supplies
22	3190	Medical Supplies
23	3210	Motor Vehicle-Gasoline
24	3211	Motor Vehicle-Diesel
25	3212	Mtr Vehicle-Hydrlic Oil
26	3213	Motor Vehicle-Lubricants
27	3214	Motor-Vehicle-Fluids
28	3215	Motor Vehicle-Other
29	3220	Motor Vehicle-Parts
30	3240	Photographic Supplies
31	3250	Office Supplies
32	3260	Safety Supplies
33	3271	Vehicle Supplies-Battery
34	3272	Vehicle Supplies-Tires
35	3273	Vehicle Supplies-Welding
36	3274	Lawn Equip. Parts
37	3999	Capital Projects Expend
38		
39	<u>EQUIPMENT & PROPERTY (4000)</u>	
40	4101	Land
41	4201	Buildings & Improvements
42	4352	Bldg. & Power Plant Equip
43	4354	Cleaning & Laundry Equip
44	4356	Communications Equip
45	4358	Construction Equip
46	4362	Educ. & Recreation Equip.
47	4364	Engineering Equipment
48	4368	General Plant Equip.
49	4374	Medical Equipment
50	4376	Motor Vehicle
51	4378	Office Furniture & Equip.
52	4382	Refrig. & Air Cond. Equip.
53	4390	Miscellaneous

PART III
TERMS AND CONDITIONS

ACCOUNTING AND FINANCIAL MANAGEMENT
PROCEDURES

SECTION 1 - SYSTEM EVALUATION

It is agreed and understood between the parties that prior to the disbursement of funds, the City will determine that the Contractor's fidelity bonding coverage, accounting, reporting and internal control systems meet the minimum Department of HUD and City requirements. It is further agreed and understood that the City shall monitor the operations and accounting of the Contractor to assure that it is maintaining adequate systems and that the funds furnished are being used effectively and efficiently to accomplish the purposes for which the funds were made available.

SECTION 2 - CASH ADVANCE

SECTION 3 - RECEIPTS AND DISBURSEMENTS

- A. **Receipts** - Prior to any funding the Contractor shall designate a commercial bank or escrow agent as the depository and establish a separate checking account for the receipt of funds under this contract and give the City the Official Title and Number of the account. Furthermore, Title of the account is to be consistent with the name of the project. It is also agreed that should the Contractor decide to change the depository to another commercial bank after funds are received, the Contractor shall provide the City the name of the new depository at least five (5) days before such change occurs. The Contractor is encouraged, but not required, to use a minority owned and/or operated depository.
- B. **Disbursements** - Disbursements for goods and services of persons and/or firms not payrolled by the Contractor shall be supported by executed purchase orders or contracts. Disbursements must be supported by invoices or requisitions..

SECTION 4 - BOOKS OF ACCOUNTS

The Contractor shall establish and maintain on a current basis an adequate accounting system on an accrual basis, in accordance with generally accepted accounting principles and practices.

SECTION 5 - DESCRIPTION OF ACCOUNTS

- A. **Accounts** - The accounting system shall follow the suggested general ledger account title consistent with the name of the project, or the City may provide titles at its discretion. The Contractor shall also maintain an "Ineligible Costs" ledger to record any cost incurred which is not eligible for reimbursement for program funds.
- B. **Special Account** - Contractor agrees to establish, within its present accounting system, a special numbered cost account for identification of all funds received and disbursed under this contract. This special numbered account shall be used solely for the purpose of making payments for items of allowable cost pursuant to this agreement.

SECTION 6 - RECORDS

Records shall identify adequately the source, program year, and application of funds received under this agreement. Said records shall contain information pertaining to the funding award, authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income..

SECTION 7 - ELIGIBLE AND INELIGIBLE COSTS

Contractor agrees that all costs incurred by it will be reasonable and of a nature which clearly relates to the specific purposes and end products of the contract. Contractor further agrees that it will exercise due care in incurring costs and will assure that expenditures conform to the general standards and criteria for cost eligibility as set forth in the Office of Management and Budget Super Circular 2 CFR part 200 Subpart E, and HUD regulations and guidelines and others as may be imposed by the City. Contractor agrees to refund to the City any payments or portions of payments which the City and/or Department of HUD determine are not properly due to the Contractor under the terms of this agreement.

SECTION 8 - FIDELITY BONDING

1 **SECTION 9 - AUDITS AND INTERNAL CONTROL SYSTEMS**

2 At any time during normal business hours and as often as the City may deem necessary, the Contractor shall make
3 available to the City or its agent all records for examination and will permit the City or its agent to audit, examine and
4 make excerpts or transcripts from such records and to make audits of all contracts, invoices, materials, payrolls,
5 records of personnel, conditions of improvements and other data relating to all matters covered by the contract. The
6 Contractor shall maintain a written description of its systematic method to assure timely and appropriate resolution of
7 audit findings and recommendations which shall include review of all audit findings by the Board of Directors of the
8 Contractor's corporation.
9

10 The Contractor shall perform an audit of all funds including Program Income (if applicable) received under this
11 agreement in accordance with the requirements of the Office of Management and Budget (OMB) Super Circular 2
12 CFR part 200 Subpart F. The Contractor shall upon execution of this agreement provide the City with two (2) copies
13 of all organizational audit reports inclusive of the period of time twenty-four months prior to the date of this agree-
14 ment. In the event that no organizational audit meeting the minimum requirements of OMB Super Circular 2 CFR part
15 200 Subpart (A-133 Audit) has been conducted within the last twenty-four months preceding the execution of this
16 contract, the agency shall take the necessary steps to direct an organizational audit to be implemented within 120
17 days of the execution date of this agreement, and upon completion shall provide two (2) copies of said audit to the
18 City. Failure to implement said audit shall constitute cause for the City to withhold any and all compensation due
19 under this agreement.
20

21 Any agency expending \$750,000 or more in total federal dollars is required to have an audit performed on the funds
22 that are allocated for the services of its specific agreement. The City shall, at the request of the Contractor, reimburse
23 the Contractor for the City's eligible portion of the audit cost, provided the contractor satisfies the audit requirements
24 of the City.
25

26 Any agency that expends less than \$750,000 of total federal dollars may be required by the City, at its option, to have
27 an audit performed on funds allocated for the services conducted under this agreement. This determination will be
28 based on "high risk" and "low risk" classification.
29

30 The Contractor further understands and agrees to maintain an internal control system in accordance with the Office of
31 Management and Budget (OMB) Circular No. A-123 Revised, Internal Control Systems.
32

33 **SECTION 10 - TECHNICAL ASSISTANCE**

34 The City agrees to make guidance and assistance available to the Contractor on request in establishing a suitable
35 accounting system. The provision of such assistance shall not relieve the Contractor of his responsibility to provide an
36 adequate accounting system as required by this agreement and as required by federal rules and regulations.
37

38 **SECTION 11 - PROPERTY RECORDS**

39 The Contractor shall maintain, and provide the City a copy of a record card of each item of non-expendable property
40 acquired for the project. Non-expendable property which will not be consumed or lose its identity by being
41 incorporated into another item of property, which cost \$100.00 or more per unit and is expected to have a useful life
42 of one (1) year or more. Grouping of like items, such as chairs with an aggregate cost in excess of \$100.00 shall also
43 be controlled and accounted for as non-expendable property even though the cost of a single item is less than
44 \$100.00. The record shall include (a) description of the item of property, including model and serial number, if
45 applicable, (b) date of acquisition, and (c) the acquisition cost of assigned value to the property.
46

47 Said record shall also include information as to whether the item of property was new or used at time of acquisition.
48 The aggregate of the individual costs shown on the record cards shall equal the balance in the subsidiary cost
49 account for non-expendable property.
50

51 **SECTION 12 - SUSPENSION OF FUNDS**

52 If at any time the Contractor is found by a court of competent jurisdiction to be materially in violation of any parts or
53 sub-parts of this contract, or should such court find that the Contractor is negligent in the administration or recording
54 of funds made available through this contract, the City shall have the authority to suspend any further funding and the
55 ability to seize such Credit Balance in any depository which consists of these funds.
56

57 **SECTION 13 - INSURANCE ON DEPOSITS**

58 The Contractor understands that all program funds shall be placed only in institutions covered by the Federal Deposit
59 Insurance Corporation (FDIC) organization or other appropriately Federal insured institution or depository. The
60 Contractor also understands that any portion of program funds, in excess of \$100,000, in any one institution, must be
61 fully (100%) and continuously collateralized with specific and identifiable U. S. Government or Agency securities. The
62 securities used as collateral must be owned by the Depository and the manner of collateralization must provide the
Contractor with a continuing perfected security interest in the collateral in accordance with applicable law and Federal

1
2

regulations. The Contractor shall have the option of placing program funds in excess of \$100,000 in another properly insured institution instead of providing collateral for any additional funds in excess of \$10

ATTACHMENT III

MONTHLY REPORTING REQUIREMENTS
Rental Housing Activity

Project Name: _____
Project Address: _____
Activity Type: Rehab Only ___ New Construction Only ___ Acquisition Only ___
Acquisition & Rehab ___ Acquisition & New Construction ___
Property Type: Condominium ___ Cooperative ___ SRO ___ Apartment ___
FHA Insured: Yes ___ No ___ Mixed Use: Yes ___ No ___ Mixed Income: Yes ___ No ___
Total Units: _____
Total HOME-assisted Units: _____
Total 504 Units: Mobility-impaired _____ % of Total Units _____
Sensory-impaired _____ % of Total Units _____
Projected Start Date: _____
Projected Completion Date: _____

Reporting Month: _____

1. CONSTRUCTION ACTIVITY

◆ **UNITS UNDERWAY**

Total Non-Assisted Units

	<u>This Month</u>	<u>To Date</u>
How Many?	_____	_____
Percentage	_____	_____

Total Assisted Units

	<u>This Month</u>	<u>To Date</u>
How Many?	_____	_____
Percentage	_____	_____

◆ **UNITS COMPLETE (with Certificates of Occupancy)**

Total Non-Assisted Units

	<u>This Month</u>	<u>To Date</u>
How Many?	_____	_____
Percentage	_____	_____

Total Assisted Units

	<u>This Month</u>	<u>To Date</u>
How Many?	_____	_____
Percentage	_____	_____

♦

2. OFFICE OF COMMUNITY DEVELOPMENT (OCD) CERTIFICATIONS

Total Non-Assisted Unit Certifications Received

This Month	_____	To Date	_____
------------	-------	---------	-------

Total Assisted Unit Certifications Received

	<u>This Month</u>	<u>To Date</u>
Mobility-impaired	_____	_____
Sensory-impaired	_____	_____

Total Assisted Unit Certifications Received

This Month	_____	To Date	_____
------------	-------	---------	-------

3. LEASE EXECUTIONS

Total Non-Assisted Unit Lease Executions

This Month	_____	To Date	_____
------------	-------	---------	-------

Total Assisted Unit Lease Executions

This Month	_____	To Date	_____
------------	-------	---------	-------

Describe any problems that are delaying the completion or occupancy of the project by the targeted completion date.

Describe your organization's outreach strategies for reaching your targeted Section 504 population.

List outreach activities your organization conducted this month. (Provide documentation to OCD.)

Describe the results of those activities.

(For Compliance with 24CFR 570.506 and Section 109, Housing and Community Development Act of 1974, as Amended, and Section 217 (b)(1) Of Title II, the National Affordable Housing Act, as amended, Title VI, Civil Rights Act of 1964)

Project Number:

Name & Title of Reporting Officer:

Note: This report is due on the 5th working day of each month along with the Monthly Reporting Requirements.

[illegible]

INSTRUCTIONS FOR COMPLETING DIRECT BENEFIT PROFILE

Organizations are required to identify persons benefiting from each activity planned, and distinguish between those who will benefit directly and those who will benefit indirectly. A direct benefit will accrue to any activity where a personal record must be completed by the client or maintained by the organization in order for the client to receive services. Persons must be identified by racial and ethnic background. The individuals themselves make this determination.

Project Name: Enter the official project name as it appears on Page 1 of the Agreement.

Project Number: Enter the project number as it appears on Page 1 of the Agreement.

Organization Name: Enter the organization's name as it appears on Page 1 of the Agreement.

Name & Title of Reporting Officer: Enter the name and title of the person in the organization responsible for the Direct Benefit Profile.

Signature of Reporting Officer: Self-explanatory

Report Period: Enter the month for which the data is being reported.

Column 1: Enter the total number of persons receiving direct benefits for the current report month and cumulatively from execution of Agreement through report period.

Column 2: Of the total number of clients entered in Column 1, enter the number and percentage of White people receiving direct benefits (a person having origin in any of the original peoples of Europe, North Africa or the Middle East).

Column 3: Of the total number of clients entered in Column 1, enter the number and percentage of African American people receiving direct benefits (a person having origin in any of the black racial groups of Africa).

Column 4: Of the total number of clients entered in Column 1, enter the number and percentage of Asian people receiving direct benefits (a person having origin in any of the people of the Far East, Southeast Asia, and the Indian subcontinent, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam).

Column 5: Of the total number of clients entered in Column 1, enter the number and percentage of American Indian/Alaskan Native people receiving direct benefits (a person having origin in any of the original peoples of North, Central and South America, and who maintain tribal affiliation or community attachment).

Column 6: Of the total number of clients entered in Column 1, enter the number and percentage of Native Hawaiian/Other Pacific Islander people receiving direct benefits (a person having origin in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands).

Column 7: Of the total number of clients entered in Column 1, enter the number and percentage of American Indian/Alaskan Native & White people receiving direct benefits.

Column 8: Of the total number of clients entered in Column 1, enter the number and percentage of Asian & White people receiving direct benefits.

Column 9: Of the total number of clients entered in Column 1, enter the number and percentage of Black/African-American & White people receiving direct benefits.

1	Column 10:	Of the total number of clients entered in Column 1, enter the number and percentage of American Indian/Alaskan Native & Black/African-American people receiving direct benefits.
2		
3		
4	Column 11:	Of the total number of clients entered in Column 1, enter the number and percentage of Other Multi-racial people receiving direct benefits.
5		
6		
7	Column 12:	Of the total number of clients entered in Column 1, enter the number and percentage of Hispanics receiving direct benefits (a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race).
8		
9		
10		
11	Column 13:	Of the total number of clients entered in Column 1, enter the number and percentage of Female-headed households receiving direct benefits.
12		
13		
14	Column 14:	Of the total number of clients entered in Column 1, enter the number and percentage of Extremely Low Income persons receiving direct benefits (0% - 30% MFI).
15		
16		
17	Column 15:	Of the total number of clients entered in Column 1, enter the number and percentage of Very Low Income persons receiving direct benefits (31% - 50% MFI).
18		
19		
20	Column 16:	Of the total number of clients entered in Column 1, enter the number and percentage of Low Income persons receiving direct benefits (51% - 80% MFI).
21		

Compliance Unit Reporting Requirements

Community Development Block Grant (CDBG) funding *requires* the following compliance monitoring:

- Adherence to Davis-Bacon monitoring for all Public Facility construction projects in excess of \$2,000 and all Residential construction projects involving 8 or more units
- Utilization of LCPtracker, electronic online system of entering certified payrolls
 - Weekly submissions of certified payrolls include affidavits of prime contractor, statements of compliance, and payroll spreadsheets
- Timely completion of Contract and Subcontract Activity Reports (CSAR) if any portion of funding was used for construction
- Equal Employment Opportunity and Affirmative Action monitoring for all subrecipients
- Section 3 monitoring for all recipients of federal assistance exceeding \$200,000 in any one year that is expended in part for housing construction, rehabilitation, or other public construction; and for construction contracts in excess of \$100,000 (clause included if applicable)
- Total Federal Funding Inquiry report to be completed by all subrecipients to determine if an A-133 Single Audit is required
- A-133 Single Audit to be performed by any subrecipient that expends \$750,000 or more in one fiscal year, effective for fiscal years beginning on or after January 1, 2015. For fiscal years starting prior to January 1, 2015, the threshold is \$500,000.

HOME funding *requires* the following compliance monitoring:

- Adherence to Davis-Bacon monitoring for all Residential construction projects involving 12 or more units
- Utilization of LCPtracker, electronic online system of entering certified payrolls
 - Weekly submissions of certified payrolls include affidavits of prime contractor, statements of compliance, and payroll spreadsheets
- Equal Employment Opportunity and Affirmative Action monitoring for all subrecipients
- Section 3 monitoring for all recipients of federal assistance exceeding \$200,000 in any one year that is expended in part for housing construction, rehabilitation, or other public construction; and for construction contracts in excess of \$100,000 (clause included if applicable)
- Total Federal Funding Inquiry report to be completed by all sub-recipients to determine if an A-133 Single Audit is required
- A-133 Single Audit to be performed by any subrecipient that expends \$750,000 or more in one fiscal year, effective for fiscal years beginning on or after January 1, 2015. For fiscal years starting prior to January 1, 2015, the threshold is \$500,000.

1 **SECTION 3 CLAUSE**
2

3 All bid packages and contracts of \$100, 000 or greater stimulating construction through the use of federal
4 funds shall include the required "Section 3 clause" (below):
5

- 6 A. The work to be performed under this contract is subject to the requirements of Section 3 of the
7 Housing and Urban Development Act of 1968, as amended, 12 U.S. C. 1701u (Section 3). The
8 purpose of Section 3 is to ensure that employment and other economic opportunities shall, to the
9 greatest extent feasible, be directed to low- and very-low income persons, particularly persons
10 who are recipients of HUD assistance for housing.
- 11 B. The parties to the contract agree to comply with HUD's regulations in 24 C.F.R. Part 135, which
12 implement Section 3. As evidenced by their execution of this contract, the parties to this contract
13 certify that they are under no contractual or other impediment that would prevent them from
14 complying with the Part 135 regulations.
- 15 C. The contractor agrees to send to each labor organization or representative of workers with which
16 the contractor has a collective bargaining agreement or other understanding, if any, a notice
17 advising the labor organization or worker's representative of the contractor's commitments under
18 this Section 3 clause, and will post copies of the notice in conspicuous places at the work site
19 where both employees and applicants for training and employment positions can see the notice.
20 The notice shall describe the Section 3 preference, shall set forth minimum number and job titles
21 subject to hire, availability of apprenticeship and training positions, the qualifications of each;
22 and the name and location of the person(s) taking applications for each of the positions; and the
23 anticipated date the work shall begin.
- 24 D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance
25 with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an
26 applicable provision of the subcontract of in this Section 3 clause, upon a finding that a
27 subcontractor is in violation of the regulations in 24 CFR Part 135. The contract will not
28 subcontract with any subcontractor where the contractor has notice or knowledge that the
29 subcontractor is in violation of the regulations in 24 CFR Part 135.
- 30 E. The contractor will certify that any vacant employment positions, including training positions,
31 that are filled (1) after the contractor is selected but before the contract is executed, and (2) with
32 persons other than those to whom the regulations of 24 CFR Part 135 require employment
33 opportunities to be directed, were not filled to circumvent the contractor's obligations under 24
34 CFR Part 135.
- 35 F. Non compliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination
36 of this contract for default, and debarment or suspension from future HUD assisted contracts.
- 37 G. With respect to the work performed in connection with Section 3 covered Indian housing
38 assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25
39 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires
40 that to the greatest extent feasible (i) preference and opportunities for training and employment
41 shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be
42 given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract
43 are subject to Section 3 and Section 7(b) to the maximum extent feasible, but not in derogation of
44 compliance with Section 7(b).

HUD COMPLIANCE PROVISIONS
FOR
DIRECT GRANTEE
SUBRECIPIENT AGREEMENTS AND PROFESSIONAL SERVICES CONTRACTS

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- 15
- 16 1. **EQUAL EMPLOYMENT OPPORTUNITY (Equal Opportunity Clause)**
 - 17 (applicable to contracts and subcontracts exceeding
 - 18 \$10,000)
 - 19

20 During the performance of this contract, the Sub-recipient

21 agrees as follows:

22

- 23 A. The Sub-recipient will not discriminate against any
- 24 employee or applicant for
- 25 employment because of race, color, religion, sex, or
- 26 national origin. The Sub-recipient will take affirmative
- 27 action to ensure that applicants are employed, and that
- 28 employees are treated during employment, without regard to
- 29 their race, color, religion, sex, or national origin. Such
- 30 action shall include, but not be limited to, the following:
- 31 employment, upgrading, demotion, or transfer; recruitment
- 32 or recruitment advertising; layoff or termination; rates of
- 33 pay or other forms of compensation; and selection for
- 34 training, including apprenticeship. The Sub-recipient
- 35 agrees to post in conspicuous places, available to
- 36 employees and applicants for employment, notices to be
- 37 provided setting forth the provisions of this
- 38 nondiscrimination clause.
- 39
- 40 B. The Sub-recipient will, in all solicitations or
- 41 advertisements for employees placed by or on behalf of the
- 42 Sub-recipient, state that all qualified applicants will
- 43 receive consideration without regard to race, color,
- 44 religion, sex, or national origin.
- 45
- 46 C. The Sub-recipient will send to each labor union or
- 47 representative of workers with which he has a collective

1 bargaining agreement or other contract or understanding, a
2 notice to be provided by the Contract Compliance Officer
3 advising the said labor union or workers' representatives
4 of the Sub-recipient's commitment under this section, and
5 shall post copies of the notice in conspicuous places
6 available to employees and applicants for employment.
7

8 D. The Sub-recipient will comply with all provisions of
9 Executive Order 11246 of September 24, 1965, as amended,
10 and the rules, regulations, and relevant orders of the
11 Secretary of Labor.
12

13 E. The Sub-recipient will furnish all information and reports
14 required by Executive Order 11246 of September 24, 1965, as
15 amended, and by rules, regulations, and orders of the
16 Secretary of Labor, or pursuant thereto, and will permit
17 access to his books, records, and accounts by the
18 Department and the Secretary of Labor for purposes of
19 investigation to ascertain compliance with such rules,
20 regulations, and others.
21

22 F. In the event of the Sub-recipient's noncompliance with the
23 non-discrimination clauses of this contract or with any of
24 the said rules, regulations, or orders, this contract may
25 be cancelled, terminated, or suspended in whole or in part
26 and the Sub-recipient may be declared ineligible for
27 further Government contracts in accordance with procedures
28 authorized in Executive Order 11246 of September 24, 1965,
29 as amended, or by rule, regulation, or order of the
30 Secretary of Labor, or as otherwise provided by law.
31

32 G. The Sub-recipient will include the provisions of the
33 sentence immediately preceding paragraph A and the
34 provisions of paragraphs A through G in every subcontract
35 or purchase order unless exempted by rules, regulations, or
36 orders of the Secretary of Labor issued pursuant to Section
37 204 of Executive Order 11246 of September 24, 1965, as
38 amended, so that such provisions will be binding upon each
39 Sub-recipient or vendor. The Sub-recipient will take such
40 action with respect to any subcontract or purchase order as
41 the Department may direct as a means of enforcing such
42 provisions, including sanctions for noncompliance.
43 Provided, however, that in the event a Sub-recipient
44 becomes involved in, or is threatened with, litigation with
45 a Sub-recipient or vendor as a result of such direction by
46 the Department, the Sub-recipient may request the United
47 States to enter into such litigation to protect the

1 interest of the United States.

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

5 (applicable to contracts and subcontracts exceeding
6 \$10,000)

7
8 A. As used in these specifications:

9
10 (1) "Covered area" means the geographical area described
11 in the solicitation from which this contract resulted;

12
13 (2) "Director" means Director, Office of Federal Contract
14 Compliance Programs, United States Department of
15 Labor, or any person to whom the Director delegates
16 authority;

17
18 (3) "Employer identification number" means the Federal
19 Social Security number used on the Employer's
20 Quarterly Federal Tax Return, U.S. Treasury Department
21 Form 941.

22
23 (4) "Minority" includes:

24
25 (a) Black (all persons having origins in any of the
26 Black African racial groups not of Hispanic
27 origin);

28
29 (b) Hispanic (all persons of Mexican, Puerto Rican,
30 Cuban, Central or South America or other Spanish
31 Culture or origin, regardless of race);

32
33 (c) Asian and Pacific Islander (all persons having
34 origins in any of the original people of the Far
35 East, Southeast Asia, the Indian Subcontinent, or
36 the Pacific Islands); and

37
38 (d) American Indian or Alaskan Native (all persons
39 having origins in any of the original peoples of
40 North America and maintaining identifiable tribal
41 affiliations through membership and participation
42 or community identification).

43
44 B. When the Sub-recipient, or any sub-recipient, at anytime,
45 subcontracts a portion of the work involving any
46 construction trade, it shall physically include in each
47 subcontract, in excess of \$10,000, the provisions of these

1 specifications and the Notice which contains the applicable
2 goals for minority and female participation and which is
3 set forth in the solicitations from which this contract
4 resulted.
5

6 C. If the Sub-recipient is participating (pursuant to 41 CFR
7 60 4.5) in a Hometown Plan approved by the U.S. Department
8 of Labor in the covered area either individually or through
9 an association, its affirmative action obligations on all
10 work in the Plan area (including goals and timetables)
11 shall be in accordance with that Plan for those trades
12 which have unions participating in the Plan. Sub-
13 recipients must be able to demonstrate their participation
14 in compliance with the provisions of any such Hometown
15 Plan. Each Sub-recipient or Sub-recipient participating in
16 an approved Plan is individually required to comply with
17 its obligations under the EEO clause, and to make a good
18 faith effort to achieve each goal under the Plan in each
19 trade in which it has employees. The overall good faith
20 performance by other Sub-recipients or sub-recipients
21 toward a goal in an approved Plan does not excuse any
22 covered Sub-recipient's or sub-recipient's failure to take
23 good faith efforts to achieve the Plan goals and
24 timetables.
25

26 D. The Sub-recipient shall implement the specific affirmative
27 action standards provided In paragraphs G(1) through G(16)
28 of these specifications. The goals set forth in the
29 solicitation from which this contract resulted are
30 expressed as percentages of the total hours of employment
31 and training of minority and female utilization the Sub-
32 recipient should reasonably be able to achieve in each
33 construction trade in which it has employees in the covered
34 area. Covered construction Sub-recipients performing
35 contracts in geographical areas where they do not have a
36 federal or federally-assisted construction contract shall
37 apply the minority and female goals established for the
38 geographic area where the contract is being performed.
39 Goals are published periodically in the Federal Register in
40 notice form and such notices may be obtained from any
41 Office of Federal Contract Compliance Programs office or
42 from Federal procurement contracting officers. The Sub-
43 recipient is expected to make substantially uniform
44 progress in meeting its goals in each craft during the
45 period specified.
46

47 E. Neither the provisions of any collective bargaining

1 agreement, nor the failure by a union with whom the Sub-
2 recipient has a collective bargaining agreement, to refer
3 either minorities or women shall excuse the Sub-recipient's
4 obligations under these specifications, Executive Order
5 11246, or the regulations promulgated pursuant thereto.
6

7 F. In order for the non-working training hours of apprentices
8 and trainees to be counted in meeting the goals, such
9 apprentices and trainees must be employed by the Sub-
10 recipient during the training period, and the Sub-recipient
11 must have made a commitment to employ the apprentices and
12 trainees at the completion of their training, subject to
13 the availability of employment opportunities. Trainees
14 must be trained pursuant to training programs approved by
15 the U.S. Department of Labor.
16

17 G. The Sub-recipient shall take specific affirmative action to
18 ensure equal employment opportunity. The evaluation of the
19 Sub-recipient's compliance with these specifications shall
20 be based upon its effort to achieve maximum results from
21 its actions. The Sub-recipient shall document these
22 efforts fully, and shall implement affirmative action steps
23 at least as extensive as the following:
24

25 (1) Ensure and maintain a working environment free of
26 harassment, intimidation, and coercion at all
27 sites, and in all facilities at which the Sub-
28 recipient's employees are assigned to work. The
29 Sub-recipient, where possible, will assign two or
30 more women to each construction project. The
31 Sub-recipient shall specifically ensure that all
32 foremen, superintendents and other on-site
33 supervisory personnel are aware of and carry out
34 the Sub-recipient's obligation to maintain such a
35 working environment, with specific attention to
36 minority or female individuals working at such
37 sites or in such facilities.
38

39 (2) Establish and maintain a current list of minority
40 and female recruitment sources, provide written
41 notification to minority and female recruitment
42 sources and to community organizations when the
43 Sub-recipient or its unions have employment
44 opportunities available, and maintain a record of
45 the organization's responses.
46

47 (3) Maintain a current file of the names, addresses,

1 and telephone numbers of each minority and female
2 off-the-street applicant and minority or female
3 referral from a union, a recruitment source, or
4 community organization and of what action was
5 taken with respect to each such individual. If
6 such individual was sent to the union hiring hall
7 for referral and was not referred back to the
8 Sub-recipient by the union or, if referred, not
9 employed by the Sub-recipient, this shall be
10 documented in the file with the reason therefore,
11 along with whatever additional actions the Sub-
12 recipient may have taken.
13

14 (4) Provide immediate written notification to the
15 Director when the union or unions with which the
16 Sub-recipient has a collective bargaining
17 agreement have not referred to the Sub-recipient
18 a minority person or woman sent by the Sub-
19 recipient, or when the Sub-recipient has other
20 information that the union referral process has
21 impeded the Sub-recipient's efforts to meet its
22 obligations.
23

24 (5) Develop on-the-job training opportunities and/or
25 participate in training programs for the area
26 which expressly includes minorities and women,
27 including upgrading programs and apprenticeship
28 and trainee programs relevant to the Sub-
29 recipient's employment needs, especially those
30 programs funded or approved by the Department of
31 Labor. The Sub-recipient shall provide notice of
32 these programs to the sources compiled under G(2)
33 above.
34

35 (6) Disseminate the Sub-recipient's EEO policy by
36 providing notice of the policy to unions and
37 training programs and requesting their
38 cooperation in assisting the Sub-recipient in
39 meeting its EEO obligations; by including it in
40 any policy manual and collective bargaining
41 agreement; by publicizing it in the company
42 newspaper, annual report, etc.; by specific
43 review of the policy with all management
44 personnel and with all minority and female
45 employees at least once a year; and by posting
46 the company EEO policy on a bulletin board
47 accessible to all employees at each location

1 where construction work is performed.
2

- 3 (7) Review, at least annually, the company's EEO
4 policy and affirmative action obligations under
5 these specifications with all employees having
6 any responsibility for hiring, assignment,
7 layoff, termination, or other employment
8 decisions including specific review of these
9 items with on-site supervisory personnel such as
10 Superintendents, General Foreman, etc., prior to
11 the initiation of construction work at any job
12 site. A written record shall be made and
13 maintained identifying the time and place of
14 these meetings, persons attending, subject matter
15 discussed, and disposition of the subject matter.
16
- 17 (8) Disseminate the Sub-recipient's EEO policy
18 externally by including it in any advertising in
19 the news media, specifically including minority
20 and female news media, and providing written
21 notification to and discussing the Sub-
22 recipient's EEO policy with other Sub-recipients
23 and Sub-recipients with whom the Sub-recipient
24 does or anticipates doing business.
25
- 26 (9) Direct its recruitment efforts, both oral and
27 written, to minority, female and community
28 organizations, to schools with minority and
29 female students and to minority and female
30 recruitment and training organizations serving
31 the Sub-recipient's recruitment area and
32 employment needs. Not later than one month prior
33 to the date for acceptance of applications for
34 apprenticeship or other training by any
35 recruitment source, the Sub-recipient shall send
36 written notification to organizations such as the
37 above, describing the openings, screening
38 procedures, and tests to be used in the selection
39 process.
40
- 41 (10) Encourage present minority and female employees
42 to recruit other minority persons and women and,
43 where reasonable, provide after school, summer,
44 and vacation employment to minority and female
45 youth both on the site and in other areas of a
46 Sub-recipient's work force.
47

- (11) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60 3.
- (12) Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- (13) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Sub-recipient's obligations under these specifications are being carried out.
- (14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- (15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Sub-recipients and suppliers, including circulation of solicitation to minority and female Sub-recipient associations and other business associations.
- (16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Sub-recipient's EEO policies and affirmative action obligations.

H. Sub-recipients are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (G(1) through G(16)). The efforts of a Sub-recipient association, joint Sub-recipient-union, Sub-recipient-community, or other similar group of which the Sub-recipient is a member and participant, may be asserted as fulfilling any one or more of its obligations under G(1) through G(16) of these specifications provided that the Sub-recipient actively participates in the group, makes every effort to assure

1 that the group has a positive impact on the employment of
2 minorities and women in the industry, ensures that the
3 concrete benefits of the program are reflected in the Sub-
4 recipient's minority and female workforce participation,
5 makes a good faith effort to meet its individual goals and
6 timetables, and can provide access to documentation which
7 demonstrates the effectiveness of actions taken on behalf
8 of the Sub-recipient. The obligation shall not be a
9 defense for the Sub-recipient's non-compliance.

10
11 I. A single goal for minorities and a separate single goal for
12 women has been established. The Sub-recipient, however, is
13 required to provide equal employment opportunity and to
14 take affirmative action for all minority groups, both male
15 and female, and all women, both minority and non-minority.
16 Consequently, the Sub-recipient may be in violation of the
17 Executive Order if a particular group is employed in a
18 substantially disparate manner (for example, even though
19 the Sub-recipient has achieved its goals for women
20 generally, the Sub-recipient may be in violation of the
21 Executive Order if a specific minority group of women is
22 underutilized).

23
24 J. The Sub-recipient shall not use the goals and timetables or
25 affirmative action standards to discriminate against any
26 persons because of race, color, religion, sex, or national
27 origin.

28
29 K. The Sub-recipient shall not enter into any subcontract with
30 any person or firm
31 debarred from government contracts pursuant to E.O. 11246.

32
33 L. The Sub-recipient shall carry out such sanctions and
34 penalties for violation of these specifications and of the
35 Equal Opportunity Clause including suspension, termination,
36 and cancellation of existing subcontracts as may be imposed
37 or ordered pursuant to E.O. 11246, as amended.

38
39 M. The Sub-recipient, in fulfilling its obligations under
40 these specifications, shall implement specific affirmative
41 action steps, at least as extensive as those standards
42 prescribed in paragraph G of these specifications, so as to
43 achieve maximum results from its efforts to ensure equal
44 employment opportunity. If the Sub-recipient fails to
45 comply with the requirements of the Executive Order, the
46 implementing regulations, or these specifications, the
47 Director shall proceed in accordance with 41 CFR 60 4.8.

1
2 N. The Sub-recipient shall designate a responsible official to
3 monitor all employment related activity to ensure that the
4 company EEO policy is being carried out, to submit reports
5 relating to the provisions hereof as may be required by the
6 government and to keep records. Records shall at least
7 include for each employee, the name, address, telephone
8 numbers, construction trade, union affiliation if any,
9 employee identification number where assigned, social
10 security number, race, sex, status (e.g., mechanic,
11 apprenticeship trainee, helper, or laborer), dates of
12 changes in status, hours worked per week in the indicated
13 trade, rate of pay, and location at which the work was
14 performed. Records shall be maintained in an easily
15 understandable and retrievable form; however, to the degree
16 that existing records satisfy this requirement, Sub-
17 recipients shall not be required to maintain separate
18 records.

19
20 O. Nothing herein provided shall be construed as a limitation
21 upon the application of other laws which establish
22 different standards of compliance or upon the application
23 or requirements for the hiring of local or other area
24 residents (e.g., those under the Public Works Employment
25 Act of 1977 and the Community Development Block Grant
26 Program).

27
28 **3. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION**

29 (applicable to contracts and subcontracts exceeding
30 \$10,000)

31
32 A. The Offeror's or Bidder's attention is called to the "Equal
33 Opportunity Clause" and the "Standard Federal Equal
34 Employment Opportunity Construction Contract
35 Specifications" set forth herein.

36
37 B. The goals and timetables for minority and female
38 participation, expressed in percentage terms for the Sub-
39 recipient's aggregate workforce in each trade on all
40 construction work in the covered area are applicable to all
41 the Sub-recipient's construction work (whether or not it is
42 federal or federally assisted) performed in the covered
43 area. If the Sub-recipient performs construction work in a
44 geographic area located outside of the covered area, it
45 shall apply the goals established for such geographic area
46 where the work is actually performed.
47

1 With regard to this second area, the Sub-recipient also is
2 subject to the goals for both its federally involved and
3 non-federally involved construction. The Sub-recipient's
4 compliance with the Executive Order and the regulations in
5 41 CFR Part 60 4 shall be based on its implementation of
6 the Equal Opportunity Clause, specific affirmative action
7 obligations required by the specifications set forth in 41
8 CFR 60 4.3 (a) and its efforts to meet the goals
9 established for the geographical area where the contract
10 resulting from this solicitation is to be performed. The
11 hours of minority and female employment and training must
12 be substantially uniform throughout the length of the
13 contract, and in each trade, and the Sub-recipient shall
14 make a good faith effort to employ minorities and women
15 evenly on each of its projects. The transfer of minority
16 or female employees or trainees from Sub-recipient to Sub-
17 recipient or from project to project for the sole purpose
18 of meeting the Sub-recipient's goals shall be a violation
19 of the contract, the Executive Order, and the regulations
20 in 41 CFR Part 60 4. Compliance with the goals will be
21 measured against the total work hours performed.
22

23 C. The Sub-recipient shall provide written notification to the
24 Director of the Office of Federal Contract Compliance
25 Programs within 10 working days of award of any
26 construction subcontract in excess of \$10,000 at any tier
27 for construction work under the contract resulting from
28 this solicitation. The notification shall list the name,
29 address, and telephone number of the Sub-recipient;
30 employer identification number; estimated dollar amount of
31 the subcontract; estimated starting and completion dates of
32 the sub-contract; and the geographical area in which the
33 contract is to be performed.
34

35 D. As used in this Notice, and in the contract resulting from
36 this solicitation, the "covered area" is (insert
37 description of the geographical areas where the contract is
38 to be performed, giving the State, parish, and city, if
39 any):
40

41 **4. CERTIFICATION OF NON-SEGREGATED FACILITIES**

42 (applicable to contracts and subcontracts exceeding
43 \$10,000)
44

45 By the submission of this bid, the bidder, offeror,
46 applicant or Sub-recipient certifies that he/she does not
47 maintain or provide for his/her establishments, and that

1 he/she does not permit employees to perform their services
2 at any location, under his/her control, where segregated
3 facilities are maintained. He/she certifies further that
4 he/she will not maintain or provide for employees any
5 segregated facilities at any of his/her establishments, and
6 he/she will not permit employees to perform their services
7 at any location under his/her control where segregated
8 facilities are maintained. The bidder, offeror, applicant
9 or Sub-recipient agrees that a breach of this certification
10 is a violation of the equal opportunity clause of this
11 contract.

12
13 As used in this certification, the term "segregated
14 facilities" means any waiting rooms, work areas, rest rooms
15 and wash rooms, restaurants and other eating areas, time
16 clocks, locker rooms, and other storage or dressing areas,
17 parking lots, drinking fountains, recreation or
18 entertainment areas, transportation and housing facilities
19 provided for employees which are segregated by explicit
20 directive or are, in fact, segregated on the basis of race,
21 color, religion, or national origin because of habit, local
22 custom, or any other reason.

23
24 He/she further agrees that (except where he/she has
25 obtained for specific time periods) he/she will obtain
26 identical certification from proposed sub-recipients prior
27 to the award of subcontracts exceeding \$10,000 which are
28 not exempt from the provisions of the equal opportunity
29 clause; that he/she will retain such certifications in
30 his/her files; and that he/she will forward the following
31 notice to such proposed sub-recipients (except where
32 proposed sub-recipients have submitted identical
33 certifications for specific time periods).

34
35 **5. CIVIL RIGHTS**

36
37 The Sub-recipient shall comply with the provisions of Title
38 VI of the Civil Rights Act of 1964. No person shall, on
39 the grounds of race, color, or national origin, be excluded
40 from participation in, be denied the benefits of, or be
41 subjected to discrimination under any program or activity
42 receiving federal financial assistance.

43
44 **6. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT**
45 **OF 1974**

46
47 The Sub-recipient shall comply with the provisions of

1 Section 109 of the Housing and Community Development Act of
2 1974. No person in the United States shall on the grounds
3 of race, color, national origin, or sex be excluded from
4 participation in, be denied the benefits of, or be
5 subjected to discrimination under any program or activity
6 funded in whole or in part with funds made available under
7 this title. Section 109 further provides that
8 discrimination on the basis of age under the Age
9 Discrimination Act of 1975 or with respect to an otherwise
10 qualified handicapped individual as provided in Section 504
11 of the Rehabilitation Act of 1973, as amended, is
12 prohibited.
13

14 7. **SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968**
15 -

16 (Section 3 Clause) (applicable to contracts and
17 subcontracts exceeding \$100,000 funded by Section 3 covered
18 assistance)
19

- 20 A. The work to be performed under this contract is subject to
21 the requirements of Section 3 of the Housing and Urban
22 Development Act of 1968, as amended, 12 U.S.C. 1701u
23 (section 3). The purpose of section 3 is to ensure that
24 employment and other economic opportunities generated by
25 HUD assistance or HUD-assisted projects covered by Section
26 3, shall, to the greatest extent feasible, be directed to
27 low- and very low-income persons, particularly persons who
28 are recipients of HUD assistance for housing.
29
- 30 B. The parties to this contract agree to comply with HUD's
31 regulations in 24 CFR part 135, which implement Section 3.
32 As evidenced by their execution of this contract, the
33 parties to this contract certify that they are under no
34 contractual or other impediment that would prevent them
35 from complying with the part 135 regulations.
36
- 37 C. The Sub-recipient agrees to send to each labor organization
38 or representative of workers with which the Sub-recipient
39 has a collective bargaining agreement or other
40 understanding, if any, a notice advising the labor
41 organization or workers' representative of the Sub-
42 recipient's commitments under this Section 3 clause, and
43 will post copies of the notice in conspicuous places at the
44 work site where both employees and applicants for training
45 and employment positions can see the notice. The notice
46 shall describe the Section 3 preference, shall set forth
47 minimum number and job titles subject to hire, availability

1 of apprenticeship and training positions, the
2 qualifications for each, and the name and location of the
3 person(s) taking applications for each of the positions,
4 and the anticipated date the work shall begin.
5

6 D. The Sub-recipient agrees to include this Section 3 clause
7 in every subcontract subject to compliance with regulations
8 in 24 CFR part 135, and agrees to take appropriate action,
9 as provided in an applicable provision of the subcontract
10 or in this Section 3 clause, upon a finding that the Sub-
11 recipient is in violation of the regulations in 24 CFR part
12 135. The Sub-recipient will not subcontract with any Sub-
13 recipient where the Sub-recipient has notice or knowledge
14 that the Sub-recipient has been found in violation of the
15 regulations in 24 CFR part 135.
16

17 E. The Sub-recipient will certify that any vacant employment
18 positions, including training positions, that are filled
19 (1) after the Sub-recipient is selected but before the
20 contract is executed, and (2) with persons other than those
21 to whom the regulations of 24 CFR part 135 require
22 employment opportunities to be directed, were not filled to
23 circumvent the Sub-recipient's obligations under 24 CFR
24 part 135.
25

26 F. Noncompliance with HUD's regulations in 24 CFR part 135 may
27 result in sanctions, termination of this contract for
28 default, and debarment or suspension from future HUD
29 assisted contracts.
30

31 G. With respect to work performed in connection with Section 3
32 covered Indian housing assistance, Section 7(b) of the
33 Indian Self-Determination and Education Assistance Act (25
34 U.S.C. 450e) also applies to the work to be performed under
35 this contract. Section 7(b) requires that to the greatest
36 extent feasible (i) preference and opportunities for
37 training and employment shall be given to Indians, and (ii)
38 preference in the award of contracts and subcontracts shall
39 be given to Indian organizations and Indian-owned Economic
40 Enterprises. Parties to this contract that are subject to
41 the provisions of Section 3 and section 7(b) agree to
42 comply with Section 3 to the maximum extent feasible, but
43 not in derogation of compliance with Section 7(b).
44

45 8. **SECTION 503 OF THE REHABILITATION ACT OF 1973 (29 USC 793)**
46 (applicable to contracts and subcontracts exceeding
47 \$10,000)

- 1 A. The Sub-recipient will not discriminate against any
2 employee or applicant for employment because of physical or
3 mental handicap in regard to any position for which the
4 employee or applicant for employment is otherwise
5 qualified. The Sub-recipient agrees to take affirmative
6 action to employ, advance in employment and otherwise treat
7 qualified handicapped individuals without discrimination
8 based upon their physical or mental handicap in all
9 employment practices such as the following: employment
10 upgrading, demotion or transfer, recruitment, advertising,
11 layoff or termination, rates of pay or other forms of
12 compensation, and selection for training, including
13 apprenticeship.
14
- 15 B. The Sub-recipient agrees to comply with the rules,
16 regulations, and relevant orders of the Secretary of
17 Labor issued pursuant to the Act.
18
- 19 C. In the event of the Sub-recipient's noncompliance with the
20 requirements of this clause, actions for noncompliance may
21 be taken in accordance with the rules, regulations, and
22 relevant orders of the Secretary of Labor issued pursuant
23 to the Act.
24
- 25 D. The Sub-recipient agrees to post in conspicuous places,
26 available to employees and applicants for employment,
27 notices in a form to be prescribed by the Director,
28 provided by or through the contracting officer. Such
29 notices shall state the Sub-recipient's obligation under
30 the law to take affirmative action to employ and advance in
31 employment qualified handicapped employees and applicants
32 for employment, and the rights of applicants and employees.
33
- 34 E. The Sub-recipient will notify each labor union or
35 representative of workers with which it has a collective
36 bargaining agreement or other contract understanding, that
37 the Sub-recipient is bound by the terms of Section 503 of
38 the Rehabilitation Act of 1973, and is committed to take
39 affirmative action to employ and advance in employment
40 physically and mentally handicapped individuals.
41
- 42 F. The Sub-recipient will include the provisions of this
43 clause in every subcontract or purchase order of \$10,000 or
44 more unless exempted by rules, regulations, or orders of
45 the Secretary issued pursuant to Section 503 of the Act, so
46 that such provisions will be binding upon each Sub-
47 recipient or vendor. The Sub-recipient will take such

1 action with respect to any subcontract or purchase order as
2 the Director of the Office of Federal Contract Compliance
3 Programs may direct to enforce such provisions, including
4 action for noncompliance.
5

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

8 The Sub-recipient agrees that no otherwise qualified
9 individual with disabilities shall, solely by reason of his
10 disability, be denied the benefits, or be subjected to
11 discrimination including discrimination in employment, any
12 program or activity that receives the benefits from the
13 federal financial assistance.
14

15 10. **AGE DISCRIMINATION ACT OF 1975**
16

17 The Sub-recipient shall comply with the provisions of the
18 Age Discrimination Act of 1975. No person in the United
19 States shall, on the basis of age, be excluded from
20 participation in, be denied the benefits of, or be
21 subjected to discrimination under, any program or activity
22 receiving federal financial assistance.
23

24 11. **CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS**
25 (applicable to contracts and subcontracts exceeding
26 \$100,000)
27

28 The Sub-recipient and all sub-recipients shall comply with
29 the requirements of the Clean Air Act, as amended, 42 USC
30 1857 et seq., the Federal Water Pollution Control Act, as
31 amended, 33 USC 1251 et seq., and the regulations of the
32 Environmental Protection Agency with respect thereto, at 40
33 CFR Part 15, as amended.
34

35 In addition to the foregoing requirements, all nonexempt
36 Sub-recipients and sub-recipients shall furnish to the
37 owner, the following:
38

- 39 A. A stipulation by the Sub-recipient or sub-recipients,
40 that any facility to be utilized in the performance of
41 any nonexempt contract or subcontract, is not listed
42 on the List of Violating Facilities issued by the
43 Environmental Protection Agency (EPA) pursuant to 40
44 CFR Part 15, as amended.
45
46 B. Agreement by the Sub-recipient to comply with all the
47 requirements of Section 114 of the Clean Air Act, as

1 amended, (42 USC 1857 c 8) and Section 308 of the
2 Federal Water Pollution Control Act, as amended, (33
3 USC 1318) relating to inspection, monitoring, entry,
4 reports and information, as well as all other
5 requirements specified in said Section 114 and Section
6 308, and all regulations and guidelines issued there
7 under.
8

9 C. A stipulation that as a condition for the award of the
10 contract, prompt notice will be given of any
11 notification received from the Director, Office of
12 Federal Activities, EPA, indicating that a facility
13 utilized, or to be utilized for the contract, is under
14 consideration to be listed on the EPA List of
15 Violating Facilities.
16

17 D. Agreement by the Sub-recipient that he will include,
18 or cause to be included, the criteria and requirements
19 in paragraph (1) through (4) of this section in every
20 nonexempt subcontract and requiring that the Sub-
21 recipient will take such action as the government may
22 direct as a means of enforcing such provisions.
23

24 12. **SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS**
25 **AND ACCIDENT PREVENTION**
26

27 A. **Lead-Based Paint Hazards**
28

29 The construction or rehabilitation of residential
30 structures is subject to the HUD Lead-Based Paint
31 regulations, 24 CFR Part 35. The Sub-recipient and sub-
32 recipients shall comply with the provisions for the
33 elimination of lead-based paint hazards under Subpart B of
34 said regulations. The Owner will be responsible for the
35 inspections and certifications required under Section 35.14
36 (f) thereof.
37

38 B. **Use of Explosives**
39

40 When the use of explosives is necessary for the prosecution
41 of the work, the Sub-recipient shall observe all local,
42 state and federal laws in purchasing and handling
43 explosives. The Sub-recipient shall take all necessary
44 precaution to protect completed work, neighboring property,
45 water lines, or other underground structures. Where there
46 is danger to structures or property from blasting, the
47 charges shall be reduced and the material shall be covered

1 with suitable timber, steel or rope mats.
2 The Sub-recipient shall notify all owners of public utility
3 property of intention to use explosives at least 8 hours
4 before blasting is done close to such property. Any
5 supervision or direction of use of explosives by the
6 engineer does not in any way reduce the responsibility of
7 the Sub-recipient or his Surety for damages that may be
8 caused by such use.
9

10 **C. Danger Signals and Safety Devices (Modify as Required)**
11

12 The Sub-recipient shall make all necessary precautions to
13 guard against damages to property and injury to persons.
14 He shall put up and maintain in good condition, sufficient
15 red or warning lights at night, suitable barricades and
16 other devices necessary to protect the public. In case the
17 Sub-recipient fails or neglects to take such precautions,
18 the Owner may have such lights and barricades installed and
19 charge the cost of this work to the Sub-recipient. Such
20 action by the Owner does not relieve the Sub-recipient of
21 any liability incurred under these specifications or
22 contract.
23

24 **13. FLOOD DISASTER PROTECTION**
25

26 This contract is subject to the requirements of the Flood
27 Disaster Protection Act of 1973 (P.L. 93 234). Nothing
28 included as a part of this contract is approved for
29 acquisition or construction purposes as defined under
30 Section 3(a) of said Act, for use in an area identified by
31 the Secretary of HUD as having special flood hazards which
32 is located in a community not then in compliance with the
33 requirements for participation in the National Flood
34 Insurance Program pursuant to Section 201(d) of said Act;
35 and the use of any assistance provided under this contract
36 for such acquisition for construction in such identified
37 areas in communities then participating in the National
38 Flood Insurance Program shall be subject to the mandatory
39 purchase of flood insurance requirements or Section 102(a)
40 of said Act.
41

42 Any contract or agreement for the sale, lease, or other
43 transfer of land acquired, cleared or improved with
44 assistance provided under this Contract shall contain, if
45 such land is located in an area identified by the Secretary
46 as having special flood hazards and in which the sale of
47 flood insurance has been made available under the National

1 Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et
2 seq., provisions obligating the transferee and its
3 successors or assigns to obtain and maintain, during the
4 ownership of such land, such flood insurance as required
5 with respect to financial assistance for acquisition or
6 construction purposes under Section 102(a) of Flood
7 Disaster Protection Act of 1973.
8

9 **14. ACCESS TO RECORDS - MAINTENANCE OF RECORDS**

10
11 The Department of Housing and Urban Development, the
12 Comptroller General of the United States, or any of their
13 duly authorized representatives, shall have access to any
14 books, documents, papers and records of the Sub-recipient
15 which are directly pertinent to this specific contract, for
16 the purpose of audits, examinations, and making excerpts
17 and transcriptions. All records connected with this
18 contract will be maintained in a central location by the
19 unit of local government and will be maintained for a
20 period of five (5) years from the official date of the
21 final closeout of the grant.
22

23 **15. INSPECTION**

24
25 The authorized representative and agents of the Department
26 of Housing and Urban Development shall be permitted to
27 inspect all work, materials, payrolls, records of
28 personnel, invoices of materials, and other relevant data
29 and records.
30

31 **16. REPORTING REQUIREMENTS**

32
33 The Sub-recipient shall complete and submit all reports, in
34 such form and according to such schedule, as may be
35 required by the Owner.
36

37 **17. CONFLICT OF INTEREST**

38
39 A. No officer or employee of the local jurisdiction or
40 its designees or agents, no member of the governing
41 body, and no other public official of the locality who
42 his/her tenure or for one year thereafter, shall have
43 any interest, direct or indirect, in any contract or
44 subcontract, or the proceeds thereof, for work to be
45 performed. Further, the Sub-recipient shall cause to
46 be incorporated in all subcontracts the language set
47 forth in this paragraph prohibiting conflict of

1 interest.

- 2
- 3 B. No member of or delegate to Congress, or Resident
- 4 Commissioner, shall be admitted to any share or part
- 5 of this contract or to any benefit that may arise
- 6 there from, but this provision shall not be construed
- 7 to extend to this contract if made with a corporation
- 8 for its general benefit.
- 9

10 18. **ACTIVITIES AND CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER**

11 **11246, AS AMENDED**

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

13 under)

14

15 During the performance of this contract, the Sub-recipient

16 agrees as follows:

17

- 18 A. The Sub-recipient shall not discriminate against any
- 19 employee or applicant for employment because of race,
- 20 color, religion, sex, or national origin. The Sub-
- 21 recipient shall take affirmative action to ensure that
- 22 applicants for employment are employed, and that employees
- 23 are treated during employment, without regard to their
- 24 race, color, religion, sex, or national origin. Such
- 25 action shall include, but not be limited to, the following:
- 26 employment, upgrading, demotion, or transfer; recruitment
- 27 or recruitment advertising; layoff or termination; rates of
- 28 pay or other forms of compensation; and selection for
- 29 training, including apprenticeship.
- 30

- 31 B. The Sub-recipient shall post in conspicuous places,
- 32 available to employees and applicants for employment,
- 33 notices to be provided by Contracting Officer setting forth
- 34 the provisions of this non-discrimination clause. The Sub-
- 35 recipient shall state that all qualified applicants will
- 36 receive consideration for employment without regard to
- 37 race, color, religion, sex, or national origin.
- 38

- 39 C. Sub-recipients shall incorporate foregoing requirements in
- 40 all subcontracts.
- 41

42 19. **PATENTS**

43

- 44 A. The Sub-recipient shall hold and save the Owner and its
- 45 officers, agents, servants, and employees harmless from
- 46 liability of any nature or kind, including cost and
- 47 expenses for, or on account of any patented or unpatented

1 invention, process, article, or appliance manufactured or
2 used in the performance of the contract including its use
3 by the Owner, unless otherwise specifically stipulated in
4 the Contract Document.

5
6 B. License or Royalty Fees: License and/or Royalty Fees for
7 the use of a process which is authorized by the Owner of
8 the project must be reasonable, and paid to the holder of
9 the patent, or his authorized license, direct by the Owner
10 and not by or through the Sub-recipient.

11
12 C. If the Sub-recipient uses any design device or materials
13 covered by letters, patent or copyright, he shall provide
14 for such use by suitable agreement with the owner of such
15 patented or copy-righted design device or material. It is
16 mutually agreed and understood, that without exception the
17 contract prices shall include all royalties or costs
18 arising from the use of such design, device or materials,
19 in any way involved in the work. The Sub-recipient and/or
20 his Sureties shall indemnify and save harmless the Owner of
21 the project from any and all claims for infringement by
22 reason of the use of such patented or copy-righted design,
23 device or materials or any trademark or copy-right in
24 connection with work agreed to be performed under this
25 contract, and shall indemnify the Owner for any cost,
26 expense, or damage which it may be obliged to pay by reason
27 of such infringement at any time during the prosecution of
28 the work or after completion of the work.

29
30 20. **COPYRIGHT**

31
32 No materials, to include but not limited to reports, maps,
33 or documents produced as a result of this contract, in
34 whole or in part, shall be available to the Sub-recipient
35 for
36 copy-right purposes. Any such materials produced as a
37 result of this contract that might be subject to copyright
38 shall be the property of the Owner and all such rights
39 shall belong to the Owner.

40
41 21. **TERMINATION FOR CAUSE**

42
43 If, through any cause, the Sub-recipient shall fail to
44 fulfill in a timely and proper manner his obligations under
45 this contract, or if the Sub-recipient shall violate any of
46 the covenants, agreements, or stipulations of this
47 contract, the Owner shall thereupon have the right to

1 terminate this contract by giving written notice to the
2 Sub-recipient of such termination and specifying the
3 effective date thereof, at least five (5) days before the
4 effective date of such termination. In such event, all
5 finished or unfinished documents, data, studies, surveys,
6 drawings, maps, models, photographs, and reports prepared
7 by the Sub-recipient under this contract shall, at the
8 option of the Owner, become the Owner's property and the
9 Sub-recipient shall be entitled to receive just and
10 equitable compensation for any work satisfactorily
11 completed hereunder. Notwithstanding the above, the Sub-
12 recipient shall not be relieved of liability to the Owner
13 for damages sustained by the Owner by virtue of any breach
14 of the contract by the Sub-recipient, and the Owner may
15 withhold any payments to the Sub-recipient for the purpose
16 of set-off until such time as the exact amount of damages
17 due the Owner from the Sub-recipient is determined.
18

19 **22. TERMINATION FOR CONVENIENCE**

20
21 The Owner may terminate this contract at any time by giving
22 at least ten (10) days notice in writing to the Sub-
23 recipient. If the contract is terminated by the Owner as
24 provided herein, the Sub-recipient will be paid for the
25 time provided and expenses incurred up to the termination
26 date.
27

28 **23. ENERGY EFFICIENCY**

29
30 The Sub-recipient shall comply with mandatory standards and
31 policies relating to energy efficiency which are contained
32 in the state energy conservation plan issued in compliance
33 with the Energy Policy and Conservation Act (Public Law 94-
34 163)..
35

36 **24. SUBCONTRACTS**

- 37
38 A. The Sub-recipient shall not enter into any subcontract with
39 any contractor who has been debarred, suspended, declared
40 ineligible, or voluntarily excluded from participating in
41 contacting programs by any agency of the United States
42 Government or the State of Louisiana.
43
44 B. The Sub-recipient shall be as fully responsible to the
45 Owner for the acts and omissions of the Sub-recipient's
46 sub-recipients, and of persons either directly or
47 indirectly employed by them, as he is for the acts and

omissions of persons directly employed by the Sub-recipient.

C. The Sub-recipient shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind contractor to the Sub-recipient by the terms of the contract documents insofar as applicable to the work of sub-recipients and to give the Sub-recipient the same power as regards terminating any subcontract that the Owner may exercise over the Sub-recipient under any provision of the contract documents.

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

25. DEBARMENT, SUSPENSION, AND INELIGIBILITY

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

26. PROTECTION OF LIVES AND HEALTH

The Sub-recipient shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the worksite, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971, Title 29 - LABOR, shall be observed and the Sub-recipient shall take or cause to be taken, such additional safety and health measures as the Owner may determine to be reasonably necessary.

27. BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Sub-recipient or the Sub-recipient's sub-recipients may result in the suspension or termination of this

1 contract or such other action that may be necessary to enforce
2 the rights of the parties of this contract. The duties and
3 obligations imposed by the contract documents and the rights
4 and remedies available there under shall be in addition to
5 and not a limitation of any duties, obligations, rights and
6 remedies otherwise imposed or available by law.
7

8 **28. PROVISIONS REQUIRED BY LAW DEEMED INSERTED**
9

10 Each and every provision of law and clause required by law
11 to be inserted in this contract shall be deemed to be
12 inserted herein and the contract shall be read and enforced
13 as though it were included herein, and if through mistake
14 or otherwise any such provision is not inserted, or is not
15 correctly inserted, then upon the application of either
16 party the contract shall forthwith be physically amended to
17 make such insertion or correction.
18

19 **29. CHANGES**
20

21 The Owner may, from time to time, request changes in the
22 scope of the services of the Sub-recipient to be performed
23 hereunder. Such changes, including any increase or
24 decrease in the amount of the Sub-recipient's compensation
25 which are mutually agreed upon by and between the Owner and
26 the Sub-recipient, shall be incorporated in written and
27 executed amendments to this Contract.
28

29 **30. PERSONNEL**
30

31 The Sub-recipient represents that it has, or will secure at
32 its own expense, all personnel required in performing the
33 services under this Contract. Such personnel shall not be
34 employees of or have any contractual relationship with the
35 Owner.
36

37 All the services required hereunder will be performed by
38 the Sub-recipient or under its supervision, and all
39 personnel engaged in the work shall be fully qualified and
40 shall be authorized or permitted under State and local law
41 to perform such services.
42

43 No person who is serving sentence in a penal or
44 correctional institution shall be employed on work under
45 this Contract.
46

47 **31. ANTI-KICKBACK RULES**

1
2 Salaries of personnel performing work under this Contract
3 shall be paid unconditionally and not less often than once
4 a month without payroll deduction or rebate on any account
5 except only such payroll deductions as are mandatory by law
6 or permitted by the applicable regulations issued by the
7 Secretary of Labor pursuant to the "Anti-Kickback Act" of
8 June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108;
9 Title 18 U.S.C. 874; and Title 40 U.S.C. 276c). The Sub-
10 recipient shall comply with all applicable "Anti-Kickback"
11 regulations and shall insert appropriate provisions in all
12 subcontracts covering work under this contract to insure
13 compliance by the sub-recipients with such regulations, and
14 shall be responsible for the submission of affidavits
15 required of sub-recipients there under except as the
16 Secretary of Labor may specifically provide for variations
17 of or exemptions from the requirements thereof.
18

19 **32. ASSIGNABILITY**

20
21 The Sub-recipient shall not assign any interest in this
22 Contract, and shall not transfer any interest in the same
23 (whether by assignment or novation) without prior written
24 approval of the Owner provided that claims for money due or
25 to become due the Sub-recipient from the Owner under this
26 Contract may be assigned to a bank, trust company, or other
27 financial institution, or to a Trustee in Bankruptcy,
28 without such approval. Notice of any such assignment or
29 transfer shall be furnished promptly to the Owner.
30

31 **33. INTEREST OF SUB-RECIPIENT**

32
33 The Sub-recipient covenants that he presently has no
34 interest and shall not acquire any interest direct or
35 indirect in the above described project or any parcels
36 therein or any other interest which would conflict in any
37 manner or degree with the performance of his services
38 hereunder. The Sub-recipient further covenants that in the
39 performance of this Contract no person having any such
40 interest shall be employed.
41

42 **34. POLITICAL ACTIVITY**

43
44 The Sub-recipient will comply with the provisions of the
45 Hatch Act (5 U.S.C. 1501 et seq.), which limits the
46 political activity of employees.
47

1 35. **COMPLIANCE WITH THE OFFICE OF MANAGEMENT AND BUDGET**

2
3 The parties agree to comply with the regulations, policies,
4 guidelines, and requirements of the Office of Management
5 and Budget, Circulars 2 CFR 200, as they relate to the use
6 of Federal funds under this contract.
7
8
9

10
11
12 36. **DISCRIMINATION DUE TO BELIEFS**

13
14 No person with responsibilities in operation of the project
15 to which this grant relates will discriminate with respect
16 to any program participant or any applicant for
17 participation in such program because of political
18 affiliation or beliefs.
19

20 37. **CONFIDENTIAL FINDINGS**

21
22 All of the reports, information, data, etc., prepared or
23 assembled by the Sub-recipient under this Contract are
24 confidential, and the Sub-recipient agrees that they shall
25 not be made available to any individual or organization
26 without prior written approval of the Owner.
27

28 38. **LOBBYING**

29
30 The Sub-recipient certifies, to the best of his or her
31 knowledge and belief that:
32

- 33 1. No federally appropriated funds have been paid or will be
34 paid, by or on behalf of the Sub-recipient, to any person
35 for influencing or attempting to influence an officer or
36 employee of any agency, a member of Congress, an officer or
37 employee of Congress, or an employee of a member of
38 Congress in connection with the awarding of any federal
39 contract, the making of any federal grant, the making of
40 any federal loan, the entering into of any cooperative
41 agreement, and the extension, continuation, renewal,
42 amendment, or modification of any federal contract, grant,
43 loan, or cooperative agreement.
44
45 2. If any funds other than federally appropriated funds have
46 been paid or will be paid to any person for influencing or
47 attempting to influence an officer or employee of any

1 agency, a member of Congress, an officer or employee of
2 Congress, or an employee of a member of Congress in
3 connection with this federal contract, grant, loan, or
4 cooperative agreement, the Sub-recipient shall complete and
5 submit Standard Form LLL, "Disclosure Form to Report
6 Lobbying," in accordance with its instructions.
7

8 **39. FEDERAL LABOR STANDARDS PROVISIONS**
9

10 The Sub-recipient shall abide by the requirements of the Federal
11 Labor Standards Provisions (form HUD-4010) as follows.
12

13 **Federal Labor Standards Provisions**

14 **U.S. Department of Housing and Urban Development**
15 **Office of Labor Relations**
16

17 **Applicability**
18

19 The Project or Program to which the construction work covered by
20 this contract pertains is being assisted by the United States of
21 America and the following Federal Labor Standards Provisions are
22 included in this Contract pursuant to the provisions applicable
23 to such Federal assistance.
24

25 **A. 1. (i) Minimum Wages.** All laborers and mechanics employed or
26 working upon the site of the work will be paid unconditionally
27 and not less often than once a week, and without subsequent
28 deduction or rebate on any account (except such payroll
29 deductions as are permitted by regulations issued by the
30 Secretary of Labor under the Copeland Act (29 CFR Part 3), the
31 full amount of wages and bona fide fringe benefits (or cash
32 equivalents thereof) due at time of payment computed at rates
33 not less than those contained in the wage determination of the
34 Secretary of Labor which is attached hereto and made a part
35 hereof, regardless of any contractual relationship which may be
36 alleged to exist between the Sub-recipient and such laborers and
37 mechanics. Contributions made or costs reasonably anticipated
38 for bona fide fringe benefits under Section 1(b)(2) of the
39 Davis-Bacon Act on behalf of laborers or mechanics are
40 considered wages paid to such laborers or mechanics, subject to
41 the provisions of 29 CFR 5.5(a)(1)(iv); also, regular
42 contributions made or costs incurred for more than a weekly
43 period (but not less often than quarterly) under plans, funds,
44 or programs, which cover the particular weekly period, are
45 deemed to be constructively made or incurred during such weekly
46 period.
47

1 Such laborers and mechanics shall be paid the appropriate wage
2 rate and fringe benefits on the wage determination for the
3 classification of work actually performed, without regard to
4 skill, except as provided in 29 CFR 5.5(a)(4). Laborers or
5 mechanics performing work in more than one classification may be
6 compensated at the rate specified for each classification for
7 the time actually worked therein: Provided, That the employer's
8 payroll records accurately set forth the time spent in each
9 classification in which work is performed. The wage
10 determination (including any additional classification and wage
11 rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon
12 poster (WH-1321) shall be posted at all times by the Sub-
13 recipient and its sub-recipients at the site of the work in a
14 prominent and accessible, place where it can be easily seen by
15 the workers.

16
17 **(ii) (a)** Any class of laborers or mechanics which is not listed
18 in the wage determination and which is to be employed under the
19 contract shall be classified in conformance with the wage
20 determination. HUD shall approve an additional classification
21 and wage rate and fringe benefits therefor only when the
22 following criteria have been met:

23
24 **(1)** The work to be performed by the classification requested is
25 not performed by a classification in the wage determination; and

26
27 **(2)** The classification is utilized in the area by the
28 construction industry; and

29
30 **(3)** The proposed wage rate, including any bona fide fringe
31 benefits, bears a reasonable relationship to the wage rates
32 contained in the wage determination.

33
34 **(b)** If the Sub-recipient and the laborers and mechanics to be
35 employed in the classification (if known), or their
36 representatives, and HUD or its designee agree on the
37 classification and wage rate (including the amount designated
38 for fringe benefits where appropriate), a report of the action
39 taken shall be sent by HUD or its designee to the Administrator
40 of the Wage and Hour Division, Employment Standards
41 Administration, U.S. Department of Labor, Washington, D.C. every
42 additional classification action within 30 days of receipt and
43 so advise HUD or its designee or will notify HUD or its designee
44 within the 30-day period that additional time is necessary.
45 (Approved by the Office of Management and Budget under OMB
46 control number 1215-0140.)

1 (c) In the event the Sub-recipient, the laborers or mechanics to
2 be employed in the classification or their representatives, and
3 HUD or its designee do not agree on the proposed classification
4 and wage rate (including the amount designated for fringe
5 benefits, where appropriate), HUD or its designee shall refer
6 the questions, including the views of all interested parties and
7 the recommendation of HUD or its designee, to the Administrator
8 for determination. The Administrator, or an authorized
9 representative, will issue a determination within 30 days of
10 receipt and so advise HUD or its designee or will notify HUD or
11 its designee within the 30-day period that additional time is
12 necessary. (Approved by the Office of Management and Budget
13 under OMB Control Number 1215-0140.)
14

15 (d) The wage rate (including fringe benefits where appropriate)
16 determined pursuant to subparagraphs (1)(ii)(b) or (c) of this
17 paragraph, shall be paid to all workers performing work in the
18 classification under this contract from the first day on which
19 work is performed in the classification.
20

21 (iii) Whenever the minimum wage rate prescribed in the contract
22 for a class of laborers or mechanics includes a fringe benefit
23 which is not expressed as an hourly rate, the Sub-recipient
24 shall either pay the benefit as stated in the wage determination
25 or shall pay another bona fide fringe benefit or an hourly cash
26 equivalent thereof.
27

28 (iv) If the Sub-recipient does not make payments to a trustee or
29 other third person, the Sub-recipient may consider as part of
30 the wages of any laborer or mechanic the amount of any costs
31 reasonably anticipated in providing bona fide fringe benefits
32 under a plan or program, Provided, That the Secretary of Labor
33 has found, upon the written request of the Sub-recipient, that
34 the applicable standards of the Davis-Bacon Act have been met.
35 The Secretary of Labor may require the Sub-recipient to set
36 aside in a separate account assets for the meeting of
37 obligations under the plan or program. (Approved by the Office
38 of Management and Budget under OMB Control Number 1215-0140.)
39

40 **2. Withholding.** HUD or its designee shall upon its own action or
41 upon written request of an authorized representative of the
42 Department of Labor withhold or cause to be withheld from the
43 Sub-recipient under this contract or any other Federal contract
44 with the same prime Sub-recipient, or any other Federally-
45 assisted contract subject to Davis-Bacon prevailing wage
46 requirements, which is held by the same prime Sub-recipient so
47 much of the accrued payments or advances as may be considered

1 necessary to pay laborers and mechanics, including apprentices,
2 trainees and helpers, employed by the Sub-recipient or any
3 contractor the full amount of wages required by the contract. In
4 the event of failure to pay any laborer or mechanic, including
5 any apprentice, trainee or helper, employed or working on the
6 site of the work, all or part of the wages required by the
7 contract, HUD or its designee may, after written notice to the
8 Sub-recipient, sponsor, applicant, or owner, take such action as
9 may be necessary to cause the suspension of any further payment,
10 advance, or guarantee of funds until such violations have
11 ceased. HUD or its designee may, after written notice to the
12 Sub-recipient, disburse such amounts withheld for and on account
13 of the Sub-recipient or Sub-recipient to the respective
14 employees to whom they are due. The Comptroller General shall
15 make such disbursements in the case of direct Davis-Bacon Act
16 contracts.

17
18 **3. (i) Payrolls and basic records.** Payrolls and basic records
19 relating thereto shall be maintained by the Sub-recipient during
20 the course of the work preserved for a period of three years
21 thereafter for all laborers and mechanics working at the site of
22 the work. Such records shall contain the name, address, and
23 social security number of each such worker, his or her correct
24 classification, hourly rates of wages paid (including rates of
25 contributions or costs anticipated for bona fide fringe benefits
26 or cash equivalents thereof of the types described in Section
27 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of
28 hours worked, deductions made and actual wages paid. Whenever
29 the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv)
30 that the wages of any laborer or mechanic include the amount of
31 any costs reasonably anticipated in providing benefits under a
32 plan or program described in Section 1(b)(2)(B) of the Davis-
33 Bacon Act, the Sub-recipient shall maintain records which show
34 that the commitment to provide such benefits is enforceable,
35 that the plan or program is financially responsible, and that
36 the plan or program has been communicated in writing to the
37 laborers or mechanics affected, and records which show the costs
38 anticipated or the actual cost incurred in providing such
39 benefits. Sub-recipients employing apprentices or trainees under
40 approved programs shall maintain written evidence of the
41 registration of apprenticeship programs and certification of
42 trainee programs, the registration of the apprentices and
43 trainees, and the ratios and wage rates prescribed in the
44 applicable programs. (Approved by the Office of Management and
45 Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

46
47 **(ii) (a)** The Sub-recipient shall submit weekly for each week in

1 which any contract work is performed a copy of all payrolls to
2 HUD or its designee if the agency is a party to the contract,
3 but if the agency is not such a party, the Sub-recipient will
4 submit the payrolls to the applicant sponsor, or owner, as the
5 case may be, for transmission to HUD or its designee. The
6 payrolls submitted shall set out accurately and completely all
7 of the information required to be maintained under 29 CFR
8 5.5(a)(3)(i). This information may be submitted in any form
9 desired. Optional Form WH-347 is available for this purpose and
10 may be purchased from the Superintendent of Documents (Federal
11 Stock Number 029-005-00014-1), U.S. Government Printing Office,
12 Washington, DC 20402. The prime Sub-recipient is responsible for
13 the submission of copies of payrolls by all sub-recipients.
14 (Approved by the Office of Management and Budget under OMB
15 Control Number 1215-0149.)
16

17 **(b)** Each payroll submitted shall be accompanied by a "Statement
18 of Compliance," signed by the Sub-recipient or Sub-recipient or
19 his or her agent who pays or supervises the payment of the
20 persons employed under the contract and shall certify the
21 following:
22

23 **(1)** That the payroll for the payroll period contains the
24 information required to be maintained under 29 CFR 5.5 (a)(3)(i)
25 and that such information is correct and complete;
26

27 **(2)** That each laborer or mechanic (including each helper,
28 apprentice, and trainee) employed on the contract during the
29 payroll period has been paid the full weekly wages earned,
30 without rebate, either directly or indirectly, and that no
31 deductions have been made either directly or indirectly from the
32 full wages earned, other than permissible deductions as set
33 forth in 29 CFR Part 3;
34

35 **(3)** That each laborer or mechanic has been paid not less than
36 the applicable wage rates and fringe benefits or cash
37 equivalents for the classification of work performed, as
38 specified in the applicable wage determination incorporated into
39 the contract.
40

41 **(c)** The weekly submission of a properly executed certification
42 set forth on the reverse side of Optional Form WH-347 shall
43 satisfy the requirement for submission of the "Statement of
44 Compliance" required by subparagraph A.3.(ii)(b).
45

46 **(d)** The falsification of any of the above certifications may
47 subject the Sub-recipient or Sub-recipient to civil or criminal

1 prosecution under Section 1001 of Title 18 and Section 231 of
2 Title 31 of the United States Code.

3
4 **(iii)** The Sub-recipient or contractor shall make the records
5 required under subparagraph A.3.(i) available for inspection,
6 copying, or transcription by authorized representatives of HUD
7 or its designee or the Department of Labor, and shall permit
8 such representatives to interview employees during working hours
9 on the job. If the Sub-recipient or Sub-recipient fails to
10 submit the required records or to make them available, HUD or
11 its designee may, after written notice to the Sub-recipient,
12 sponsor, applicant or owner, take such action as may be
13 necessary to cause the suspension of any further payment,
14 advance, or guarantee of funds. Furthermore, failure to submit
15 the required records upon request or to make such records
16 available may be grounds for debarment action pursuant to 29 CFR
17 5.12.

18 19 **4. Apprentices and Trainees.**

20
21 **(i) Apprentices.** Apprentices will be permitted to work at less
22 than the predetermined rate for the work they performed when
23 they are employed pursuant to and individually registered in a
24 bona fide apprenticeship program registered with the U.S.
25 Department of Labor, Employment and Training Administration,
26 Office of Apprenticeship Training, Employer and Labor Services,
27 or with a State Apprenticeship Agency recognized by the Office,
28 or if a person is employed in his or her first 90 days of
29 probationary employment as an apprentice in such an
30 apprenticeship program, who is not individually registered in
31 the program, but who has been certified by the Office of
32 Apprenticeship Training, Employer and Labor Services or a State
33 Apprenticeship Agency (where appropriate) to be eligible for
34 probationary employment as an apprentice. The allowable ratio of
35 apprentices to journeymen on the job site in any craft
36 classification shall not be greater than the ratio permitted to
37 the Sub-recipient as to the entire work force under the
38 registered program. Any worker listed on a payroll at an
39 apprentice wage rate, who is not registered or otherwise
40 employed as stated above, shall be paid not less than the
41 applicable wage rate on the wage determination for the
42 classification of work actually performed. In addition, any
43 apprentice performing work on the job site in excess of the
44 ratio permitted under the registered program shall be paid not
45 less than the applicable wage rate on the wage determination for
46 the work actually performed. Where a Sub-recipient is performing
47 construction on a project in a locality other than that in which

1 its program is registered, the ratios and wage rates (expressed
2 in percentages of the journeyman's hourly rate) specified in the
3 contractor's or sub-recipient's registered program shall be
4 observed. Every apprentice must be paid at not less than the
5 rate specified in the registered program for the apprentice's
6 level of progress, expressed as a percentage of the journeymen
7 hourly rate specified in the applicable wage determination.
8 Apprentices shall be paid fringe benefits in accordance with the
9 provisions of the apprenticeship program. If the apprenticeship
10 program does not specify fringe benefits, apprentices must be
11 paid the full amount of fringe benefits listed on the wage
12 determination for the applicable classification. If the
13 Administrator determines that a different practice prevails for
14 the applicable apprentice classification, fringes shall be paid
15 in accordance with that determination. In the event the Office
16 of Apprenticeship Training, Employer and Labor Services, or a
17 State Apprenticeship Agency recognized by the Office, withdraws
18 approval of an apprenticeship program, the Sub-recipient will no
19 longer be permitted to utilize apprentices at less than the
20 applicable predetermined rate for the work performed until an
21 acceptable program is approved.

22
23 **(ii) Trainees.** Except as provided in 29 CFR 5.16, trainees will
24 not be permitted to work at less than the predetermined rate for
25 the work performed unless they are employed pursuant to and
26 individually registered in a program which has received prior
27 approval, evidenced by formal certification by the U.S.
28 Department of Labor, Employment and Training Administration. The
29 ratio of trainees to journeymen on the job site shall not be
30 greater than permitted under the plan approved by the Employment
31 and Training Administration. Every trainee must be paid at not
32 less than the rate specified in the approved program for the
33 trainee's level of progress, expressed as a percentage of the
34 journeyman hourly rate specified in the applicable wage
35 determination. Trainees shall be paid fringe benefits in
36 accordance with the provisions of the trainee program. If the
37 trainee program does not mention fringe benefits, trainees shall
38 be paid the full amount of fringe benefits listed on the wage
39 determination unless the Administrator of the Wage and Hour
40 Division determines that there is an apprenticeship program
41 associated with the corresponding journeyman wage rate on the
42 wage determination which provides for less than full fringe
43 benefits for apprentices. Any employee listed on the payroll at
44 a trainee rate that is not registered and participating in a
45 training plan approved by the Employment and Training
46 Administration shall be paid not less than the applicable wage
47 rate on the wage determination for the work actually performed.

1 In addition, any trainee performing work on the job site in
2 excess of the ratio permitted under the registered program shall
3 be paid not less than the applicable wage rate on the wage
4 determination for the work actually performed. In the event the
5 Employment and Training Administration withdraws approval of a
6 training program, the Sub-recipient will no longer be permitted
7 to utilize trainees at less than the applicable predetermined
8 rate for the work performed until an acceptable program is
9 approved.

10
11 **(iii) Equal employment opportunity.** The utilization of
12 apprentices, trainees and journeymen under 29 CFR Part 5 shall
13 be in conformity with the equal employment opportunity
14 requirements of Executive Order 11246, as amended, and 29 CFR
15 Part 30.

16
17 **5. Compliance with Copeland Act requirements.** The Sub-recipient
18 shall comply with the requirements of 29 CFR Part 3 which are
19 incorporated by reference in this contract
20

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

31
32 **7. Contract termination; debarment.** A breach of the contract
33 clauses in 29 CFR 5.5 may be grounds for termination of the
34 contract and for debarment as a Sub-recipient and a Sub-
35 recipient as provided in 29 CFR 5.12.
36

37 **8. Compliance with Davis-Bacon and Related Act Requirements.** All
38 rulings and interpretations of the Davis-Bacon and Related Acts
39 contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by
40 reference in this contract.
41

42 **9. Disputes concerning labor standards.** Disputes arising out of
43 the labor standards provisions of this contract shall not be
44 subject to the general disputes clause of this contract. Such
45 disputes shall be resolved in accordance with the procedures of
46 the Department of Labor set forth in 29 CFR Parts 5, 6, and 7.
47 Disputes within the meaning of this clause include disputes

1 between the Sub-recipient (or any of its sub-recipients) and HUD
2 or its designee, the U.S. Department of Labor, or the employees
3 or their representatives.
4

5 **10. (i) Certification of Eligibility.** By entering into this
6 contract the Sub-recipient certifies that neither it (nor he or
7 she) nor any person or firm who has an interest in the Sub-
8 recipient's firm is a person or firm ineligible to be awarded
9 Government contracts by virtue of Section 3(a) of the Davis-
10 Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or
11 participate in HUD programs pursuant to 24 CFR Part 24.
12

13 **(ii)** No part of this contract shall be subcontracted to any
14 person or firm ineligible for award of a Government contract by
15 virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR
16 5.12(a)(1) or to be awarded HUD contracts or participate in HUD
17 programs pursuant to 24 CFR Part 24.
18

19 **(iii)** The penalty for making false statements is prescribed in
20 the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S.
21 Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal
22 Housing Administration transactions", provides in part:
23 "Whoever, for the purpose of . . . influencing in any way the
24 action of such Administration..... makes, utters or publishes
25 any statement knowing the same to be false..... shall be fined
26 not more than \$5,000 or imprisoned not more than two years, or
27 both."
28

29 **11. Complaints, Proceedings, or Testimony by Employees.** No
30 laborer or mechanic to whom the wage, salary, or other labor
31 standards provisions of this Contract are applicable shall be
32 discharged or in any other manner discriminated against by the
33 Sub-recipient or any contractor because such employee has filed
34 any complaint or instituted or caused to be instituted any
35 proceeding or has testified or is about to testify in any
36 proceeding under or relating to the labor standards applicable
37 under this Contract to his employer.
38

39 **B. Contract Work Hours and Safety Standards Act.** The provisions
40 of this paragraph B are applicable only where the amount of the
41 prime contract exceeds \$100,000. As used in this paragraph, the
42 terms "laborers" and "mechanics" include watchmen and guards.
43

44 **(1) Overtime requirements.** No Sub-recipient or Sub-recipient
45 contracting for any part of the contract work which may require
46 or involve the employment of laborers or mechanics shall require
47 or permit any such laborer or mechanic in any workweek in which

1 he or she is employed on such work to work in excess of 40 hours
2 in such workweek unless such laborer or mechanic receives
3 compensation at a rate not less than one and one-half times the
4 basic rate of pay for all hours worked in excess of 40 hours in
5 such workweek.

6
7 **(2) Violation;** liability for unpaid wages; liquidated damages.
8 In the event of any violation of the clause set forth in
9 subparagraph (1) of this paragraph, the Sub-recipient and any
10 Sub-recipient responsible therefore shall be liable for the
11 unpaid wages. In addition, such Sub-recipient and Sub-recipient
12 shall be liable to the United States (in the case of work done
13 under contract for the District of Columbia or a territory, to
14 such District or to such territory), for liquidated damages.
15 Such liquidated damages shall be computed with respect to each
16 individual laborer or mechanic, including watchmen and guards,
17 employed in violation of the clause set forth in subparagraph
18 (1) of this paragraph, in the sum of \$10 for each calendar day
19 on which such individual was required or permitted to work in
20 excess of the standard workweek of 40 hours without payment of
21 the overtime wages required by the clause set forth in sub
22 paragraph (1) of this paragraph.

23
24 **(3) Withholding for unpaid wages and liquidated damages.** HUD or
25 its designee shall upon its own action or upon written request
26 of an authorized representative of the Department of Labor
27 withhold or cause to be withheld, from any moneys payable on
28 account of work performed by the Sub-recipient or contractor
29 under any such contract or any other Federal contract with the
30 same prime contract, or any other Federally-assisted contract
31 subject to the Contract Work Hours and Safety Standards Act
32 which is held by the same prime Sub-recipient such sums as may
33 be determined to be necessary to satisfy any liabilities of such
34 Sub-recipient or contractor for unpaid wages and liquidated
35 damages as provided in the clause set forth in subparagraph (2)
36 of this paragraph.

37
38 **(4) Subcontracts.** The Sub-recipient or contractor shall insert
39 in any subcontracts the clauses set forth in subparagraph (1)
40 through (4) of this paragraph and also a clause requiring the
41 sub-recipients to include these clauses in any lower tier
42 subcontracts. The prime Sub-recipient shall be responsible for
43 compliance by any Sub-recipient or lower tier contractor with
44 the clauses set forth in subparagraphs (1) through (4) of this
45 paragraph.

46
47 **C. Health and Safety.** The provisions of this paragraph C are

1 applicable only where the amount of the prime contract exceeds
2 \$100,000.

3
4 (1) No laborer or mechanic shall be required to work in
5 surroundings or under working conditions which are unsanitary,
6 hazardous, or dangerous to his health and safety as determined
7 under construction safety and health standards promulgated by
8 the Secretary of Labor by regulation.

9
10 (2) The Sub-recipient shall comply with all regulations issued
11 by the Secretary of Labor pursuant to Title 29 Part 1926 and
12 failure to comply may result in imposition of sanctions pursuant
13 to the Contract Work Hours and Safety Standards Act, 40 USC 3701
14 et seq.

15
16 (3) The Sub-recipient shall include the provisions of this
17 paragraph in every subcontract so that such provisions will be
18 binding on each sub-recipient. The Sub-recipient shall take such
19 action with respect to any subcontract as the Secretary of
20 Housing and Urban Development or the Secretary of Labor shall
21 direct as a means of enforcing such provisions.

22 23 **40. SOLID WASTE DISPOSAL ACT**

24
25 The Grantee shall comply with Section 6002 if the Solid Waste
26 Disposal Act, as amended by the Resource Conservation and
27 Recovery Act. The requirements listed below include procuring
28 only items designated in guidelines of the Environmental
29 Protection Agency (EPA) AT 40 CFR part 247 containing the
30 highest percentage of recovered materials, practicable,
31 consistent with maintaining a satisfactory level of competition.

32
33 **Applicability.** (a) (1) This guideline applies to all procurement
34 actions using federal funding and involving items designated by
35 EPA in this part, where the purchase price of the item exceeds
36 \$10,000, the value of the quantity acquired by the preceding
37 fiscal year exceeds \$10,000. This guideline shall require that
38 all solid waste management services procurements are conducted
39 in a manner that maximizes energy and resource recovery. (2)
40 This guideline applies to any public agency using appropriated
41 Federal funds to procure designated items, and to persons
42 contracting with any such agencies with respect to work
43 performed under such contracts. (3) The \$10,000 threshold
44 applies to public agencies as a whole rather than to agency
45 subgroups such as regional offices or sub-agencies of a larger
46 department or agency.

47 (b) The term *procurement actions* includes:

1 (1) Purchases made directly by a procuring agency or
2 purchases made directly by any person (e.g., a contractor)
3 in support of work being performed for a procuring agency
4 using federal funds

5 (2) Any purchases of designated items made "indirectly" by
6 a procuring agency, as in the case of procurements
7 resulting from grants, loans, funds, and similar forms of
8 disbursements of monies.

9 (c)(1) This guideline does not apply to purchases of designated
10 items which are unrelated to or incidental to Federal funding,
11 i.e., not the direct result of a contract or agreement with, or
12 a grant, loan, or funds disbursement to, a procuring agency.

13 14 **41. CONFIDENTIALITY**

15
16 The Sub-Recipient shall comply with the Confidentiality
17 regulations, per 24 CFR 574.440. Per 24 CFR 574.440, "the
18 grantee shall agree, and shall ensure that each project sponsor
19 agrees, to ensure the confidentiality of the name of any
20 individual assisted under this part and any other information
21 regarding individuals receiving assistance." The Sub-recipient
22 shall ensure all documentation and written agreements protect
23 the confidentiality of all individuals/agencies funded or
24 receiving any assistance under this grant.

25 **42. REPAYMENT OF FUNDS**

26
27 Sub-recipient acknowledges that funds provided through this
28 Agreement are Federal funds administered by HUD and that all
29 funds provided by this Agreement are subject to audit,
30 disallowance, and repayment. Any disagreement with adverse
31 findings by HUD may be challenged pursuant to Federal
32 regulations, however, Sub-recipient shall promptly return to
33 Grantee any and all funds that are found to be ineligible,
34 unallowable, unreasonable, a duplication of benefits, or non-
35 compliance, no matter the cause. This clause shall survive
36 indefinitely the termination of this Agreement for any reason.

37 38 **43. DUPLICATION OF BENEFITS**

39
40 The Subrecipient shall not carry out any of the activities under
41 this Agreement in a manner that results in a prohibited
42 duplication of benefits as defined by Section 312 of the Robert
43 T. Stafford Disaster Relief and Emergency Assistance Act (42 USC
44 §5155). The Subrecipient must comply with HUD's requirements for
45 duplication of benefits imposed by Federal Register notice on
46 the City (81 Fed. Reg. 36564). The Federal Register notice
47 requires compliance with the following HUD guidance documents:

1 (1) the guidance published by HUD in the Federal Register on
2 November 16, 2011 (76 Fed. Reg. 71060); and (2) the guidance
3 document entitled "HUD Guidance on Duplication of Benefit
4 Requirements and Provision of CDBG Disaster Recover (DR)
5 Assistance," issued on July 25, 2013.

6
7 **44. LIMITED ENGLISH PROFICIENCY (LEP)**

8
9 **Assistance to Those with Limited English Proficiency.** The
10 Subrecipient agrees to take all reasonable actions to
11 communicate with persons who have Limited English Proficiency
12 (LEP) to ensure that such persons have meaningful access and an
13 equal opportunity to participate in the program(s) and/or
14 services funded under this Agreement.
15
16
17

Office Of Community Development
ATTN: Fiscal Unit
1340 Poydras Street - Suite 1000
New Orleans, LA 70112

1) Copy To:
Office Of Community Development
ATTN: AFFORDABLE HOUSING
1340 Poydras Street - Suite 1000
New Orleans, LA 70112

- AND -

BUDGET AND COST CONTROL STATEMENT

Page 1 of 3

Period Ending Date: June 1, 2020
Contract Period: TBD
Project Name: Lake Forest Manor
Project Number: TBD
PC Number: TBD
HUD Activity Number: TBD
Operating Agency: Office of Community Development
OCD Authorization:

Deliver One (1) Copy To:

Office Of Community Development
ATTN: AFFORDABLE HOUSING
1340 Poydras Street - Suite 1000
New Orleans, LA 70112

Instructions for completing Cost Control Statement:

Add Columns (2, 3 and 4) to obtain Column (5), then

Subtract Column (5) from Column (1) to obtain Column (6)

1,500,000

GRANT AMOUNT:

PROGRAM INCOME:

[illegible]

BUDGET AND COST CONTROL STATEMENT (Page 2 of 3)

Instructions for completing COST CONTROL STATEMENT: Add Columns (2, 3 and 4) to obtain Column (5), then Subtract Column (5) from Column (1) to obtain Column (6).

Cost Category	Line Item	(1) Amount Per Latest Approved Budget	(2) Cost for Reported Month	(3) Cumulative Cost Thru Last Month	(4) Recoupment	(5) YTD Cost Thru Reported Month	(6) Balance of Funds	FOR FISCAL ACCOUNTANT USE ONLY	
								LESS Questioned Cost	Description (7)
2000 - Contractual Services	2150 - Professional Services - Construction - Contractor Repairs (10101 Lake Forest Blvd.)	\$ 1,500,000.00	\$ -	\$ -	\$ -	\$ -	\$ 1,500,000.00		
	2000 - SUBTOTAL:	\$ 1,500,000.00	\$ -	\$ -	\$ -	\$ -	\$ 1,500,000.00		
3000 - Supplies & Materials									
	3000 - SUBTOTAL:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		

Cost Category	Line Item	FOR FISCAL ACCOUNTANT USE ONLY						
		(1)	(2)	(3)	(4)	(5)	(6)	(7)
4000 - Equipment & Property		Amount Per Latest Approved Budget	Cost for Reported Month	Cumulative Cost Thru Last Month	Recompment	YTD Cost Thru Reported Month	Balance of Funds	LESS Questioned Cost

CERTIFICATION:
I certify that to the best of my knowledge and belief this report is true in all aspects and that all supporting documentation for which the agency is requesting reimbursement is maintained in compliance with the conditions of the contract and grant provisions.

Signature of Authorized Official _____ Title _____ Phone Number _____ Ext. _____

Signature of Accountant / Preparer _____ Date Signed _____ Phone Number _____ Ext. _____

Date _____

For the Period Ending:
Cash Balance Beginning of Month \$ _____
Add: Cash Receipts: \$ _____
Less: Cash Disbursements: \$ _____
Cash Balance End of Month: \$ _____

For Final Accountant use only:
This Budget and Cost Control Statement has been authorized for payment.

Final Accountant _____ Date _____

ATTACHMENT VII

OFFICE OF COMMUNITY DEVELOPMENT (OCD) – FISCAL and COMPLIANCE UNIT

An overview of Policies and Procedures

I. Purpose

The following procedures are to assist staff members assigned to the Office of Community Development for the purpose of monitoring sub-grantee agencies for compliance with federal and state regulations regarding the use of funds awarded by these governmental agencies and to reduce and/or eliminate ineligible costs incurred by programs administered by the City of New Orleans.

II. Authorization

The Office of Community Development is authorized to monitor sub-grantee agencies which receive federal and/or state funding via the granting agencies (Office of Criminal Justice, New Orleans Police Department, Mayor's Office, Divisions of Federal and State Programs, Intergovernmental Relations...) The Office of Community Development and other monitors will review the fiscal and programmatic records of all agencies receiving grant funding through city departments and agencies. The review of these sub-grantees will be conducted by two teams of monitors, the City's Compliance Monitors and Contracted Monitors. OCD Fiscal and Compliance Unit will conduct monthly fiscal desk reviews and some site reviews based on a risk. Contracted Monitors will conduct programmatic and fiscal reviews based on risk.

III. Guidelines

A. Contract Compliance Guidelines

1. A copy of all agency award letters to sub-grantees must be submitted to the OCD Fiscal and Compliance Unit by the granting agency. Also, all new, renewed and amended contractual agreements must be forwarded to the OCD Fiscal and Compliance Unit upon execution.
2. All contractual agreements must include a copy of the OCD – Fiscal and Compliance Unit Policies and Procedures and authorizing federal legislation and thereby made a part of the documents.
3. Measurable goals, objectives and performance indicators must be specifically stated in the verbiage of the contract document for meaningful monitoring purposes.
4. All contractual agreements, meeting the expenditure requirement, must include a statement requiring sub-recipients to provide an engagement letter from a certified public accounting firm to conduct an audit of federal funding. A copy of the

engagement letter must be submitted to the director of the granting agency within a month of the agencies ending fiscal year. The director of the granting agency will forward a copy to OCD – Fiscal and Compliance Unit. The audit must be completed within nine (9) months after the project fiscal year ends. A copy of the completed audit should be received within nine months of the agencies fiscal year as outlined in OMB Circular 2 CFR 200.

B. Monitoring Responsibilities of the Office of Community Development

The Office of Community Development monitoring responsibilities are conducted by the Fiscal and Compliance Unit. The fiscal unit will perform monthly fiscal desk reviews of Cost Control Statements and the compliance unit will conduct site reviews of sub-recipient agencies receiving grant funding from the City.

Fiscal Unit Payment Processing Procedures:

The Subrecipients will prepare the following for submission to OCD's front desk:

1. The original cost control statement with supporting backup documentations.
2. The submission of cost control statements should occur at least by the fifth (5) working day of every month.

OCD receptionist will clock-in the cost control statement(s) and forward the original to the Program Analyst. The Program Analyst will review the documents for proper documentation and then forward the cost control statement(s) to the fiscal unit for processing. The Fiscal Accountant will verify costs documented in column two (2) on the original cost control statement(s) with the backup documents submitted by the Subrecipients. If costs submitted for reimbursement are questionable the Fiscal Accountant will email the Program Analyst and the subrecipient. It is the responsibility of the Subrecipient to recoup any questionable costs on the next period cost control statement(s). After total review, the Fiscal Accountant will forward all cost control statements to the Accounting/Finance Department for payment processing and filing. Subrecipients should expect to receive payment in approximately twenty (20) days after submitting cost control statement(s) to OCD – Fiscal Unit. All checks are mailed to the subrecipients.

The following documents are required for payment review and processing, which will include but is not limited to such items as:

1. Invoices
2. Payroll journal
3. General ledgers
4. Letters of approval and subcontract agreement for professional services
5. Bid information for supplies, materials and equipment when required
6. Letter of approval from Granting Agency if indirect cost is being requested
7. Lease agreements
- 8.

Compliance Monitor Site Review Responsibility

1 Compliance Monitors will conduct site reviews in accordance with the schedule devised
2 by the Team Leader, based on risk and need.

3
4 Site visits responsibilities for Compliance Monitors will include the review of the
5 following documented records:
6

7 1. Personal Services

- 8 a. Personnel policy
- 9 b. Time Sheets
- 10 c. Leave records
- 11 d. Payroll register
- 12 e. Federal and State withholding records for each employee
- 13 f. State unemployment tax forms
- 14 g. Convention and travel expense reports
- 15 h. Mileage reimbursement reports
- 16 I. Quarterly federal and state tax reports
- 17 j. Yearly 1099 and W2 forms

18
19 2. Accounting Journals

- 20 a. Cash Disbursements journal
- 21 b. Cash Receipts journal
- 22 c. General journal
- 23 d. General ledger
- 24 e. Subsidiary accounts payable ledgers

25
26 3. Bank Accounts

- 27 a. Signature cards
- 28 b. Separate bank account
- 29 c. Separate program income bank account
- 30 d. Monthly reconciled bank statements

31
32 4. Fidelity or Surety Bond

33
34 5. Contractual Services

- 35 a. Professional Services
 - 36 Three (3) "request for Proposal" (Bid's)
 - 37 Letter of Approval from the granting agency
 - 38 b. Subcontract agreement
 - 39 c. Cost allocation plans for utilities, if necessary, and pre-approved by the
 - 40 Granting Agency.
 - 41 d. Rent and lease agreements (Land and Building)
 - 42 e. Rent and lease agreement (Equipment)
 - 43 f. Long-distance telephone logs
 - 44 g. Indirect cost rate pre-approved by the Granting Agency
 - 45 h. An automobile mileage log
- 46

- 1 6. Supplies and Materials
- 2 a. Invoices
- 3 b. Bids required for purchase as follows:
- 4 1. Purchases less than \$250.00, no solicitation of bids is required
- 5 2. \$ 250.01 to \$1000.00 - needs three (3) telephone bids from vendors
- 6 3. \$1000.01 to \$5000.00 - need three (3) Request for Quotations
- 7 (RFQ's) from vendors
- 8 4. \$5,000.01 up - need prior approval from Granting Agency
- 9
- 10 c. Verification of Invoices must include:
- 11 1. Approval of payment;
- 12 2. Marked paid; and,
- 13 3. Indicate check number
- 14
- 15 7. Equipment
- 16 a. Bids required for purchase as follows:
- 17 1. Purchases less than \$250.00, no solicitation of bids is required
- 18 2. \$ 250.01 to \$1000.00 - needs three (3) telephone bids from vendors
- 19 3. \$1000.01 to \$5000.00 - need three (3) Request for Quotations
- 20 (RFQ's) from vendors
- 21 4. \$5,000.01 up - need prior approval from Granting Agency
- 22
- 23 8. Signed Corporate minutes to the Board of Directors regular meetings
- 24
- 25 9. Obtain and read copies of the pertinent documents from City of New Orleans
- 26 personnel
- 27
- 28 10. Review of fiscal documentation
- 29
- 30 11. Review the independent audit report
- 31

32 **D Compliance Team Leader**

33

34 Compliance Team Leader - responsibilities of review and distribution of assignments,

35 documents and reimbursements are as follows:

36

- 37 1. The Team Leader will generate and distribute a schedule of all programs to be
- 38 monitored.
- 39
- 40 2. The Team Leader and Compliance Monitors will collect, review, and distribute
- 41 reports to both the sub-grantee agencies and the granting agencies. Any findings in
- 42 the monitoring report which would prevent reimbursement will be noted and
- 43 reported to the Bureau of Accounting for the necessary action;
- 44
- 45 3. The Team Leader will be responsible for all personnel supervision of staff
- 46 members assigned to the OCD – Compliance Unit. These responsibilities include

1 monitoring reported work time, the signing of all time sheets, disciplinary actions
2 and annual evaluations;
3

4 Note: All employees assigned to the OCD – Fiscal and Compliance Unit will abide
5 by the personnel policies and procedures of the Office of Community Development.
6 An employee handbook will be provided to each assigned employee, delineating
7 items such as dress code requirements, work hours, office conduct, etc.
8

9 **E. Granting Agencies**

10
11 The Health Department, the Mayor's Office, OCD, the Police Department and any other
12 department receiving grant funding:
13

- 14 1. The Granting agencies must submit to the OCD Fiscal and Compliance a copy of
15 all new, renewed and amended sub-grantee contracts for review.
16
- 17 2. The Granting agencies will be responsible for contract development consistent with
18 the guidelines and regulations of the respective grantor agency (federal or state
19 government). Contracts must include measurable performance criteria for sub-
20 grantee adherence and effective monitoring. Also, contracts must include the
21 engagement letter for the services of a certified public accounting firm to conduct
22 an audit of subrecipients funding for agencies meeting the expenditure
23 requirements.
24
- 25 3. The granting agencies will provide for certified public accounting firm reviews
26 through grant funding.
27

28 **IV. Reimbursement Schedule**

29
30 The Accounting/Finance Department will generate a check twenty (20) days after the final
31 backup document is received in the OCD – Fiscal and Compliance Unit's office. The check
32 will be mailed to the subrecipients.
33

34 **V. Inquiries**

35 Detailed questions on any section of these policies and procedures should be directed to
36 the team leader at 658-4200

ATTACHMENT VIII

Project Schedule		Attachment VI
Enter Project Schedule		
	Activity	Scheduled Date (mm/dd/yyyy)
A. SITE		
	Option/Contract	3-Apr-19
	Site Acquisition	15-Jun-20
	Zoning Approval	3-Apr-19
	Site Analysis	
	Environmental Clearance	18-May-20
B. FINANCING		
1. Construction Loan/Interim Financing		
	Loan Application	31-Oct-19
	Conditional Commitment	15-Nov-19
	Firm Commitment	13-May-20
2. Permanent Loan		
	Loan Application	31-Oct-19
	Conditional Commitment	15-Nov-19
	Firm Commitment	13-May-20
3. Other Loans and Grants		
	Type & Source	BG-DR Funds
	Application	30-Oct-19
	Award	28-Feb-20
4. Other Loans and Grants		
	Type & Source	
	Application	
	Award	
C. PLANS AND SPECIFICATIONS, WORKING DRAWINGS		12-Nov-19
D. CLOSING AND TRANSFER OF PROPERTY		15-Jun-20
E. CONSTRUCTION START		22-Jun-20
	10% Construction complete	10-Sep-20
	50% Construction complete	1-Jan-20
	90% Construction complete	1-Jun-20
F. COMPLETION DATE		1-Aug-21
G. CERTIFICATE OF OCCUPANCY DATE		1-Aug-21
H. DATE FIRST UNIT RENTED		1-Sep-21
I. DATE LAST ASSISTED UNIT RENTED IN SERVICE		31-Dec-21
J. 100% OF UNIT OCCUPANCY ACHIEVED		31-Dec-21

ATTACHMENT IX

Lake Forest Manor

List of Properties

THE CERTAIN PIECE OR PORTION OF GROUND, together with all the buildings and Improvements thereon, and all the rights, ways privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise appertaining, situated in the THIRD DISTRICT of the City of New Orleans, SECTION 24 of the LaKratt Tract, former New Orleans-Lakeshore Land Company Subdivision, designated as LOT 3B-6 in accordance with survey prepared by BL Carter, CE, dated 2/14/78, approved by the City Planning Commission under date of April 27, 1978, registered in COB 749, folio 496, according to which said lot 3B-6 measures as follows, to-wit:

Beginning with iron rod on North ROW line of Lake Forest Blvd., 1242.88' in a westerly direction from the intersection of Lake Forest Boulevard and Farrar Canal, proceed in a westerly direction along a curved line of radius 1089.06', the same being the north ROW line of Lake Forest Boulevard, a distance of 181.90', thence 100.31' on bearing of North 34 degrees-56'-48" West, thence 35.0' on a bearing of south 55 degrees – 03'-12" west, thence 214.0' on a bearing of North 34 degrees – 56'48" West, thence 315.0' on a bearing of North 55 degrees – 03'-12" east, thence 274.0' on a bearing of south 34 degrees – 56'48" East, thence 227.92' on a bearing of south 6 degrees – 59'-08" west to point of beginning. All as is more fully shown on survey prepared by Robert E. Oswald, registered Land Surveyor, dated September 13, 1978.

The Improvements thereon bear the municipal number 10101 Lake Forest Blvd., New Orleans, LA.

This act is made and accepted subject to the following:

1. Any and all restriction, conditions, and/or servitudes which may appear in the chain of title; said reference thereto is not to be construed as an extension, recreation or re-establishment thereof.
2. Any and all servitudes, encroachments, encumbrances, and/or exceptions that would have been revealed by a current survey of the referenced property.
3. Restriction recorded in COB 754, folio 255.