

K23-01

SUBRECIPIENT AGREEMENT
BY AND BETWEEN
THE CITY OF NEW ORLEANS
AND
MEDICAL DEBT RESOLUTION, INC. (DBA RIP MEDICAL DEBT)
MEDICAL DEBT RETIREMENT PROJECT

THIS SUBRECIPIENT AGREEMENT (the "**Agreement**") is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the "**City**"), and Medical Debt Resolution, Inc. (dba RIP Medical Debt), represented by Allison Sesso, President and CEO (the "**Subrecipient**"). The City and the Subrecipient may sometimes each be referred to as a "**Party**," and collectively, as the "**Parties**." The Agreement is effective as of the date of execution (the "**Effective Date**").

RECITALS

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

WHEREAS, the Subrecipient is a non-profit whose principal address is located at 28-07 Jackson Avenue, 5th Fl, Long Island City, NY 11101;

WHEREAS, the City was awarded American Rescue Plan Act federal recovery funds ("**ARP program**") from the U.S. Treasury ("**Treasury**" or "**the Department**"), made available by the American Rescue Plan Act, 2021 (Public Law 117-2, signed March 11, 2021);

WHEREAS, the City has selected Medical Debt Resolution, Inc. to be a "Subrecipient" under the ARP program to receive ARP funds in the amount of \$1,300,000.00 to implement the program as set forth below;

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

WHEREAS, the activities hereunder are eligible under the ARP program;

WHEREAS, the City and the Subrecipient desire to accomplish the valuable public purpose of purchasing and retiring the medical debt of income-eligible New Orleans residents who are unable to cover their outstanding medical bills because they are experiencing financial hardship by managing and overseeing a medical debt program;

WHEREAS, ARPA funds will further the mission of the City to serve the broader objective of protecting the health, safety, and welfare of New Orleans residents by promoting economic

justice and equity, by addressing the negative health and economic impacts of COVID-19;

WHEREAS, the Subrecipient is an established nonprofit agency that is tax exempt under Internal Revenue Code 501(c)(3), which has extensive experience and expertise in providing medical debt relief;

WHEREAS, recognizing the damage that problematic medical debt can have on health, mental health, and economic well-being of individuals and families, the City and Subrecipient desire to retire medical debt for qualifying citizens of New Orleans;

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

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

ARTICLE I- GENERAL AWARD INFORMATION

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

Federal Award Identification Number (FAIN): SLT-1835 and SLT-7352

CFDA Number and Name: 21.019

Federal award project description: American Rescue Plan Act Federal Recovery Funding

Is this award for research and development? No

Subrecipient's unique entity identifier: 47-1442997

Amount of Federal funds obligated by this agreement: \$1,300,000.00

Total Amount of Federal Funds Obligated to the Subrecipient: \$1,300,000.00

Indirect cost rate applicable to the Subaward to the Subrecipient: 10%

Contact information:

Grantee:

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

Subrecipient:

Allison Sesso
Title: CEO
Subrecipient Name: RIP Medical Debt
Address: 28-07 Jackson Ave.
5th Fl., Long Island City, NY 11101
Phone: (202) 325.7159

ARTICLE II – DEFINITIONS

As used in this Agreement, the following terms have the meanings defined below:

A. RIP Medical Debt. Medical Debt Resolution, Inc., dba RIP Medical Debt, will serve as the subrecipient for the Program. RIP Medical Debt is a national, independent organization that is tax exempt under Internal Revenue Code Section 501(c)(3) that focuses on eliminating medical debt. RIP Medical Debt is uniquely positioned since recipients of debt relief have no adverse tax consequences or unforeseen obligations as with other debt relief programs. For those whose medical debts are cancelled, the relief is a gift from a detached and disinterested third party as an act of generosity and relief of the debt does not count as taxable income to the debtor. Also referred to herein as “Subrecipient”.

B. Program. The Program means the Program to be funded by the City of New Orleans from ARPA funds allocated to the City of New Orleans by the Federal government.

C. Program Funds. Includes \$1.3 million in ARPA funds allocated by the City of New Orleans to fund the Program.

D. Qualified Medical Debt. Qualified Medical Debt is the amount of medical debt at face value that satisfies Program Eligibility Criteria used to identify New Orleans residents who are experiencing financial hardship.

E. Program Eligibility Criteria. Program Eligibility Criteria include the following: a program recipient will be considered eligible for the Program if they (or their medical debt account guarantor) are low income (defined as living in a household with incomes between 0% and up to 400% of FPG) or are burdened by medical debt (defined as having medical debt equal to or exceeding 5% of household income); program recipients also must be a current resident the City of New Orleans.

F. FPG. Federal Poverty Guidelines.

ARTICLE III – SUBRECIPIENT’S OBLIGATIONS

A. Statement of Work. The Subrecipient shall:

1. Establish Program management infrastructure;
2. Recruit hospitals and other providers so that they agree to sell or donate medical debt to RIP Medical Debt for purposes of debt cancellation;

RIP Medical Debt will lead and oversee outreach and marketing to hospital providers located in the City so they agree to sell or donate medical debt for Program purposes. Steps will include:

- a. Developing and implementing a marketing and outreach strategy.
- b. Meeting periodically with the Louisiana Hospital Association and other associations that represent City of New Orleans providers to encourage their awareness and support of the project.

- c. Meeting with hospitals and other providers that serve New Orleans to encourage their participation in the project.
- d. Encouraging hospitals and other providers to sell or donate medical debt for abolishment both on a one-time and a recurring basis (e.g., quarterly or annually).
- e. Keeping the City of New Orleans informed regarding the status of the recruitment process, including the number of hospitals and other providers that reach key stages of the process (e.g., Business Associate Agreement and Non-Disclosure Agreement signed, patient accounts data file transmitted to RIP Medical Debt for analysis, and others).
- f. Creating a minimum of two impact videos or testimonials and reports for the City of New Orleans during the period of the subrecipient's contract.

RIP Medical Debt enters into Business Associate Agreements (BAAs) and Non-Disclosure Agreements (NDAs) with hospitals and other providers early in the medical debt acquisition and abolishment process. Negotiating the terms of BAAs and NDAs typically requires substantive involvement of RIP Medical Debt's counsel. Signing BAAs and NDAs provides important comfort to hospitals and also to RIP Medical Debt that certain information will remain confidential. Having these agreements in place also is aligned with advice received from counsel that RIP Medical Debt may not disclose the names of hospitals and other providers without permission;

RIP Medical Debt will be able to share information with the City including the required metrics and the status of the project. However, specific information regarding the names of hospitals and other providers that have (and have not) agreed to participate may not be shared unless those providers consent to these disclosures;

3. Request and receive patient accounts data files from hospitals and other providers;

After entering into Business Associate Agreements and Non-Disclosure Agreements, RIP Medical Debt will ask hospitals and other providers to prepare and transmit patient accounts data files for analysis. RIP Medical Debt maintains detailed file specifications that are shared with hospitals and other providers for this purpose. Data files are transmitted securely via SFTP (SSH File Transfer Protocol) or using other, highly secure methods;

RIP Medical Debt may modify its file specifications to support reporting program metrics and to assess program impacts;

4. Continue to request and receive patient accounts data files from commercial debt buyers who have acquired medical debt for City of New Orleans residents for collections purposes;

5. Analyze patient accounts data files (using proprietary scrubbing processes) to identify individuals with medical debt that meet Program Eligibility Criteria;

6. Provide confidential feedback on the effectiveness of current Financial Assistance Policies and procedures;

7. Develop proposals to acquire medical debt using RIP Medical Debt's standard pricing model;

8. Use ARPA subrecipient funds to acquire and cancel medical debt for eligible program recipients;
 9. Issue letters to notify individuals that medical debts have been cancelled;
 10. Solicit and collect testimonials from eligible Program recipients;
 11. Support marketing and outreach in collaboration with the City of New Orleans' communications team;
 12. Subrecipient will acknowledge the City when describing projects or programs funded in whole or in part with City funds. Subrecipient and any additional recipients shall promote the Program to participants within the City. Subrecipient will review flyer, advertisement, press release, and other templates with the City for the City's input before publication; the Subrecipient may draw from pre-approved language for additional communications as needed. The City may advertise and promote the Program, at its sole cost, as it deems necessary or desirable. The City will review flyer, advertisement, press release, and other templates prepared by City with the Subrecipient for the Subrecipient's input before publication; the City may draw from language pre-approved by Subrecipient as needed;
 13. Conduct data analysis and develop insights to guide the City of New Orleans on progress and program impacts;
 14. Comply with Treasury/City-Wide/Program-Specific/and Equity metric reporting requirements;
 15. Support the City of New Orleans' Program Monitoring and Compliance;
 16. Perform all other services and obligations as set forth in any the following documents that are incorporated fully into this Agreement: Exhibit A (Workplan) and Exhibit B (Schedule of Work);
 17. Submit complete and accurate invoices, maintain records, submit to audits and inspections, maintain insurance, and perform all other obligations of the Subrecipient as set forth in this Agreement;
 18. Promptly correct any errors or omissions and any work deemed unsatisfactory or unacceptable by the City, all at no additional compensation;
 19. Monitor, supervise, and otherwise control and be solely responsible for all persons performing work on its behalf;
 20. Perform all requirements set forth in La. R.S. 38:2192, including, without limitation, the payment of any associated costs, and submit a copy of any recorded documents to the City within 30 days after the approval of the associated plan change or amendment; and
 21. Cooperate with the City and any person performing work for the City.
- B. Standards.** The Subrecipient, and any person performing work on its behalf, will perform all work under this Agreement in accordance with care & skill ordinarily used by members of the Subrecipient's profession practicing under similar circumstances at the same time and in the same locality.

C. **Compliance with Laws.** The Subrecipient, and any person performing work on its behalf, will comply with all applicable federal, state, and local laws, regulations, and ordinances.

D. **Schedule of Work.** The Schedule of Work is incorporated into this Agreement, and attached as Exhibit B.

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

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

2. **In particular.** Comply with all applicable federal regulations and requirements set forth in Exhibit D (Federal Compliance Provisions).

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

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

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

F. **Invoices.**

1. The Subrecipient must submit invoices monthly (unless agreed otherwise between the parties to this Agreement) to the City electronically, via its supplier portal, for goods or services provided under this Agreement no later than 25 calendar days following the end of the period covered by the invoice. Untimely invoices may result in delayed payment. Each invoice must include, at a minimum, the following information:

- a. Name of Subrecipient;
- b. Date of Invoice;
- c. Invoice Number;
- d. Contract or BRASS Number issued by the City (i.e. K#);
- e. Name of the City Department to be invoiced (e.g. Health);
- f. Description of the Services completed;

2. Invoices will be processed in accordance with Article VI of the Agreement.

3. All invoices must be signed by an authorized representative of the Subrecipient under penalty of perjury attesting to the validity and accuracy of the invoice.

4. The City may require changes to the form of the invoice and may require additional supporting documentation to be submitted with invoices.

5. The City, at its discretion, may elect to provide a Subrecipient with a portion of their funding as an advance in some cases. The City recognizes that Subrecipient will not acquire portfolios of medical debt from local hospitals (and other providers) without reasonable assurance that Program funds will be appropriated for that purpose. Accordingly, Subrecipient shall submit Exhibit E (Request for Advance of Grant Funds) before medical debt acquisition transactions are completed. Additionally, agreements between Subrecipient and hospitals (and other providers) will state that funding transactions are contingent on receipt of Program funds from the City.

6. Advance funds shall be expended by Subrecipient within 30 days of receipt of the funds from the City. Subrecipient shall provide the City with documentation of how advanced funds were used within 45 days of receipt of the funds. The City will not advance any additional funds until it has received adequate evidence of prior advances being used to purchase medical debt.

ARTICLE IV - REPRESENTATIONS AND WARRANTIES

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

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

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

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

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

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

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

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

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

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

ARTICLE V - THE CITY'S OBLIGATIONS

A. **Administration.** The City will administer this Agreement through the Health Department ("Health").

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

ARTICLE VI - COMPENSATION

A. **Maximum Amount Payable.** The maximum amount payable by the City under this Agreement is \$1,300,000.00. A budget narrative is incorporated into this Agreement, and marked as Exhibit C.

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

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

ARTICLE VII - DURATION AND TERMINATION

A. **Term.** The term of this Agreement shall be from the Effective Date until December 31, 2025.

B. **Termination for Convenience.** The City may terminate this Agreement at any time during the term of the Agreement by giving the Subrecipient written notice of the termination at least 30 calendar days before the intended date of termination. Subrecipient shall be paid for all services rendered through the date of termination. Subrecipient may terminate this Agreement on 30 days written notice for non-payment, failure of the City to comply with the terms of this Agreement, or lack of participation by hospitals and other providers.

C. **Termination for Cause.** The City may terminate this Agreement immediately for cause by sending written notice to the Subrecipient. "Cause" includes without limitation any failure to perform any obligation or abide by any condition of this Agreement or the failure of any representation or warranty in this Agreement, including without limitation any failure to comply

with any provision of City Code § 2-1120 or requests of the Office of Inspector General. If a termination for cause is subsequently challenged in a court of law and the challenging party prevails, the termination will be deemed to be a termination for convenience effective 30 days from the date of the original written notice of termination for cause was sent to the challenging party; no further notice will be required.

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

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

F. Remedies for Non-Compliance. If the Subrecipient fails to comply with federal statutes, regulations or the terms and conditions of a Federal award, the Department or the City may impose additional conditions, as described in 200.208 Specific conditions. If the Department or the City determines that noncompliance cannot be remedied by imposing additional conditions, then either may take one or more of the following actions, as appropriate in the circumstances:

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

ARTICLE VIII - MAINTENANCE AND MONITORING OF RECORDS

A. **Maintenance of Records.** The Subrecipient agrees to maintain all records of all expenditures of funds provided to it by the City in accordance with 2 CFR § 200.334 for **five (5) years** from the official date of the closeout of the grant. If any litigation, claims, or audits begin prior to the expiration of the five-year period, then the records must be maintained until all litigation, claims, and audit findings involving the records have been resolved and final action taken. Records are to be maintained separately for each project undertaken by the Subrecipient. The aforementioned classification of funds expended will be further itemized by the “funding year” associated with the funds. The Subrecipient hereby agrees to maintain, for the City’s review, all records relating to the creation, development and set-up of ARP funded projects, and the expenditure of ARP funds, itemized for each ARP funded project undertaken.

B. **Monitoring of Records.** The Subrecipient acknowledges the responsibility of the City to monitor its performance and all records relating to projects implemented by the Subrecipient with ARP funds. The Subrecipient hereby acknowledges its responsibility to provide the City, upon reasonable demand, with all records relating to ARP funded projects implemented by the Subrecipient, and hereby agrees to assist the City in reviewing projects undertaken by the Subrecipient with ARP funds. The aforementioned records will be made available at times reasonable to both the Subrecipient and the City, and the Subrecipient's records will be reviewed by the City no less than annually. The foregoing provisions shall be subject to the terms of Non-Disclosure Agreements entered into between the Subrecipient and various medical providers.

ARTICLE IX - MONITORING OF SUBRECIPIENT PERFORMANCE

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

B. **Reporting.** The Subrecipient shall submit regular monthly progress and financial reports to the City using the format included in Exhibit F.

C. **Failure to Perform or Breach.** If the Subrecipient: 1) fails to perform according to the Agreement, 2) breaches the Agreement, or 3) does not comply with Federal Regulations governing the project, the City will notify the Subrecipient. If there is a continued lack of performance or lack of curing of breach or non-compliance after notification and a reasonable time period to cure of at least 30 days (or such additional time as may be determined by the City in the given instance),

then the City may declare the Subrecipient in default and may pursue any appropriate remedies available under the Agreement and/or any applicable law. In the event of a notification of default, the City will invoice the Subrecipient for any increase in costs and other damages sustained by the City which shall be subject to review and approval by Subrecipient. To the extent there is no agreement the Parties shall meet in person or via video conference in an effort to resolve the dispute. Furthermore, the Subrecipient acknowledges its obligation to repay the City the funds that are identified with the period of noncompliance unless such funds have been paid to or committed to providers or are otherwise reasonably disputed by Subrecipient. The Subrecipient acknowledges that the amount of repayment is not necessarily commensurate with the period of non-compliance, and amount of repayment could be up to but shall not exceed the total amount of compensation disbursed.

ARTICLE X - INDEMNITY

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

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

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

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

ARTICLE XI - INSURANCE

A. Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the Subrecipient will maintain the following insurance in full force

and effect for the duration of the work under this Agreement. Evidence of coverage shall be provided prior to the start of any activities/work, in conjunction with the Subrecipient's scope of work under the Agreement.

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

C. Minimum Requirements:

1. Workers' Compensation & Employers Liability Insurance in compliance with the Louisiana Workers' Compensation Act(s). Statutory and Employers Liability Insurance with limits of not less than \$500,000.

2. Commercial General Liability Insurance including contractual liability insurance, products and completed operations, personal & advertising injury, bodily injury, property damage, and any other type of liability for which this Agreement applies with limits of liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate.

3. Automobile Liability Insurance with a combined single limit of liability of not less than \$500,000 per accident for bodily injury and property damage. Insurance shall include all owned, non-owned and hired vehicles.

4. Professional (Errors & Omission) Liability - As professional services are required under the contract, insurance appropriate to the Subrecipient's profession, with limits of liability of not less than \$1,000,000 per occurrence or claim / \$2,000,000 policy aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Subrecipient in this agreement.

5. Policy shall be kept in force and uninterrupted for a period of three (3) years beyond policy expiration. If coverage is discontinued for any reason during this three (3) year term, Subrecipient must procure and evidence full extended reporting period (ERP) coverage.

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

D. Important: The obligations for the Subrecipient to procure and maintain insurance shall not be constructed to waive or restrict other obligations. It is understood that neither failure to comply nor full compliance with the foregoing insurance requirements shall limit or relieve the Subrecipient from any liability incurred as a result of their activities/operations in conjunction with the Subrecipients obligations and/or Scope of Work.

E. Additional Insured Status: The Subrecipient and all Sub-Subrecipients (where applicable) will provide, and maintain current, a Certificate of Insurance naming the City of New Orleans, its departments, political subdivisions, officers, officials, employees, and volunteers are to be covered as "Additional Insureds" on the CGL policy with respect to liability arising out of the performance

of this agreement, General liability insurance coverage can be provided in the form of an endorsement to the Subrecipients insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

F. Subrecipient shall require and verify that all Sub-Subrecipients maintain insurance and coverage limits meeting all the requirements stated herein or the Sub-Subrecipient liability shall be covered by the Subrecipient. The Certificate of Insurance, as evidence of all required coverage, should name the City of New Orleans Risk Manager as Certificate Holder and be delivered via U.S. Mail to Director of Health, City of New Orleans, 1300 Perdido Street, Suite 8E18, New Orleans, LA 70112, with a copy forwarded to Risk Management Division, 1300 Perdido Street, 9E06 – City Hall, New Orleans LA 70112.

G. The Additional Insured box shall be marked “Y” for Commercial General Liability coverage. The Subrogation Waiver Box must be marked “Y” for Workers Compensation/Employers Liability and Property.

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

I. Claims Made Policies: If applicable, the retroactive date must be shown and must be before the date of the agreement or the beginning of work. If the coverage is canceled or non-renewed, and not replaced with another claims-made policy, Subrecipient must purchase “extended reporting” coverage for minimum of 3 years after the termination of this agreement.

J. Waiver of Subrogation: The Subrecipient and its insurers agree to waive any right of subrogation which any insurer may acquire against the City by virtue of the payment of any loss under insurance required by this agreement.

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

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

M. Notice: The Subrecipient will provide the City’s Risk Manager (at City of New Orleans Attn: Risk Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112- Ref.: CEA) the following documents, within 10 calendar days of the City’s request:

1. Copies of all policies of insurance, including all policies, forms, and endorsements:
2. Substitute insurance coverage acceptable to the City within 30 calendar days if any insurance company providing any insurance with respect to this Agreement is declared bankrupt, becomes insolvent, loses the right to do business in Louisiana, or ceases to meet the requirements of this Agreement.

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

O. Without notice from the City, the Subrecipient will: Replenish any policy aggregate limit that is impaired before commencement of any work or continuation of any work under this Agreement.

ARTICLE XII – LIVING WAGES

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

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

1. Payment of an hourly wage to Covered Employees equal to the amounts defined in the City Code (“**Living Wage**”);

2. Receipt of at least seven (7) days per year of compensated leave for Covered Employees, as required by Section 70-807 of the City Code; and

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

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

1. \$15.00 per hour for any work performed on or before December 31, 2023; and

2. \$15.00 per hour plus any adjustment provided in subsection D below for any work performed during calendar year 2024 or thereafter.

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

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

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

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

G. Compliance Monitoring. Covered Employers under this Agreement are subject to compliance monitoring and enforcement of the Living Wage requirements by the Office of Workforce Development (the “OWD”) and/or the Chief Administrative Office (“CAO”). Covered Employers will cooperate fully with the OWD and/or the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements. Steps and actions include, but are not limited to, requirements that: (i) the Subrecipient will cooperate fully with the OWD and the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements; (ii) the Subrecipient agrees that the OWD and the CAO and their designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Subrecipient, payroll records and employee paychecks; and (iii) that the City may audit such records of the Subrecipient as he or she reasonably deems necessary to determine compliance with the Living Wage standards.

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

ARTICLE XIII - NON-DISCRIMINATION

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

national origin, sexual orientation, creed, culture, or ancestry.

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

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

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

ARTICLE XIV - INDEPENDENT ENTITY

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

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

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

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

ARTICLE XV - FORCE MAJEURE

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

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

C. **Effect.**

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

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

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

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

ARTICLE XVI - NOTICE

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

1. **To the City:**

Director of Health
City of New Orleans
1300 Perdido Street, Suite 8E18
New Orleans, LA 70112

&

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

2. To the Subrecipient:

Allison Sesso, CEO
RIP Medical Debt
28-07 Jackson Ave, 5th Fl.
Long Island City, NY 11101

&

Michele Masucci, Esq.
Nixon Peabody LLP
275 Broadhollow Road, Suite 300
Melville, NY 11747

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

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

ARTICLE XVII – INCORPORATED DOCUMENTS

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

1. Workplan - Exhibit A;
2. Schedule of Work - Exhibit B;
3. Budget Narrative - Exhibit C;
4. Federal Compliance Provisions - Exhibit D;
5. Request for Advance of Grant Funds - Exhibit E;
6. Program Reporting Requirements - Exhibit F.

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

C. Difference in Standard. If any Exhibit differs, in whole or in part, with this Agreement in terms of requirements, standards, timelines, etc., then the more stringent requirement, the higher

standard, and the longer timeline, etc., shall prevail, unless the Parties mutually agree otherwise.

ARTICLE XVIII - ADDITIONAL PROVISIONS

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

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

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

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

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

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

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

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

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

F. **Construction of Agreement.** Neither party will be deemed to have drafted this Agreement.

This Agreement has been reviewed by the Parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the Parties. No term of this Agreement shall be construed or resolved in favor of or against the City or the Subrecipient on the basis of which party drafted the uncertain or ambiguous language. The headings and captions of this Agreement are provided for convenience only and are not intended to have effect in the construction or interpretation of this Agreement. Where appropriate, the singular includes the plural and neutral words and words of any gender shall include the neutral and other gender.

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

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

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

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

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

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

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

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

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

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

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

Q. Ownership of Records. The Subrecipient shall maintain ownership of all data collected and all products of work prepared, created or modified by the Subrecipient in the performance of this Agreement, including without limitation any and all notes, tables, graphs, reports, files, computer programs, source code, documents, records, disks, original drawings or other such material, regardless of form and whether finished or unfinished, but excluding the Subrecipient's personnel and administrative records and any tools, systems, and information used by the Subrecipient to perform the services under this Agreement, including computer software (object code and source code), know-how, methodologies, equipment, and processes and any related intellectual property (collectively, "Work Product"). The Subrecipient shall also maintain all right, title and interest in any Work Product, including without limitation the right to secure and maintain

any copyright, trademark, or patent of Work Product in the Subrecipient's name. However, the Subrecipient acknowledges that the purpose of the Project is for the benefit of the City of New Orleans, and therefore the Subrecipient shall grant the City a no-cost perpetual license to utilize all Work Product in a manner to further the purpose of the Project, provided that the City takes all reasonable precautions to protect the Subrecipient's intellectual property and proprietary interests of the Subrecipient, subject to all applicable public records laws. The Subrecipient shall also be able present or publish materials deriving from its Work Product at its sole discretion, provided that the Subrecipient provide the City with an advance copy for review and feedback at least seven (7) days prior to presentation or publication.

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

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

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

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

V. Special Conditions for Agreements with ARP Funding. The "Compliance Provisions for Agreements Funded with ARP Funds," is attached as Exhibit "D" to this Agreement and expressly incorporated in the Agreement.

W. Sub-Subrecipient Reporting. The Subrecipient will provide a list of all natural or artificial persons who are retained by the Subrecipient at the time of the Agreement's execution and who are expected to perform work as sub-Subrecipients in connection with the Subrecipient's work for

the City. For any sub-Subrecipient proposed to be retained by the Subrecipient to perform work on the Agreement with the City, the Subrecipient must provide notice to the City within 30 days of retaining that sub-Subrecipient. If the Subrecipient fails to submit the required lists and notices, the City may, after thirty 30 days' written notice to the Subrecipient take any action it deems necessary, including, without limitation, causing the suspension of any payments, until the required lists and notices are submitted.

X. 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.

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

ARTICLE XIX - COUNTERPARTS

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

ARTICLE XX - ELECTRONIC SIGNATURE AND DELIVERY

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

[SIGNATURES CONTAINED ON NEXT PAGE]

[The remainder of this page is intentionally left blank]

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

CITY OF NEW ORLEANS

BY: [Signature] for

LATOYA CANTRELL, MAYOR

Executed on this 16th of June, 2023.

NEW ORLEANS CITY COUNCIL

BY: [Signature] (K.H.)
JEAN-PAUL J. MORRELL, PRESIDENT

Executed on this 13th of June, 2023

FORM AND LEGALITY APPROVED:

Law Department

By: [Signature]

Printed Name: Andrew Gregorian

RIP MEDICAL DEBT

BY: [Signature]

ALLISON SESSO, CEO

[Redacted]
FEDERAL TAX I.D.

[EXHIBITS A - F ATTACHED SEPARATELY]

EXHIBIT A

WORKPLAN

This workplan sets forth the expectations for the Subrecipient Agreement between the City of New Orleans and Medical Debt Resolution, Inc. (dba RIP Medical Debt).

- RIP Medical Debt's experience with hospital and other provider transactions indicates that the purchase price for medical debt portfolios (when acquired through sales rather than donations) can range from 0.20 percent (20 basis points) to 1.10 percent (110 basis points) depending on the weighted average age (in years) that applies to the accounts being acquired. For purposes of this Agreement, RIP Medical Debt has assumed that a median purchase price of 0.77 percent (77 basis points) can be attained. On that basis, \$1 million can cancel approximately \$130 million in medical debt for eligible New Orleans residents. RIP Medical Debt will track this parameter throughout the period of the Agreement and will confer with the City if the \$130 million goal is at risk because pricing for a material number of transactions has exceeded 0.77 percent.
- The City of New Orleans will provide RIP Medical Debt with payments totaling \$1,300,000 of ARPA funds for the Program through December 31, 2025. Reimbursements for work already performed within the period of performance of this Agreement will be processed upon execution of this Agreement. Further details on annual payments, including regarding the process to receive advance funds, can be found in **Exhibit E** of this Agreement.
- All eligible expenses for the years ending December 31, 2023, 2024, and 2025 must be incurred by the Subrecipient no later than November 30, 2023 (for 2023 expenses), November 30, 2024 (for 2024 expenses), and November 30, 2025 (for 2025 expenses). Year-end invoices will be provided to the City of New Orleans by December 22, 2023, December 22, 2024, and December 22, 2025 respectively.
- RIP Medical Debt will provide the City of New Orleans with all information needed to initiate payments, in a manner further described in Article III (F) of the Subrecipient Agreement. Additionally, RIP Medical Debt will confirm to City of New Orleans in writing that applicable contracts, invoices, and W-9s have been signed.
- Program monitoring reporting expectations will take place in a manner described in **Exhibit F** of this Agreement, and will be adhered to by all parties of this this Agreement.
- Program compliance expectations will take place in a manner described in **Exhibit D** of this Agreement, and will be adhered to by all parties of this this Agreement.
- The Workplan is summarized below:

1) Establish program management infrastructure

RIP Medical Debt will lead, manage, and oversee program design and execution of the Program in the City of New Orleans. This will include:

- Developing a brief Program Administration Plan that identifies which RIP Medical Debt staff or departments will be responsible for carrying out Workplan elements.
- Attending monthly or quarterly program management meetings with City of New Orleans representatives.
- Keeping City of New Orleans informed regarding events planned by RIP Medical Debt related to program management and execution.
- Participating in trainings and webinars on program compliance and service delivery.
- Developing a Program Budget and Financial Management Plan.
- Developing a mechanism for invoicing the City of New Orleans for program costs in accordance with Article III (F) of the Subrecipient Agreement.
- Developing a Marketing and Outreach Plan to recruit hospitals and other providers so they participate in the program.
- Developing a Monitoring and Compliance Plan in accordance with Exhibit D
- Developing a Performance Measurement Plan in accordance with Exhibit F.
- Reporting metrics and information based on tools and templates approved by the City of New Orleans in consultation with RIP Medical Debt.

2) Recruit hospitals and other providers so they agree to sell or donate medical debt to RIP Medical Debt for Program purposes.

RIP Medical Debt will lead and oversee outreach and marketing to hospital providers located in the City of New Orleans so they agree to sell or donate medical debt for Program purposes. Steps will include:

- Developing and implementing a marketing and outreach strategy.
- Meeting periodically with the Louisiana Hospital Association and other associations that represent City of New Orleans providers to encourage their awareness and support of the project.
- Meeting with hospitals and other providers that serve New Orleans residents to encourage their participation in the project.
- Encouraging hospitals and other providers to sell or donate medical debt for abolishment both on a one-time and a recurring basis (e.g., quarterly or annually).
- Keeping the City of New Orleans informed regarding the status of the recruitment process, including the number of hospitals and other providers that reach key stages of the process (e.g., Business Associate Agreement and Non-Disclosure Agreement signed, patient accounts data file transmitted to RIP Medical Debt for analysis, and others).

- Creating a minimum of two impact videos or testimonials and reports for the City of New Orleans during the period of the subrecipient's contract.

RIP Medical Debt enters into Business Associate Agreements (BAAs) and Non-Disclosure Agreements (NDAs) with hospitals and other providers early in the medical debt acquisition and abolishment process. Negotiating the terms of BAAs and NDAs typically requires substantive involvement of RIP Medical Debt's counsel. Signing BAAs and NDAs provides important comfort to hospitals and also to RIP Medical Debt that certain information will remain confidential. Having these agreements in place also is aligned with advice received from counsel that RIP Medical Debt may not disclose the names of hospitals and other providers without permission.

RIP Medical Debt will be able to share information with the City of New Orleans including the required metrics and the status of the project. However, specific information regarding the names of hospitals and other providers that have (and have not) agreed to participate may not be shared unless those providers consent to these disclosures.

3) Request and receive patient accounts data files from hospitals and other providers

After entering into Business Associate Agreements and Non-Disclosure Agreements, RIP Medical Debt will ask hospitals and other providers to prepare and transmit patient accounts data files for analysis. RIP Medical Debt maintains detailed file specifications that are shared with hospitals and other providers for this purpose. Data files are transmitted securely via SFTP (SSH File Transfer Protocol) or using other, highly secure methods.

RIP Medical Debt may modify its file specifications to support reporting program metrics and to assess program impacts.

4) Continue to request and receive patient accounts data files from commercial debt buyers who have acquired medical debt for City of New Orleans residents for collections purposes

RIP Medical Debt continues to acquire medical debt from commercial debt buyers, including some who may have acquired medical debt from hospitals and other providers that have served New Orleans residents. RIP Medical Debt also will encourage any such commercial debt buyers to prepare and transmit patient accounts data files for analysis. This helps ensure we are removing debt from entities incentivized to engage in active collections.

5) Analyze patient accounts data files (using proprietary scrubbing processes) to identify individuals with medical debt that meet Program Eligibility Criteria

RIP Medical Debt will analyze patient accounts data files to identify individuals that meet Program Eligibility Criteria. This is accomplished by matching individual patients and/or account guarantors with information maintained by FinThrive (formerly TransUnion Health) regarding their estimated household income, household size, bankruptcy status, and related characteristics. RIP Medical Debt's proprietary scrubbing process identifies the subset of individuals (and the medical debt) that meets Program Eligibility Criteria. Each patient's (or guarantor's) parish of residence also is established during the process, allowing RIP Medical Debt to apply that criterion as well.

6) *Provide confidential feedback on the effectiveness of current Financial Assistance Policies and procedures*

RIP Medical Debt will provide confidential feedback to hospitals and other providers regarding the effectiveness of their Financial Assistance Policies. Feedback will be based on expertise regarding applicable federal and state laws and regulations as well as findings from analyses of patient accounts data files (i.e., the prevalence of accounts that could or should have qualified for 100 percent financial assistance discounts). This feedback is provided confidentially as a way for RIP Medical Debt's work to yield lasting, systemic change.

7) *Develop proposals to acquire medical debt using RIP Medical Debt's standard pricing model*

RIP Medical Debt will apply its standard pricing model to all transactions that involve purchasing medical debt. The model proxies the fair market value of medical debt as accounts age. Accounts that remain unpaid four years after the date of service, for example, have a lower standard price (expressed as basis points or as a percentage of face value) than younger accounts (e.g., those between two and three years of age). RIP Medical Debt's process includes quantifying the total purchase price for medical debt found to qualify based on the Program Eligibility Criteria.

Proposals are then developed and hospitals and other providers are provided options regarding a transaction with RIP Medical Debt. Options include selling all Qualified Medical Debt in the data file(s), selling a portion of the qualifying accounts, donating some or all of the accounts, and reclassifying some accounts to charity care. In all scenarios, all recipients of the program are notified that medical debt has been abolished.

8) *Use ARPA subrecipient funds to acquire and cancel medical debt for eligible individuals*

RIP Medical Debt will negotiate and enter into written agreements with hospitals and other providers and will use ARPA subrecipient funds to acquire medical debt for eligible individuals.

9) *Issue letters to notify individuals that medical debts have been cancelled*

RIP Medical Debt also will use ARPA subrecipient funds to pay for costs to notify individuals that their medical debts have been cancelled. RIP Medical Debt has a letter template used for this purpose. The letter includes the medical debt balance(s) that have been abolished, the name of the hospital or provider owed, applicable account numbers and dates of service, background on RIP Medical Debt and that the debt cancelation is non-taxable, and other information.

RIP Medical Debt also is exploring ways to communicate with program recipients by email.

RIP Medical Debt will collaborate with the City of New Orleans on the contents of these communications to assure that that the City is appropriately acknowledged.

10) *Solicit and collect testimonials from program recipients*

The letters transmitted by RIP Medical Debt also include a request for program recipients to share their stories. RIP Medical Debt has a trained anthropologist on staff responsible for connecting with recipients regarding their experiences with medical debt to help inform our collective understanding of

the impacts. Patient stories and related insights will be shared with the City of New Orleans on a regular basis.

11) Support marketing and outreach in collaboration with the City of New Orleans' communications team

Throughout the duration of the Program, RIP Medical Debt will support marketing and outreach efforts in collaboration with the City of New Orleans' communications team. RIP Medical Debt will serve as an ambassador and champion for the program and will support City marketing efforts by sharing and co-promoting events, webinars, and resources.

RIP Medical Debt will acknowledge the City of New Orleans when describing projects or programs funded in whole or in part with funds. All flyers, advertisements, press releases, or other marketing communication material issued by RIP Medical Debt and that apply to the Program will include the City of New Orleans logo and be approved by the City of New Orleans before publication.

12) Conduct data analysis and develop insights to guide City of New Orleans on progress and program impacts

At periodic intervals, RIP Medical Debt will conduct data analysis to help understand program impacts and progress. Analyses may include assessing impacts by ZIP Code, race/ethnicity, patient/guarantor insurance type, income levels, and other attributes, when feasible and supported by data submitted to RIP Medical Debt for analysis. In conducting analysis and sharing any results, RIP Medical Debt will assure that HIPAA requirements (and applicable Business Associate Agreements) are met. The analyses will be provided to the City of New Orleans and will include guidance for how the City, hospitals and other providers can prevent the accrual of medical debt among New Orleans residents.

13) Comply with Treasury/City-Wide/Program-Specific/and Equity metric reporting requirements

RIP Medical Debt will collect, collate, and report the data and metrics specified in **Exhibit F** and comply with any reporting requirements set forth in **Exhibit D**, subject to amendment using platforms, templates, and processes provided by RIP Medical Debt and approved by the City of New Orleans on a monthly basis or as otherwise directed by the RIP Medical Debt and the City.

Program metrics and reporting requirements and methods are subject to alteration including the addition or deletion of metrics by the City of New Orleans or RIP Medical Debt with City approval as deemed necessary for program compliance and performance monitoring.

14) Support City of New Orleans Monitoring and Compliance

RIP Medical Debt will support the City of New Orleans' monitoring and compliance efforts. This will include:

- Attending key trainings to onboard and orient RIP Medical Debt staff (including contractors) to program expectations and financial reporting requirements and documents.
- Designing, implementing, and maintaining a standardized reporting system and shared tools for gathering and reporting metrics and compliance data.

- Providing performance and financial metrics and reports to the City on a regular basis.
- Providing financial reports to the City monthly in compliance with program and federal guidelines.
- Managing program budget and tracking vendor expenditures for appropriate utilization of funds for eligible purposes, consistent with program budget.
- Collecting and reviewing back up documentation to support invoices and incurred expenses.
- Providing the City with an annual report on the impact of the program.

EXHIBIT B

Schedule of Work

A tentative timeline is provided below. The ability of Medical Debt Resolution, Inc., dba RIP Medical Debt, to acquire and cancel the stated amounts of medical debt by the stated dates depends on numerous factors, including the willingness of City of New Orleans' hospitals and providers to sell or donate medical debt to RIP Medical Debt in support of its mission to cancel medical debt. RIP Medical Debt will use its best efforts to conduct outreach to New Orleans hospitals and to achieve the Program's objectives.

Date	Deliverables
04/17/2023	Contract Signed
05/01/2023	Develop and Submit Brief Program Administration Plan
05/01/2023	Develop and Implement Plan to Recruit Hospitals and other Providers
12/31/2023	Throughout Year 1: Support Media Outreach in Collaboration with City of New Orleans, as needed
12/31/2023	Acquire and Cancel \$40 million in Medical Debt (goal, not contract requirement)
12/31/2023	Provide Feedback to Additional Participating Hospitals on Financial Assistance Policies
12/31/2023	Throughout Year 1: Send Debt Cancellation Letters to Program Recipients
12/31/2023	Seek and Receive Testimonials from Year 1 Program Recipients
12/31/2023	Report Quarterly Metrics (60 days after each quarter during which Medical Debt is acquired)
01/01/2024	Begin Year 2
01/01/2024	Continue Implementing Plan to Recruit Hospitals and other Providers
03/31/2024	Submit Year 1 Annual Program Report
09/30/2024	Provide Feedback to Participating Hospitals on Financial Assistance Policies
12/31/2024	Acquire and Cancel \$50 million in Medical Debt (Goal, not contract requirement)

12/31/2024	Throughout Year 2: Send Debt Cancellation Letters to Program Recipients
12/31/2024	Throughout Year 2: Seek and Receive Testimonials from Year 2 Program Recipients
12/31/2024	Throughout Year 2: Report Quarterly Metrics (60 days after each quarter during which Medical Debt is acquired)
12/31/2024	Throughout Year 2: Seek and Receive Testimonials from Program Recipients
12/31/2024	Throughout Year 2: Support Media Outreach in Collaboration with City of New Orleans
12/31/2024	Submit Year 3 Annual Program Report
01/01/2025	Begin Year 3
01/01/2025	Continue Implementing Plan to Recruit Hospitals and other Providers
03/31/2025	Submit Year 2 Annual Program Report
09/30/2025	Provide Feedback to Additional Participating Hospitals on Financial Assistance Policies
9/30/2025	Acquire and Cancel \$40 million in Medical Debt (Goal, not contract requirement)
12/31/2025	Throughout Year 3: Send Debt Cancellation Letters to Program Recipients
12/31/2025	Throughout Year 3: Report Quarterly Metrics (60 days after each quarter during which Medical Debt is acquired)
12/31/2025	Throughout Year 3: Seek and Receive Testimonials from Year 3 Program Recipients
12/31/2025	Throughout Year 3: Support Media Outreach in Collaboration with City of New Orleans
12/31/2025	Submit Year 3 Annual Program Report

EXHIBIT C

Budget Narrative

Under this Agreement, Medical Debt Resolution, Inc., dba RIP Medical Debt, will receive funds and will use them to acquire portfolios of medical debt from hospitals and other providers located in the City of New Orleans, to analyze those portfolios to identify New Orleans residents who qualify for debt cancellation, to mail (or email) letters to these individuals advising them that certain medical debts have been cancelled, to fund program administration and technology costs, to fund indirect costs (at 10 percent of direct costs), and for other expenses associated with the Agreement. RIP Medical Debt is the sole Subrecipient of the funds and as fiscal agent will use a portion of the funds to purchase medical debt portfolios from hospitals and other providers and for the other identified purposes.

EXHIBIT D

FEDERAL COMPLIANCE PROVISIONS

From 2 CFR 200

Applies to all federal grants.

- 1. REMEDIES FOR NON-COMPLIANCE**
- 2. TERMINATION FOR CAUSE AND TERMINATION FOR CONVENIENCE**
- 3. EQUAL OPPORTUNITY ACT**
- 4. EQUAL OPPORTUNITY ACT FOR FEDERALLY-ASSISTED CONSTRUCTION CONTRACTS**
- 5. DAVIS-BACON ACT**
- 6. LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION**
- 7. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**
- 8. COPELAND “ANTI-KICKBACK” ACT**
- 9. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**
- 10. CLEAR AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT**
- 11. DEBARMENT AND SUSPENSION**
- 12. BYRD ANTI-LOBBYING ACT**
- 13. PROCUREMENT OF RECOVERED MATERIALS**
- 14. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SERVEILLANCE SERVICES OR EQUIPMENT**
- 15. DOMESTIC PREFERENCES FOR PROCUREMENT**
- 16. PROVISIONS REQUIRED BY LAW DEEMED INSERTED**
- 17. ACCESS TO RECORDS**
- 18. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS**
- 19. NO OBLIGATION BY FEDERAL GOVERNMENT**
- 20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

1. REMEDIES FOR NON-COMPLIANCE

If the Subrecipient fails to comply with federal statutes, regulations or the terms and conditions of a Federal award, the Department or the City may impose additional conditions, as described in 200.208 Specific conditions. If the Department or the City determines that noncompliance cannot be remedied by imposing additional conditions, then either may take one or more of the following actions, as appropriate in the circumstances:

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

2. TERMINATION FOR CAUSE AND TERMINATION FOR CONVENIENCE

[See the body of the Agreement for this language.]

3. EQUAL OPPORTUNITY ACT.

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals

who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided*, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. EQUAL OPPORTUNITY ACT FOR FEDERALLY-ASSISTED CONSTRUCTION CONTRACTS.

Federal Compliance Provisions – Updated January 2023

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

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

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions

and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

5. DAVID-BACON ACT.

(For prime construction contracts in excess of \$2,000.)

Applicable contracts must comply with the Davis Bacon Act, as amended (40 U.S.C. 3141-3148). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

6. LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION

(For construction contracts (incl. alteration and/or repair, including painting and decorating) of a public building or public work, or building or work financed in whole or part from federal funds.)

(1) *Minimum wages.*

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than

a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)

(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

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

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

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

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative,

will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

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

(2) ***Withholding.*** The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) ***Payrolls and basic records.***

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents

thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)

(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

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

- (1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
 - (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
 - (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.
- (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) *Apprentices and trainees -*

- (i) ***Apprentices.*** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job

site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no

longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

(5) ***Compliance with Copeland Act requirements.*** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) ***Subcontracts.*** The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) ***Contract termination: debarment.*** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

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

(9) ***Disputes concerning labor standards.*** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) ***Certification of eligibility.***

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

7. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.

(Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).)

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

(2) ***Violation; liability for unpaid wages; liquidated damages.*** In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) ***Withholding for unpaid wages and liquidated damages.*** The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) ***Subcontracts.*** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor

shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Note: Section (c) is for contracts subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1

8. COPELAND “ANTI-KICKBACK” ACT

A. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

B. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

C. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment U. S. Department of Homeland Security Headquarters 500 C St SW Washington, D.C. 20042 Page 13 of 25 www.fema.gov/procurement-disaster-assistance-team To Table of Contents as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

9. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

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

10. CLEAR AIR ACT AND THE FEDERAL WATER POLLUTION CONTRAC ACT

(For contracts over, \$150,000, the contractors must comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Contract Act as amended (33 U.S.C. 1251-1387.)

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq* and the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 7401 *et seq*.
- (2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FEMA, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

11. DEBARMENT AND SUSPENSION

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by **(insert name of recipient/subrecipient/applicant)**. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to **(insert name of recipient/subrecipient/applicant)**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

12. BYRD ANTI-LOBBYING ACT

The Contractor will be expected to comply with Federal statutes required in the Anti-Lobbying Act.

Contractors who apply or bid for an award shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any Agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

Note: Contractors who apply or bid for an award of \$100,000 or more shall file the required certification found below in Appendix A.

13. PROCUREMENT OF RECOVERED MATERIALS

A. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

1. Competitively within a timeframe providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price.

B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site,
<https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

C. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

14. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SERVEILLANCE SERVICES OR EQUIPMENT

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

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

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

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

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

15. DOMESTIC PREFERENCES FOR PROCUREMENT

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

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

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

16. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

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

17. ACCESS TO RECORDS

The following access to records requirements apply to this contract:

- (1) The Contractor agrees to provide any official from the federal government or the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Contractor agrees to provide the federal administrator or their authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (4) In compliance with the Disaster Recovery Act of 2018, the City and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the federal administrator or the Comptroller General of the United States.

18. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that federal financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

19. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

Citations:

Items 1 -15 are from 2 CFR 200, Appendix II

Item 16 is prudent.

Items 17-20 are from FEMA's Recommended Provisions.

APPENDIX A,

44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature and Title of Contractor's Authorized Official Representative

Date

EXHIBIT F

PROGRAM REPORTING REQUIREMENTS

A. U.S. TREASURY REPORTING REQUIREMENTS

ARPA fund recipients are required to track specific performance indicators and programmatic data in order to comply with Program award reporting requirements, including a quarterly "Project and Expenditure" report, and an annual "Recovery Plan Performance Report." RIP Medical Debt permits the City of New Orleans and auditors to have access to its records and financial statements as necessary for meeting federal requirements. Funding expenditure records must also be kept for five years after all funds have been expended or returned to Treasury.

Each SLFRF project must be aligned to a single Treasury Expenditure Category, as identified by the City of New Orleans, and will require specific reporting data based on that category.

Type	Metric	Collection Timeframe	Data Owner	Data Type
Treasury-required	Project demographic distribution: Description of how the initiative is primarily serving disadvantaged communities	Annually	Project Lead	Text
Treasury-required	Total funds that are allocated to evidence-based interventions	Annually	Project Lead	Numeric
Treasury-required	# of households/individuals served (by program if recipient establishes multiple separate household assistance programs)	Quarterly	Subrecipient(s)	Numeric
Treasury-required	Brief description of structure and objectives of assistance program(s) (e.g., nutrition assistance for low-income households) including public health or negative economic impact experienced	Quarterly	Project Lead	Text
Treasury-required	Brief description of how a recipient's response is related and reasonably and proportional to a public health or negative	Quarterly	Project Lead	Text

Type	Metric	Collection Timeframe	Data Owner	Data Type
	economic impact of COVID-19.			

B. PERFORMANCE METRICS

To determine whether the Party is meeting performance expectations, the City of New Orleans has set and will monitor performance goals, indicators, targets, and baseline data. RIP Medical Debt is responsible for tracking its progress against these metrics and providing monthly updates to the City on their status. New unique program data should be reported to measure progress on each metric for each month of the contract. Aggregate data for each metric shall also be reported that captures the program performance over the entire period of the contract. Monthly reports shall be submitted to the City within one week of the close of each month of the contract period.

Type	Metric	Collection Timeframe	Data Owner	Data Type
Program-specific	# of healthcare providers or hospitals engaged in project	Monthly	Subrecipient	Numeric
Program-specific	# of debt collection entities engaged in project	Monthly	Subrecipient	Numeric
Program-specific	# of patients whose debt is cancelled	Monthly	Subrecipient	Numeric
Program-specific	\$ Amount of debt acquired	Monthly	Subrecipient	Numeric
Program-specific	# of patients whose credit score is improved	Monthly	Subrecipient	Numeric
Program-specific	# of patients whose debt is cancelled in the following age groups • Under 18 • 19-30 • 31-45 • 46-60 • 61-75 • 76+ • Other/Unknown	Monthly	Subrecipient	Numeric

Type	Metric	Collection Timeframe	Data Owner	Data Type
Program-specific	# of patients whose debt is cancelled by ethnicity Hispanic or Latino • Not Hispanic or Latino • Other/Unknown	Monthly	Subrecipient	Numeric
Program-specific	# of patients whose debt is cancelled by race • American Indian or Alaska Native • Asian • Black or African American • Native Hawaiian or Other Pacific Islander • White • Other • Unknown	Monthly	Subrecipient	Numeric
Program-specific	# of patients whose debt is cancelled by income category • \$0-\$25K • \$26K-\$50K • \$51K-\$75K • \$76K-\$100K • \$101K-\$125K • \$126K-\$150K • \$151K-\$175K • \$176K-\$200K • \$201K+ • Other/Unknown	Monthly	Subrecipient	Numeric
Program-specific	# of patients whose debt is cancelled by primary insurance status • Privately Insured • Medicaid or Low-Income Subsidy Recipient • Medicare • Uninsured • Other/Unknown	Monthly	Subrecipient	Numeric

Type	Metric	Collection Timeframe	Data Owner	Data Type
Program-specific	# of patients whose debt is cancelled by zip code • 70112 • 70113 • 70114 • 70115 • 70116 • 70117 • 70118 • 70119 • 70112 • 70122 • 70124 • 70125 • 70126 • 70127 • 70128 • 70129 • 70130 • 70131 • 70148	Monthly	Subrecipient	Numeric

EXHIBIT E

Request for Advance of ARPA Grant Funds

The following form affords organizations in need of an advance of funds to request them from the City of New Orleans to perform program activities. The information should be provided by the subrecipient and shared with the City's Program Lead. The information below is required before an advance of funds can be initiated.

Sample Advance Form:

Subrecipient Name:	ARPA Project ID:
Project Title:	

Amount Requested (Not to Exceed 25% of 1st Year Program Budget)	
\$ Amount Requested:	% of Current Year Budget:
Description of Activities:	

Documentation of Need:
Organization's financial circumstances necessitating advancement:

Period of Time Requested to Fully Satisfy Advanced Funds:	
Certifications	
I hereby certify that this request is being made with full intent to expend funds consistent with ARPA and City compliance and eligibility standards. I certify that the advanced funds will only be used for costs applicable to the program herein. I certify that I have the authority to submit this request on behalf of the organization I represent. I certify that the advance funds will be expended within 30 days of receipt of the funds from the City of New Orleans and documentation will be provided to the City within 45 days of receipt of the funds to reconcile the advance funds received. I understand that providing false information will subject my organization or municipality to termination from the above referenced grant program(s) and there may be additional penalties for providing false information including, but not limited to, referral to the appropriate law enforcement agencies for filing of criminal charges. 18 U.S.C. § 1001 makes it a felony to knowingly, and willfully, make material false statement on a matter within the jurisdiction of any Federal agency. I understand that knowingly and willfully making a material false statement or concealing a material fact could subject me to a fine or imprisonment of up to 5 years, or both. Each of the signatories below hereby certifies that s/he understands and accepts the risks and responsibilities associated with this advance. Any misuse of funds could result in the termination of the agreement and will require the organization to refund the City of New Orleans in those amounts. Any advanced funds not yet spent for authorized work by Subrecipient shall be promptly returned to the City of New Orleans within fifteen (15) days of termination.	
Subrecipient Contact Information	
Name:	Title:
Signature:	Date:
City Signatory Information	
Advance Approval Determination: ☐ Yes ☐ No	
City Representative's Name:	
City Representative / Approver's Signature:	
Date Signed:	