Contract C000873
Attachment A-2
Terms and Conditions for Federally-Funded Grants

The following terms and conditions apply to any contract for which any portion of the funding is derived from a Hazard Mitigation Assistance grant made by the Federal Emergency Management Agency through DHSES. These terms and conditions are in addition to all grant specific terms and conditions specified in the Conditional Letter of Approval provided by FEMA which is attached to the Contract made a part thereof.

GENERAL CONDITIONS

1. **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.
2. **STATUTORY AND REGULATORY COMPLIANCE.** Subrecipient shall comply with all laws and regulations applicable to the Hazard Mitigation Assistance funds, including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including the allowability of certain expenses.
3. **REQUIREMENT FOR SYSTEM OF AWARD MANAGEMENT.** Subrecipient shall maintain the currency of its information in the System of Award Management (SAM) until submission of the final financial report required under this award or receipt of the final payment, whichever is later, as required by 2 CFR Part 25 and Appendix II to Part 25.
4. **ADMINISTRATIVE, COST, AUDIT AND PROGRAM REQUIREMENTS**. The Subrecipient must comply with the most recent version (unless a specific version is noted) of the Administrative Requirements, Cost Principles, and Audit requirements, and to the extent necessary cooperate and maintain information and documentation to allow DHSES to comply with the applicable regulations governing the FEMA-State Agreement. Failure to do so may result in disallowance of costs upon audit. A list of regulations and guidance applicable to United States Department of Homeland Security (DHS) grants is listed below:
   a) 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
   b) 2 CFR Part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, & other Non-Profit Organizations
   c) 2 CFR Part 200 (OMB Circular A-87), Subpart E, Cost Principles
   d) 2 CFR Part 220 (OMB Circular A-21), Cost Principles for Educational Institutions
   e) OMB Circular A-122, Cost Principles for Nonprofit Organizations
   f) 2 CFR Part 200, Subpart F, Audit Requirements
   g) OMB Circulars A-94 and A-133
5. **HAZARD MITIGATION ASSISTANCE REQUIREMENTS**
   a) New York State Administrative Plan for the Hazard Mitigation Program
   b) Sections 203 (PDM) and 404 (HMGP) of the Stafford Act (42 USC 5121 *et seq*.)
   c) Sections 1323 (RFC), 1361A (SRL), 1366 (FMA) of the National Flood Insurance Act of 1968, as amended (42 USC 4001 *et seq*.)
   d) Section 322 of the Stafford Act and 44 CFR Part 201 (Mitigation Planning)
   e) Section 324 of the Stafford Act and 44 CFR Part 207 (Management Costs)
   f) National Historic Preservation Act, as amended (54 U.S.C. § 300101 *et seq*.)
   g) Section 106 of the National Historic Preservation act (16 U.S.C. § 470)

h) EO 11593: Identification and protection of historic properties
i) Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469a-1 *et seq.*)
j) National Environmental Policy Act, as amended (42 U.S.C. § 4321 *et seq.*)
k) EO 11988: Floodplain Management and EO 11990: Protection of Wetlands (44 CFR Part 9)
l) National Environmental Policy and Environmental Considerations (44 CFR Part 10)
m) Floodplain Management (44 CFR Part 60)
n) Flood Mitigation Grants (44 CFR Part 79)
o) Property Acquisition and Relocation for Open Space (44 CFR Part 80)
p) Hazard Mitigation Grant Program (44 CFR Part 206, Subpart N)
q) 44 CFR Parts 7, 9, 10, 13, 14, 17, 18, 25, 206, 220, and 221, and any other applicable FEMA policy memoranda and guidance documents
r) Federal Acquisition Regulations (FAR) Subpart 31.2, Contracts with Commercial Organizations
s) Other applicable Federal, State, Indian Tribal, and local laws, implementing regulations, and Executive Orders

6. **ADVANCE PAYMENTS**. DHSES, at its own discretion, may approve advance payments to the Subrecipient. Subrecipient agrees to expend the advance payments in accordance with the purposes set forth in Attachment C and consistent with Attachment B. Advanced funds must be placed in an interest-bearing account and are subject to the rules outlined in 2 CFR Part 200, (Uniform Administrative Requirements for Grants and Cooperative Contracts to State and Local Governments) and 2 CFR 215 (Uniform Administrative Requirements for Grants and Contracts with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations), which requires the Sub-Recipient to promptly remit back to the federal government, through DHSES, any interest earned on these advanced funds. The Sub-Recipient may keep interest earned up to $100 per federal fiscal year (local government) or $250 per federal fiscal year (not-for-profit) for administrative expenses. Interest must be reported on Fiscal Cost Reports and remitted to DHSES quarterly.
7. **USE OF GRANT FUNDS.** Any cost allowable to a particular Federal award provided for in 2 CFR Part 200, Subpart E may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations or terms and conditions of the Federal awards or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations or the terms and conditions of the Federal awards.
8. **FEDERAL DEBT.** Subrecipient certifies that it is non-delinquent in its repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments. (See OMB Circular A-129 and form SF-424B, item number 17).
9. **CONFLICTS OF INTEREST.** The Subrecipient shall notify DHSES as soon as possible if this contract or any aspect related to the anticipated work under this contract raises an actual or potential conflict of interest (as described in 2 CFR Part 200). The Subrecipient shall explain the actual or potential conflict in writing in sufficient detail so that the DHSES is able to assess such actual or potential conflict. The Subrecipient shall provide DHSES any additional information necessary for DHSES to fully assess and address such actual or potential conflict of interest.
10. **DEBARMENT AND SUSPENSION (Applicable to all contracts exceeding $25,000).** This contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such the Subrecipient is required to verify that none of the Subrecipient, its 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). The Subrecipient must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction (e.g., subcontract) it enters into. This certification is a material representation of fact relied upon by DHSES. If it is later determined that the Subrecipient did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to DHSES, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
11. **SUBCONTRACTING.** The Subrecipient represents to DHSES that all work shall be performed by personnel

experienced in the appropriate and applicable profession and areas of expertise, taking into account the nature of the work to be performed under this contract. None of the goals, objectives or tasks, as set forth in Attachment C, shall be sub-awarded to another organization without specific prior written approval by DHSES. Where the intention to make sub-awards is clearly indicated in the application, DHSES approval is deemed given, if these activities are funded, as proposed. The Subrecipient must include the contract provisions required by 2 CFR §200.326 (and Appendix II to 2 CFR Part 200), in every contract issued by it so that such provisions will be binding upon each of its contractors as well as the requirement to flow down such terms to all lower-tiered subcontractors. These terms and conditions are found in Exhibit E, NYS Division of Homeland Security and Emergency Services Supplementary Conditions for Hazard Mitigation Assistance Contracts. A copy of which has been provided for reference with this contract.

The Subrecipient agrees that all subcontractor arrangements shall be formalized in writing between the parties involved. The writing must, at a minimum, include the following information:

a) Activities to be performed;
b) Time schedule;
c) Project policies;
d) Other policies and procedures to be followed;
e) Dollar limitation of the Contract;
f) Attachment C, Attachment E, Certification Regarding Lobbying, Debarment and Suspension and any special conditions set forth in the Contract;
g) Applicable federal and/or State cost principles to be used in determining allowable costs;
h) and Property Records or Equipment Inventory Reports

12. **AUDIT / ACCESS TO RECORDS.** The Subgrantee, DHSES, FEMA, the Comptroller General of the United States, New York State Office of State Comptroller, pertinent federal agencies, and other designated entities, or any of their duly authorized representatives, shall have, at any time and from time to time during normal business hours, access to any work product, books, documents, papers, and records of the Subrecipient which are related to this contract, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions. Such audits may include review of the Subrecipient's accounting, financial, and reporting practices to determine compliance with the Contract and reporting requirements; maintenance of accurate and reliable original accounting records in accordance with governmental accounting standards as well as generally accepted accounting principles; and specific compliance with allowable cost and expenditure documentation standards prescribed by applicable federal, State, and DHSES guidelines.
13. **SINGLE AUDIT REQUIREMENTS.** For audits of fiscal years beginning on or after December 26, 2014, Subrecipients that expend $750,000 or more from all federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with the requirements of GAO's Government Auditing Standards, located at *http://www.gao.gov/govaud/ybk01.htm,* and the requirements of Subpart F of 2 C.F.R. Part 200. The Subrecipient must provide one copy of such audit report to DHSES within nine (9) months of the end of its fiscal year or communicate in writing to DHSES that Subrecipient is exempt from such requirement.
14. **MAINTENANCE/RETENTION OF RECORDS.** The Subrecipient shall establish and maintain complete records, including accurate books, financial records, supporting documents, accounts and other evidence directly pertinent to performance of work performed under this Contract consistent with generally accepted bookkeeping practices. Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement (collectively, the "Records") (i) for three (3) years from the time of closeout of FEMA's grant to the State or for the period provided in the FEMA regulations at 2 C.F.R. 200.333-337 or (ii) for six (6) years after the closeout of the Agreement, or, as long as required by state law, whichever may be longer.
15. **PROGRAM INCOME.** Program income earned by the Subrecipient during the grant funding Period must be reported in writing to DHSES, in addition to any other statutory reporting requirements. Program income consists

of income earned by the Subrecipient that is directly generated by a supported activity or earned as a result of the grant program. Program income includes, but is not limited to, income from fees for services performed, the use of rental or real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights and interest on loans made with federal award funds. The Subrecipient agrees to report the receipt and expenditures of grant program income to DHSES. (2 CFR §200.307)

16. **ACCOUNTING FOR GRANT EXPENDITURES.** The Subrecipient agrees that it shall maintain adequate internal controls and adhere to Generally Accepted Accounting Principles for Government or Generally Accepted Accounting Principles for Not-for-Profit Organizations. Grant funds may be expended only for purposes and activities set forth in this Contract. If the Subrecipient receives funding from two or more sources, all necessary steps must be taken to ensure that grant-related transactions are not commingled. This includes, but is not limited to, the establishment of unique budget codes, a separate cost center, or a separate chart of Expenditures must be cross-referenced to supporting source documents including, but not limited to: purchase orders, contracts, real estate leases, invoices, vouchers, timesheets, time and attendance records, payroll journals, employee travel records, receipts and mileage logs, and cost allocation plans.
17. **ACKNOWLEDGEMENT AND USE OF SEALS, LOGOS, CRESTS, & LIKENESSES.** Subrecipient must acknowledge its use of federal funding when issuing statements, press releases, and requests for proposals, bid invitations and other documents describing projects or programs funded in whole or in part with Federal funds. Additionally, Subrecipient must obtain approval prior to using the DHS, FEMA, and/or NYS DHSES seal(s), logos, crests or likenesses of DHS, FEMA, and/or DHSES agency officials.
18. **USE OF HOTEL OR MOTELS (If applicable).** Pursuant to § 6 of the Hotel and Motel Fire Safety Act of 1990 (15 U.S.C. §2225a), Subrecipient must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. § 2225).
19. **FLOOD INSURANCE REQUIREMENT (If the total cost of construction or acquisition exceeds $10,000).** If the Subrecipient engages in construction or acquisition in a special flood hazard area, it must purchase flood insurance in compliance with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234).
20. **UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION (Applicable to the purchase of ALL interests in real property acquired for project purposes).** Subrecipient must comply with Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq. [P.L. 91-646]) and Title 44 CFR, Part 25, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
21. **US EXECUTIVE ORDER 13224.** Subrecipient, its contractors and subcontractors, must comply with U.S. Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism.
22. **LOBBYING (Applicable to contracts exceeding $100,000).** The Subrecipient certifies, to the best of his or her knowledge and belief, that:
    a) No federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, 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.
    b) 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 Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c) The Subrecipient 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 Subgrantees shall certify and disclose accordingly.

d) 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 31 U.S.C. § 1352. 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.

INTELLECTUAL PROPERTY

23. **COPYRIGHT.** Any creative or literary work developed or commissioned by the Subrecipient with grant support provided by DHSES shall become the property of DHSES, entitling DHSES to assert a copyright therein, unless the parties have expressly agreed otherwise in a written instrument signed by them.

    a) If DHSES shares its right to copyright such work with the Subrecipient, DHSES reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use: (a) the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant; and (b) any rights of copyright to which a Subrecipient, Contractor, or a subcontractor purchases ownership with grant support.

    b) If the grant support provided by DHSES is federally-sponsored, the federal awarding agency also reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use: (a) the copyright in any work developed under a grant, sub-grant or contract under a grant or sub-grant; and (b) any rights of copyright to which a Subrecipient, Contractor, or a subcontractor purchases ownership with such grant support.

    c) The Subrecipient shall submit one copy of all reports and publications resulting from this Contract to DHSES within thirty (30) calendar days of completion. Any document generated pursuant to this grant must contain the following language:
    "This project was supported by a grant administered by the New York State Division of Homeland Security and Emergency Services and the U.S. Department of Homeland Security. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the New York State Division of Homeland Security and Emergency Services or the U.S. Department of Homeland Security."

24. **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the federal government and DHSES in any resulting invention in accordance with 37 C.F.R. 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 FEMA.

TERMINATION

25. **FOR CAUSE (Applicable to contracts exceeding $10,000).** If, through any cause, the Subrecipient shall fail to fulfill in a timely and proper manner his obligations under this Contract, or if the Subrecipient shall violate any of the covenants, agreements, or stipulations of this Contract, DHSES shall thereupon have the right to terminate this Contract by giving written notice to the Subrecipient of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Subrecipient

under this contract shall, at the option of the DHSES, become DHSES's property and the Subrecipient shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Subrecipient shall not be relieved of liability to DHSES for damages sustained by the DHSES by virtue of any breach of the Contract by the Subrecipient, and DHSES may withhold any payments to the Subrecipient for the purpose of set-off until such time as the exact amount of damages due DHSES from the Subrecipient is determined.

26. **FOR CONVENIENCE (Applicable to contracts exceeding $10,000).** DHSES may terminate this Contract at any time by giving at least ten (10) days' notice in writing to the Subrecipient. If the Contract is terminated by DHSES as provided herein, the Subrecipient will be paid for the time provided and expenses incurred up to the termination date.

CIVIL RIGHTS AND DIVERSITY PROVISIONS

27. **SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.** The Subrecipient will comply with the small and minority firms, women's business enterprise, and labor surplus area requirements as set forth at 2 CFR Part 200. Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of the contract. As used in these Required Federal Provisions, the terms "small business" means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. § 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed, or Spanish-heritage Americans, Asian-Americans, and American Indians. Subgrantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.
    The Subrecipient will take necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used in subcontracting when possible. Steps include:
    a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
    b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
    c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
    d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
    e) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.
28. **TITLES VI AND VIII OF THE CIVIL RIGHTS ACT OF 1964 AND EXECUTIVE ORDER 11063.** The Subrecipient shall comply with the provisions of Titles VI and VIII of the Civil Rights Act of 1964 and with Executive Order 11063. No person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. No person shall, on the grounds of race, color, religion, sex, or national origin, be discriminated against in the sale, rental, or financing of dwellings. To the extent that any such sale, lease or other transfer of land shall occur, Subrecipient, in undertaking its obligation to carry out the Program assisted hereunder, will not itself so discriminate.
29. **SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE AMERICANS WITH DISABILITIES ACT OF 1990.** The Subrecipient shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended, and any applicable regulations, and with the Americans with Disabilities Act of 1990 (42 U.S.C. § 126), as amended, and any applicable regulations. The Subrecipient agrees that no qualified individual with handicaps shall, solely on the basis

of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives federal financial assistance from FEMA.

30. **NONDISCRIMINATION.** The Subrecipient shall comply with other federal and state statutory, regulatory and constitutional non-discrimination provisions. During the performance of this contract, the Subrecipient agrees as follows:
    a) The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Subrecipient 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 Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
    b) The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
    c) The Subrecipient 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 Subrecipient's legal duty to furnish information.
    d) The Subrecipient 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 Subrecipient's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
    e) The Subrecipient 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.
    f) The Subrecipient 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.
    g) In the event of the Subrecipient'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 Subrecipient 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.
    h) The Subrecipient will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (H) 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 Subrecipient 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 Subrecipient becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Subrecipient may request the United States to enter into such litigation to protect the interests of the United States.

With respect to construction contracts and subcontracts exceeding $10,000, The Subrecipient shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967; Executive Order 11478 of August 8, 1969; Executive Order 12107 of December 28, 1978; Executive Order 12086 of October 5, 1978; and as supplemented in Department of Labor regulations (41 C.F.R. Part 60). Subgrantee shall include the following Specifications, which are required pursuant to 41 C.F.R. 60-4.3 in all federally assisted contracts and subcontracts. For the purposes of the Equal Opportunity Construction Contract Specifications and Clause below, the term "Construction Work" means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

Standard Federal Equal Employment Opportunity Construction Contract Specifications for Contracts and Subcontracts in Excess of $10,000. (Federal Notice Required by 41 CFR 60-4.3)

1. As used in these specifications:
   a) "Covered area" means the geographical area described in the solicitation from which this contract resulted;
   b) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
   c) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
   d) "Minority" includes:
      i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
      ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
      iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
      iv. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Subrecipient or any subcontractor at any tier, subcontracts a portion of the work involving any Construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Agreement resulted.

3. If the Subrecipient is participating (pursuant to 41 CFR § 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Subrecipients must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Subrecipient, contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal

under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Subrecipient's, contractor's, or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Subrecipient shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this Agreement resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Subrecipient should reasonably be able to achieve in each Construction trade in which it has employees in the covered area. Covered Construction contractors performing Construction Work in geographical areas where they do not have a Federal or federally assisted Construction contract shall apply the minority and female goals established for the geographical areas where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Subrecipient is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Subrecipient shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

    a) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each Construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
    b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
    c) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the contractor may have taken.
    d) Provide immediate written notification to the Director when the union or unions with which the

contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

e) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.

f) Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where Construction Work is performed.

g) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of Construction Work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h) Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

i) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.

k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

n) Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o) Document and maintain a record of all solicitations of offers for subcontracts from minority and female Construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
p) Conduct a review, at least annually, of all supervisor's adherence to and performance under the Subrecipient's EEO policies and affirmative action obligations.

8. Subrecipients are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the Program are reflected in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. Goals for minorities and women have been established. The Subrecipient, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Subrecipient may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Subrecipient has achieved its goals for women generally, the Subrecipient may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Subrecipient shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Subrecipient shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246 or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

12. The Subrecipient shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Subrecipient, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Subrecipient fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 C.F.R. § 60-4.8.

14. The Subrecipient shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions

hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, Construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for hiring of local or other areas residents.

31. **CERTIFICATION OF NONSEGREGATED FACILITIES (Applicable to construction contracts exceeding $10,000).** The Subrecipient certifies that it does not maintain or provide for its establishments, and that it does not permit employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for employees any segregated facilities at any of its establishments, and it will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The Subrecipient agrees that a breach of this certification is a violation of the nondiscrimination clause of this contract.

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

    The Subrecipient further agrees that (except where it has obtained for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the nondiscrimination clause; that it will retain such certifications in its files; and that it will forward the preceding notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

32. **SECTION 503 OF THE REHABILITATION ACT OF 1973 (Applicable to contracts exceeding $10,000).** The Subrecipient shall comply with section 503 of the Rehabilitation Act of 1973 (29 U.S.C. § 793), as amended, and any applicable regulations.
    a) The Subrecipient will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Subrecipient agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:

        1. Recruitment, advertising, and job application procedures;
        2. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
        3. Rates of pay or any other form of compensation and changes in compensation;
        4. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
        5. Leaves of absence, sick leave, or any other leave;
        6. Fringe benefits available by virtue of employment, whether or not administered by the Subrecipient;

7. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
8. Activities sponsored by the Subrecipient including social or recreational programs; and
9. Any other term, condition, or privilege of employment.

b) The Subrecipient agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

c) In the event of the Subrecipient's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

d) The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the Subrecipient's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The Subrecipient must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Subrecipient may have the notice read to a visually disabled individual or may lower the posted notice so that it might be read by a person in a wheelchair).

e) The Subrecipient will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Subrecipient is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.

f) The Subrecipient will include the provisions of this clause in every subcontract or purchase order in excess of $10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the Act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Subrecipient will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

LABOR PROVISIONS

33. **MINIMUM WAGE AND MAXIMUM HOURS (Applicable to contracts with institutions of higher education, hospitals, and non-profit organizations).** Subrecipient must comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201).
34. **HATCH ACT.** Subrecipient must comply with the Hatch Act (5 U.S.C. §§1501-1508 & 7324-7328), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal Funds.
35. **DRUG-FREE WORKPLACE.** Pursuant to 42 U.S.C. § 701 *et seq.*, adopted at 2 C.F.R. Part 3001, all Subrecipients receiving grants from a Federal agency must maintain a drug-free workplace.

ENVIRONMENTAL PROVISIONS

36. **SOLID WASTE DISPOSAL.** Pursuant to 2 CFR § 200.322, Subrecipient must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (codified at 42 USC § 6962). The

requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

37. **CERTIFICATION OF COMPLIANCE WITH ENVIRONMENTAL LAWS (Applicable to ALL contract with a value exceeding $150,000).** The Subrecipient and all subcontractors agree to comply with the following requirements (and their state and/or local counterparts or analogues, if any) insofar as they apply to the performance of this Agreement as any of the following may hereinafter be amended, superseded, replaced, or modified:
    a) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951, 3 C.F.R., 1977 Comp., p. 117, as interpreted at 24 C.F.R. Part 55), and Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961, 3 C.F.R., 1977 Comp., p. 121);
    b) Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1451 et seq.);
    c) Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. § 349, as amended), and EPA regulations for Sole Source Aquifers (40 C.F.R. Part 149);
    d) Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 et seq.);
    e) Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. § 1271 et seq.);
    f) Clean Air Act, as amended (42 U.S.C. § 7401 et seq.);
    g) EPA regulations for Determining Conformity of Federal Actions to State or Federal Implementation Plans (40 C.F.R. Parts 6, 51, and 93);
    h) Farmland Protection Policy Act of 1981 (7 U.S.C. § 4201 et seq.), and USDA regulations at 7 C.F.R. Part 658;
    i) FEMA criteria and environmental policy;
    j) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Feb. 11, 1994 (59 FR 7629, 3 C.F.R., 1994 Comp. p. 859);
    k) Flood Disaster Protection Act of 1973, as amended (42 U.S.C. § 4001-4128);
    l) National Flood Insurance Reform Act of 1994 (42 U.S.C. § 5154a);
    m) Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. § 3501);
    n) Lead-Based Pain Poisoning Prevention Act (42 U.S.C. § 4801 *et seq.*)
    o) Runway Clear Zone regulations (24 C.F.R. Part 51);
    p) Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251, et seq.), commonly known as the Clean Water Act, and all regulations and guidelines issued thereunder;
    q) Environmental Protection Agency ("EPA") regulations at 40 C.F.R Part 50, as amended;
    r) All other applicable environmental laws that may exist now or in the future.

Further, Subrecipient shall abide by any conditions or requirements set forth in any environmental review performed by FEMA in furtherance of implementing the National Environmental Policy Act.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the Subrecipient, the following:

a) A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party Listing System pursuant to 40 C.F.R. Part 32 or on the List of Violating Facilities issued by the EPA pursuant to 40 C.F.R. Part 15, as amended.
b) Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 1857 c 8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued

thereunder.

c) A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.

d) Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraphs A through D of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.