

## EXHIBIT D

### FEDERAL TERMS AND CONDITIONS

This Project is being assisted by the United States of America. The following Federal provisions must be included into the Agreement pursuant to the provisions applicable to such Federal assistance. During the performance of the Agreement, the OWNER must agree to comply with all applicable Federal laws and regulations including but not limited to each of the following:

#### **A. Equal Opportunity**

During the performance of this Agreement, the OWNER agrees as follows:

1. The OWNER will comply with Executive Order 11246 of September 24, 1965 entitled Equal Employment Opportunity as amended by Executive Order 11375 of October 1967 as supplemented in Department of Labor regulations (41 CFR chapter 60).
2. The OWNER will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The OWNER will take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The OWNER agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by COUNTY setting forth the provisions of this nondiscrimination clause.
3. The OWNER will, in all solicitations or advertisements for employees placed by or on behalf of the OWNER, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, or national origin.
4. The OWNER 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 COUNTY, advising the labor union or workers' representative of the OWNER'S commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The OWNER will furnish all information and reports required by Executive Order No. 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 its books, records, and accounts by the COUNTY and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the OWNER'S noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be cancelled, terminated or suspended in whole or in part and the OWNER may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No.

11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The OWNER will include the provisions of paragraphs (1) through (7) 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 No. 11246 of September 24, 1965, so that such provisions will be binding upon each contractor, subcontractor or vendor. The OWNER will take such action with respect to any contract, 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 OWNER becomes involved in, or is threatened with, litigation with a contractor, subcontractor or vendor as a result of such direction, the OWNER may request the United States to enter into such litigation to protect the interests of the United States.
8. The OWNER shall file, and shall cause each of its contractors and subcontractors to file, Compliance Reports with the COUNTY or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the OWNER and each contractor and subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.
9. Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of Executive Order 11246, or any preceding similar Executive Order, and in that event to submit, on behalf of themselves and their proposed contractors and subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.
10. Whenever the OWNER, contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: *Provided,* That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the OWNER, the OWNER shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts it has made to obtain such information.
11. The Secretary of Labor may direct that OWNER and any bidder or prospective contractor or subcontractor shall submit, as part of its Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the OWNER and any bidder or prospective contractor or subcontractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

12. The OWNER will cause the foregoing provisions to be inserted in all contracts and subcontracts for work covered by this Agreement so that such provisions will be binding upon each contractor and subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

**B. Disadvantaged/Minority/Women Business Enterprise Federal Regulatory Requirements under 24 CFR 85.36(e)**

1. The OWNER will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
2. Affirmative steps shall include:
  - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - iii. 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;
  - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
  - v. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

**C. Copeland "Anti-Kickback" Act (18 U.S.C. 874)**

OWNER shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874; 40 U.S.C., § 3145) as supplemented in Department of Labor regulations (29 CFR Part 3).

**D. Compliance with Labor Standard Provisions**

OWNER shall comply with all provisions contained in the form HUD-4010, Federal Labor Standards Provisions, attached as **Exhibit H** and incorporated by this reference.

**E. Compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C., §§ 3701 et seq.)**

OWNER shall comply with the Contract Work Hours and safety Standards Act (40 U.S.C., §§ 3701 et seq.) as supplemented by Department of Labor regulations (29 CFR Part 5). This requires the contracting officer to insert the clauses set forth in 29 CFR Part 5.

**F. Requirements and Regulations pertaining to Data and Design**

All data and design and engineering work created under this Agreement shall be owned by the County and shall not be subject to copyright protection. The rights to any invention which is developed in the course of this Agreement shall be the property of the County.

**G. Requirements and Regulations Pertaining to Reporting**

COUNTY, HUD and the Comptroller General of the United States or any of their duly authorized representatives shall be granted access to any books, documents, papers and records of OWNER which are directly pertinent to the Agreement.

**H. Compliance with Clean Air Act and Clean Water Act.**

1. OWNER shall comply with all applicable standards, orders and requirements issued under Section 306 of the Clean Air Act (42 U.S.C., § 7606).
2. OWNER shall comply with all applicable standards, orders and requirements issued under Section 508 Federal Water Pollution Control Act (33 U.S.C. 1368).
3. OWNER shall comply with Executive Order 11738 and Environmental Protection Agency regulations (40 CFR Part 31).

**I. Compliance with the National Energy Conservation Policy Act of 2000 (42 U.S.C. §§ 6201 et seq., Public Law 106-469, 114 Statutes 2029).**

The OWNER shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the National Energy Conservation Policy Act of 2000 (42 U.S.C., §§ 6201 et seq., 106 P.L. 469, 114 Stat. 2029) for building improvements.

## Exhibit E

### BASIC INDEMNIFICATION AND INSURANCE REQUIREMENTS FOR ALL SANTA BARBARA COUNTY CONTRACTS

**1. Indemnification** – OWNER agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its authorized officers, employees, elected and appointed officials, agents and volunteers from and against any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. OWNER's indemnification obligation applies to COUNTY's "active" as well as "passive" negligence but does not apply to COUNTY's "sole negligence" or "willful misconduct" within the meaning of California Civil Code Section 2782. OWNER shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. This Indemnification provision shall survive any expiration or termination of this Agreement.

**2. Additional Insured** – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability and Automobile Liability policies, shall contain endorsements naming COUNTY and its officers, employees, agents and volunteers as additional insured's with respect to liabilities arising out of the performance of the Agreement. The additional insured endorsements shall not limit the scope of coverage for COUNTY to vicarious liability but shall allow coverage for COUNTY to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

**3. Waiver of Subrogation Rights** – OWNER shall require the carriers of required coverage's to waive all rights of subrogation against COUNTY, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit OWNER and OWNER's employees or agents from waiving the right of subrogation prior to a loss or claim. OWNER hereby waives all rights of subrogation against COUNTY.

**4. Policies Primary and Non-Contributory** – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by COUNTY.

**5. Severability of Interests** – OWNER agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between OWNER and COUNTY or between COUNTY and any other insured or additional insured under the policy.

**6. Proof of Coverage** – OWNER shall furnish Certificates of Insurance to the COUNTY Department administering the Agreement evidencing the insurance coverage, including Additional Insured Endorsements and Waiver of Subrogation Endorsements (a.k.a.: Waiver of Transfer Rights of Recovery Against Other, Waiver of Our Right to Recover from Others), as required, prior to the commencement of performance of work hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and OWNER shall maintain such insurance from the time OWNER commences performance of work hereunder until the completion of such work. Within

fifteen (15) days of the commencement of this Agreement, OWNER shall furnish a copy of the Declaration page for all applicable policies and will provide complete copies of the policies and endorsements immediately upon request.

**7. Acceptability of Insurance Carrier** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best’s Insurance Guide rating of “A- VII”.

**8. Deductibles and Self-Insured Retention** – Any and all deductibles or self-insured retentions shall be declared to and approved by Risk Management.

**9. Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to cancel the Agreement or obtain insurance if it deems necessary and any premiums paid by COUNTY will be promptly reimbursed by OWNER or COUNTY payments to OWNER will be reduced to pay for COUNTY purchased insurance.

**10. Insurance Review** – Insurance requirements are subject to periodic review by COUNTY. The Risk Manager or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of COUNTY. In addition, if the Division of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against COUNTY, inflation, or any other item reasonably related to COUNTY’s risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. OWNER agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

**11. Insurance Specifications** – OWNER agrees to provide insurance set forth in accordance with the requirements herein. If OWNER uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, OWNER agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract.

Without in any way affecting the indemnity herein provided and in addition thereto, OWNER shall secure and maintain throughout the Agreement term the following types of insurance with limits as shown:

**A. Workers’ Compensation/Employers Liability** – A program of Workers’ Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer’s Liability with one million dollar (\$1,000,000) limits covering all persons including volunteers providing services on behalf of OWNER and all risks to such persons under this Agreement.

If OWNER has no employees, it may certify or warrant to COUNTY that it does not currently have any employees or individuals who are defined as “employees” under the Labor Code and the requirement for Workers’ Compensation coverage will be waived by the County’s Risk Manager.

With respect to OWNERS that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers’ Compensation insurance.

**B. Commercial/General Liability Insurance** – OWNER shall carry General Liability Insurance covering all operations performed by or on behalf of OWNER providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000) per occurrence and two million dollars \$2,000,000 in the aggregate.

**C. Fire Legal Liability** – OWNER shall provide Fire Legal Liability coverage in the amount of \$50,000 as part of the General Liability Policy.

**D. Automobile Liability Insurance** – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the OWNER is transporting one or more non-employee passengers in performance of a contract, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If OWNER owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

**E. Professional Liability Insurance** – OWNER shall carry Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim or occurrence and two million (\$2,000,000) aggregate limits.

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the start of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of three (3) years after contract completion.

**F. Personal Property Insurance** – OWNER shall carry Personal Property Insurance insuring all equipment, trade fixtures, inventory, fixtures and personal property located on or in the premises.

**G. Umbrella Liability Insurance** – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability. An Additional Insured Endorsement shall be provided on the Umbrella policy as it relates to the primary policies requiring an Additional Insured Endorsement.

**EXHIBIT F**  
CDBG QUARTERLY STATUS REPORT  
(following page)



Instructions: Submit this status report to Simon Kiefer, Grants Manager, at the end of each quarter. Submit via email to [skiefer@co.santa-barbara.ca.us](mailto:skiefer@co.santa-barbara.ca.us) or fax to (805) 560-1091.

1<sup>st</sup> Quarter July 1 – September 30     
  2<sup>nd</sup> Quarter October 1 – December 31     
  3<sup>rd</sup> Quarter January 1 – March 31     
  4<sup>th</sup> Quarter April 1 – June 30

Agency \_\_\_\_\_ Contact Person \_\_\_\_\_  
 Program \_\_\_\_\_ Phone Number \_\_\_\_\_  
 Contract # \_\_\_\_\_ Email Address \_\_\_\_\_

**Reporting Period Narrative**

Briefly describe major activities/accomplishments and assess the status of program objectives. If the program is not performing as planned, provide an explanation.

**Direct Benefit Data**

Report unduplicated quarter and year-to-date data for each category.

	Annual Goal	Quarter Total Served	Year-to-Date Total Served
Persons			
Households <sup>1</sup>			
Female-Headed Households <sup>2</sup>			

**Race & Ethnicity**

	Quarter		Year-to-Date	
	Total	Hispanic/Latino <sup>3</sup>	Total	Hispanic/Latino <sup>3</sup>
White				
Black/African American				
Asian				
American Indian/Alaskan Native				
Native Hawaiian/Other Pacific Islander				
American Indian/Alaskan Native & White				
Asian & White				
Black/African American & White				
American Indian/Alaskan Native & Black/African American				
Other multi-racial				
<b>Total</b>				

<sup>1</sup> Household means all the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements. 24 CFR 570.3

<sup>2</sup> Household headed by a single female

<sup>3</sup> Subset of total per racial category

**Income Levels**

	Quarter Total	Year-to-Date Total
Extremely Low (0% to 30%)		
Low (31% to 50%)		
Moderate (51% to 80%)		
Non-Low/Moderate		
<b>Total</b>		

**Program Funding**

Report funding received during the program year by source. This section can be completed at the end of the program year.

**HUD Funds**

	Amount
CDBG – County	\$
CDBG – Other	\$
Section 108 Loan Guarantee	\$
ESG	\$
HOME	\$
HOPWA	\$
<b>Total</b>	\$

**Other Funds**

	Amount
Other Federal Funds	\$
State Funds	\$
Local Funds	\$
Private Funds	\$
Other Funds ( <i>Specify fund source below</i> )	
	\$
	\$
	\$
	\$
	\$
<b>Total</b>	\$

## EXHIBIT G

### D/MBE/WBE Implementation Guidelines

The following information, as applicable, shall be retained by OWNER and produced upon request by COUNTY if determined by COUNTY to be necessary to establish the bidder's "good faith efforts" to meet the Disadvantaged/Minority/Women Business Enterprise (D/M/WBE) requirements.

1. The names and dates of advertisement of each newspaper, trade paper, and minority-focus paper in which a request for D/M/WBE participation for this project was placed by the bidder.
2. The names and dates of notices of all certified D/M/WBEs solicited by direct mail for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the D/M/WBEs were interested.
3. The items of work for which the bidder requested subbids or materials to be supplied by D/M/WBEs, the information furnished interested D/M/WBEs in the way of plans, specifications and requirements for the work, and any breakdown of items of work into economically feasible units to facilitate D/M/WBE participation. Where there are D/M/WBEs available for doing portions of the work normally performed by the bidder with his own forces, the bidder will be expected to make portions of such work available for D/M/WBEs to bid on.
4. The names of D/M/WBEs who submitted bids for any of the work indicated in (3) above, which were not accepted, a summary of the bidder's discussions and/or negotiations with them, the name of the contractor, subcontractor or supplier that was selected for that portion of work, and the reasons for the bidder's choice. If the reason for rejecting the D/M/WBE bid was price, give the price bid by the rejected D/M/WBE and the price bid by the selected contractor, subcontractor or supplier.
5. Assistance that the bidder has extended to D/M/WBEs identified in (4) above to remedy the deficiency in their subbids.
6. To find a D/M/WBE certified firm, you may call (916) 324-1700, go on-line to: [http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm), or via email at: DBE\_Certification@dot.ca.gov.

## EXHIBIT H

Federal Labor Standards Provisions  
U.S. Department of Housing and Urban Development  
Office of Labor Relations  
Previous editions are obsolete  
form HUD-4010 (06/2009) ref. Handbook 1344.1

### Applicability

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

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

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

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

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

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

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

(b) If the OWNER and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

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

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

(iii) Whenever the minimum wage rate prescribed in the Agreement for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the OWNER 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 OWNER does not make payments to a trustee or other third person, the OWNER 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 OWNER, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the OWNER to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the OWNER under this Agreement or any other Federal contract with the OWNER, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the OWNER 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 OWNER or any contractor or subcontractor the full amount of wages required by the Agreement or contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the Agreement or contract, HUD or its designee may, after written notice to the OWNER, sponsor, applicant, contractor or subcontractor, take such action as may be necessary to cause

the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the OWNER, disburse such amounts withheld for and on account of the OWNER or contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the OWNER during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(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 I(b)(2)(B) of the Davis-Bacon Act, the OWNER 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. OWNERS employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The OWNER shall submit weekly for each week in which any Agreement work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the OWNER will submit the payrolls to the applicant sponsor for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) 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/library/forms/> or its successor site. The OWNER is responsible for the submission of copies of payrolls by all contractor and subcontractors. OWNER and each contractor and subcontractor shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the Agreement, but if the agency is not such a party, the OWNER will submit the payrolls to the applicant sponsor for transmission to HUD or its designee, the OWNER, 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 subparagraph for OWNER to require a contractor or subcontractor to provide addresses and social security numbers to the OWNER for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

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

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

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

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

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

(d) The falsification of any of the above certifications may subject the OWNER or 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 OWNER and each contractor and subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the OWNER or contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the OWNER, sponsor, applicant, contractor or subcontractor, 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 OWNER 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 OWNER 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 OWNER'S or 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 OWNER 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 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 OWNER will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

5. Compliance with Copeland Act requirements. The OWNER shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this Agreement.

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



7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the Agreement 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 Agreement.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Agreement shall not be subject to the general disputes clause of this Agreement. 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 OWNER (or any of its contractors or subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

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

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

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

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

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

(1) Overtime requirements. Neither OWNER nor any contractor or subcontractor contracting for any part of the Agreement 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 the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the OWNER and any contractor and subcontractor responsible therefor shall be liable for the unpaid wages. In addition, OWNER and 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 subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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

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

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

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

(2) The OWNER shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96; 40 USC 3701 et seq.).

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