

## ASSIGNMENT, ASSUMPTION, AND CONSENT AGREEMENT

**AGREEMENT** made as of the <sup>5<sup>th</sup></sup> day of Edman, 201~~5~~, between Public Financial Management, Inc. ("Assignor") a for-profit corporation located at Two Logan Square, Suite 1600, Philadelphia, PA 19103, LDR Consulting, LLC ("Assignee") a for-profit corporation with a place of business at 414 Yellow Wood Drive, New Braunfels, Texas 78130, and the City of New York by and through the Department of Social Services / Human Resources Administration (the "Department") with offices at 180 Water Street, New York NY 10038.

**WHEREAS**, Assignor entered into a contract, dated July 3, 2013, with the Department for the provision of case management services for New York City residents directly affected by Hurricane Sandy (Contract ID Number 069 20141400169) commencing as of June 24, 2013 and continuing through June 23, 2015 (the "Contract"); and

**WHEREAS**, pursuant to the terms of the Contract, Assignor agreed to provide the services specified under Task IV of the Scope of Work (the "Services") through a subcontract with Assignee; and

**WHEREAS**, due to unanticipated programmatic changes and delays in the Contract, Assignor has determined it is in the best interests of all parties to assign the overall requirements of the Contract; and

**WHEREAS**, such unanticipated programmatic changes will result in multiple agreements to assign all Tasks of the Contract, of which this Agreement is one; and

**WHEREAS**, Assignor has agreed to assign the portions of Task IV of the Contract specified herein, subject to the consent and approval of the Department, and Assignee has agreed to accept such assignment on the terms set forth herein;

**NOW, THEREFORE**, for good and valuable consideration, including the mutual covenants contained herein, and intending to be legally bound, Assignor, Assignee and the Department, hereby agree as follows:

1. Assignor hereby assigns, transfers and conveys to Assignee, Assignor's right, title, and interest in and to the Contract, solely for the portion of Task IV "Task Order On Demand Staffing" services ("Services"), which are comprised of the services indicated in sub-sections A through E below. The scope and budget of the Services are fully detailed in the Contract. A total amount not to exceed five hundred fifty thousand, seven hundred twenty five dollars (\$550,725) for the period December 16, 2013 (the "Effective Date") throughout the remainder of the term of the Contract shall be payable to Assignee pursuant to this Assignment and shall include the amount specified in the line-item budget for the Services less any payment already made by the Department to either Assignor or Assignee for Services rendered, regardless of which party performed the Services, however no payment shall be made until a duly executed Modification Agreement is registered pursuant to New York City Charter section 328. The

Parties hereto acknowledge that the originally budgeted funds for the Services have been expended, and that additional funds for the Services will be allocated in an amendment to follow.

- A. Conduct program management analytics.
- B. Engage in policy evaluation.
- C. Act as liaison to the IT Change Control Board.
- D. Perform related duties including management of application production and process flow development.

2. Assignee, for the benefit of Assignor and the City of New York, hereby accepts the Assignment and assumes and agrees to perform all obligations and duties of Assignor under the portion of Task IV Project Management services specified in Article 1 of this Agreement, as of the Effective Date and throughout the remainder of the term of the Contract. Subject to the provisions of this Agreement, Assignee agrees to be bound by the terms of the Contract in every way as if Assignee were the original party to the Contract, including, but not limited to, the insurance requirements set forth in the Contract and the requirements for CDBG-DR funding set forth in the Hurricane Sandy CDBG-DR Appendix and Attachment 1 (also referred to as Appendix B) on and after the Effective Date. Assignee assumes all liability for performance or nonperformance on and after the Effective Date.

3. By signing this Agreement, the Department consents to the assignment of the portion of Task IV Project Management services specified in Article 1 of this Agreement. This Agreement shall not be effective until the Department, by its authorized representative, has consented thereto by signing this Agreement and the fully-executed Agreement has been registered pursuant to New York City Charter section 328. This Agreement shall be governed by and be construed in accordance with the laws of the State of New York. By its consent to this Agreement, the Department, for itself and for the City of New York, releases and fully discharges Assignor from any duties, payments, obligations, performance and other requirements arising under or with respect to the portion of Task IV Project Management services specified in Article 1 of this Agreement on or after the Effective Date.

4. Assignor shall defend, indemnify, and hold harmless Assignee, Assignee's affiliates, and each of their respective successors, assigns, officers, directors, shareholders, managers, members, partners, employees, representatives, and agents from and against any and all suits, actions, losses, claims, or liability of any character, type, or description, including all expenses of litigation, court costs, and attorney fees, to the extent arising from the negligent or intentionally wrongful performance or non-performance, before the Effective Date, of Assignor's obligations under the Contract.

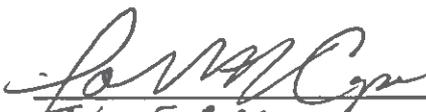
5. Assignor hereby irrevocably and unconditionally agrees, to fully and finally release and discharge Department and the City from any further obligation or liability for payments for any services performed pursuant to the above-referenced contract by either Assignor or Assignee between June 24, 2013 and June 30, 2014, if the Department has already paid either Assignor or Assignee for performing those services as of the date of execution of this Agreement, regardless of who actually performed those services.

6. Assignee hereby irrevocably and unconditionally agrees, to fully and finally release and discharge Department and the City from any further obligation or liability for payments for any services performed pursuant to the above-referenced contract by either Assignor or Assignee between June 24, 2013 and June 30, 2014, if the Department has already paid either Assignor or Assignee for performing those services as of the date of execution of this Agreement, regardless of who actually performed those services.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date referenced above.

**PUBLIC FINANCIAL MANAGEMENT, INC.**

By:   
Name: John F. Cape  
Title: Managing Director  
Date: 1/29/15

**LDR CONSULTING, LLC**

By:   
Name: Steven Stone Lucas  
Title: Chief Executive Officer  
Date: 4 Feb 15

**CITY OF NEW YORK  
DEPARTMENT OF SOCIAL SERVICES /  
HUMAN RESOURCES ADMINISTRATION**

By:   
Name: Vincent P. ...  
Title: ...

**ACKNOWLEDGEMENT BY CITY**

STATE OF NEW YORK )  
: ss.:  
COUNTY OF NEW YORK )

On this 5<sup>th</sup> day of Feb, 2015, before me, a notary public, personally came Vincent Pullo to me known and did depose and say he/she is the Asst of the NEW YORK CITY DEPARTMENT OF SOCIAL SERVICES / HUMAN RESOURCES ADMINISTRATION, the person described in and who is duly authorized to execute the foregoing instrument on behalf of the Commissioner, and duly acknowledged to me that he executed the same with valid authorization of the Commissioner and for the purposes therein mentioned.

Sharon James-Leonce  
Notary Public

SHARON JAMES-LEONCE  
Commissioner of Deeds  
City of New York No. 2-13026  
Certificate Filed in New York County  
Commission Expires May 01, 2016

**ACKNOWLEDGEMENT BY ASSIGNOR**

STATE OF PENNSYLVANIA )  
: ss.:  
COUNTY OF PHILADELPHIA )

On this 29th day of January, 2015, before me, a notary public, personally came JOHN F CAPE, to me known and did depose and say he resides at 89 Iroquois Trail, Slingerlands, New York,; that he/ is the Managing Director of PUBLIC FINANCIAL MANAGEMENT, INC., the corporation described in and which executed the foregoing instrument; and duly acknowledged to me that he executed the same with valid authorization of the directors of said corporation as the duly authorized and binding act thereof.

Jennifer Howell  
Notary Public

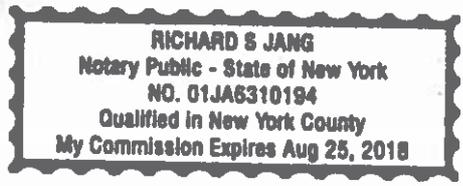
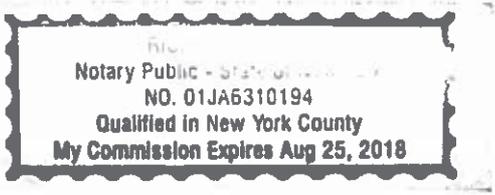
COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
JENNIFER L. HOWELL, Notary Public  
City of Philadelphia, Phila. County  
My Commission Expires May 8, 2017

**ACKNOWLEDGEMENT BY ASSIGNEE**

STATE OF NEW YORK    )  
  : ss.:  
COUNTY OF NEW YORK )

On this 4<sup>th</sup> day of Feb, 2015, before me, a notary public, personally came Steven Shane, to me known and did depose and say he/she resides at New Braunfels TX; that he/she is the CEO of LDR CONSULTING, LLC, the corporation described in and which executed the foregoing instrument; and duly acknowledged to me that he/she executed the same with valid authorization of the directors of said corporation as the duly authorized and binding act thereof.

  
\_\_\_\_\_  
Notary Public



IN WITNESS WHEREOF, the parties have duly executed this Modification Agreement on the date first above written.

CITY OF NEW YORK  
DEPARTMENT OF SOCIAL SERVICES  
HUMAN RESOURCES ADMINISTRATION

By \_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_  
CONTRACTOR

By \_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_  
Fed. Employer I.D. No. or Soc. Sec. No.

GENERATED AS TO TRADE  
CERTIFIED AS TO LEGAL AUTHORITY

*Sharon Cantor*  
\_\_\_\_\_  
GENERAL CORPORATION COUNSEL

*JB*

MAR 23 2015

AMENDMENT OF AGREEMENT BETWEEN  
THE NEW YORK CITY HUMAN RESOURCES ADMINISTRATION AND  
LUCAS DISASTER RECOVERY CONSULTING, LLC

THIS MODIFICATION AGREEMENT ("Modification Agreement") dated this 24 day of March, 2015, between the City of New York, acting through the Department of Social Services / Human Resources Administration ("HRA" or the "Department"), located at 180 Water Street, New York, New York 10038; and Lucas Disaster Recovery Consulting, LLC ("LDR" or "Contractor"), a for-profit corporation with a place of business at 414 Yellow Wood Drive, New Braunfels, Texas 78130 (collectively "the Parties").

WITNESSETH:

WHEREAS, the Mayor's Office of Housing Recovery Operations ("HRO") is providing necessary housing recovery programs in order to assist those New York City residents directly affected by Hurricane Sandy ("Residents"); and

WHEREAS, the City's housing recovery programs are designed to meet the housing assistance needs described in the NYC Community Development Block Grant – Disaster Response (CDBG-DR) Action Plan in order to assist Residents in achieving permanent housing, finding sustainable housing solutions that allow them to remain in New York City, and, where possible, returning to their neighborhoods; and

WHEREAS, HRA, as the local social services district, procured the case management services required in support of the New York City housing recovery programs on behalf of HRO pursuant to an MOU dated April 1, 2013; and

WHEREAS, HRA entered into an agreement ("Agreement") with PFM whereby PFM agreed to provide case management services for a two (2) year period from June 24, 2013, through June 23, 2015 for an amount not-to-exceed \$50,219,564.00; and

WHEREAS, under Task IV of the Scope of Work of the Agreement, PFM, by subcontract with LDR, assumed responsibility for providing Project Management services (the "Services"); and

WHEREAS, due to unanticipated programmatic changes and delays in the Agreement, PFM's team encountered significant difficulties in administering the Services and with the consent and approval of LDR and the Department assigned a portion of Task IV Project Management services to LDR, effective December 16, 2013; and

WHEREAS, such unanticipated programmatic changes have resulted in the need to modify the Scope of Work and Budget of the Agreement, as assigned to LDR; and

2015-03360

WHEREAS, HRO seeks to enhance the services provided under the Agreement, as assigned, in order to properly administer and provide the Services necessary for HRO's operations by modifying the Scope of Work of the Agreement pursuant to § 4-02(b)(1)(i), § 4-02(b)(1)(ii), and § 4-02(b)(2) of the PPB Rules; and

WHEREAS, HRO seeks to modify the terms of payment of the Agreement and increase the amount not-to-exceed for the Services by \$741,341.00 from \$38,700.00 to \$780,041.00, in order to properly administer and provide the Services necessary for HRO's operations, by modifying the Budget of the Agreement pursuant to § 4-02(b)(1)(i), § 4-02(b)(1)(vii), and § 4-02(b)(2) of the PPB Rules; and

WHEREAS, the Parties seek to extend the term of performance through December 31, 2015, pursuant to § 4-02(b)(1)(iii) of the PPB Rules, in order to ensure the effective delivery of critical Services to Residents; and

WHEREAS, the increased costs resulting from the modification of the Budget for new and existing deliverables are necessary and reasonable;

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, the parties hereto have agreed and do hereby agree as follows:

1. Except as modified herein or modified previously, all of the covenants, terms and conditions of the Agreement shall remain unchanged, and are hereby ratified and confirmed as in full force and effect.

2. MODIFICATION OF TERM OF PERFORMANCE

The Department, pursuant to § 4-02(b)(1)(iii) of the PPB Rules, hereby amends the Term of Performance of the Agreement, as assigned, to extend the term of the Agreement from June 24, 2015, through December 31, 2015, unless sooner terminated as provided by the relevant terms of the Agreement.

3. MODIFICATION OF SCOPE OF WORK

A. The Scope of Work of the Agreement, as assigned to LDR, is hereby replaced in its entirety with a new Scope of Work, attached hereto as Appendix A-1 and incorporated herein by this reference. Contractor shall perform all services and activities in program areas or programs listed and described in the new Scope of Work, Appendix A-1.

B. The Hurricane Sandy CDBG-DR Appendix, attached to the Agreement as Appendix B, is hereby replaced in its entirety by a new CDBG Rider, attached hereto as Appendix B-1 and incorporated herein by this reference. Contractor shall comply with all requirements of Appendix B-1.

4. MODIFICATION OF BUDGET AND PAYMENT STRUCTURE

- A. HRA agrees to pay and Contractor agrees to accept a total amount not to exceed seven hundred eighty thousand, forty one dollars (\$780,041) for all Services provided under this Agreement. Payment for all Services under this Agreement shall be made in accordance with the amounts and payment structure as detailed in the Budget attached hereto as Appendix C-1, and in accordance with HRA's Contracts Fiscal Manual.
- B. The prices and/or hourly rates in the annexed budget shall be deemed inclusive of any and all expenses incurred by the Contractor in performing the Services, including any appropriate overhead or auxiliary costs (including but not limited to printing, copying, secretarial, invoicing, etc.), direct or indirect costs, travel, lodging or meals. The Contractor may not impose any other charges or be reimbursed by the City for any expenses incurred by the Contractor in providing such Services in accordance with the Scope of Work.
- C. All payments made by HRA for work performed under the Agreement, as assigned to LDR and amended by this Modification Agreement, shall be subject to audit by HRA and any other City, State, or Federal entity having authority to do so. The Contractor is solely responsible for ensuring that invoices are submitted only for work performed pursuant to the Agreement. In the event that multiple payments have been made to the Contractor for the same work, Contractor shall remit any and all duplicate payments to HRA immediately upon demand.
- D. LDR shall be paid on a monthly basis pursuant to invoices submitted to HRO no later than the fifteenth (15<sup>th</sup>) day of the month following the month in which the work was performed. All invoices shall be subject to HRO review and shall require approval by HRO prior to payment. With each invoice, LDR Consulting shall submit a progress report, in such form as may be required by the Director of the NYC Housing Recovery Office, describing the status of the Services. If progress in providing the Services is delayed for any reason, LDR Consulting shall state the reason for such delay in the report.
- E. All invoices submitted by Contractor, and payments made by HRA for work performed pursuant to the annexed Scope of Work, as amended, shall clearly identify the deliverable(s) for which the Contractor is billing HRA, or for which HRA is paying.

5. FEDERAL REGULATIONS

On December 16, 2014, the U.S. Department of Housing and Urban Development (HUD) implemented the new Uniform Administrative Requirements at 2 CFR Part 200, pursuant to 2 CFR section 200.110, as amended. Pursuant to 2 CFR section 200.104, the new Uniform Administrative Requirements shall supersede OMB Circulars A-87, A-102, A-110, A-122, and A-133. In addition, the Uniform Administrative Requirements for Grants and Cooperative Agreements in the HUD regulations have been superseded by 2 CFR Part 200. Where this Agreement refers to such an OMB Circular, a Uniform

IN WITNESS WHEREOF, the parties have duly executed this Modification Agreement on the date first above written.

CITY OF NEW YORK  
DEPARTMENT OF SOCIAL SERVICES  
HUMAN RESOURCES ADMINISTRATION

By [Signature]  
Title [Signature]

Lucas Disaster Recovery Consulting, LLC  
CONTRACTOR

By [Signature]  
Title Chief Executive Officer  
46 - 2278317  
Fed. Employer I.D. No. or Soc. Sec. No.

APPROVED AS TO FORM  
CERTIFIED AS TO LEGAL AUTHORITY  
Sharon Cantor AB  
CORPORATION COUNSEL

MAR 23 2015

STATE OF NEW YORK )

: ss:

COUNTY OF NEW YORK)

On this 24 day of March 20 15, before me personally came Vincent Pulio Acco, to me known and known to me to be \_\_\_\_\_ of the HUMAN RESOURCES ADMINISTRATION/DEPARTMENT OF SOCIAL SERVICES of the CITY OF NEW YORK, the person described in and who executed the foregoing instrument, and she/he acknowledged to me that she/he executed the same for the purpose therein mentioned.

Sharon James-Leonce  
NOTARY PUBLIC

SHARON JAMES-LEONCE  
Commissioner of Deeds  
City of New York No. 2-13026  
Certificate Filed in New York County  
Commission Expires May 01, 2015

STATE OF New York,  
COUNTY OF New York :ss:

On this 24<sup>th</sup> day of MARCH 20 15, before me personally came STEVEN SHANE LUCAS, to me known, who, being by me duly sworn, did depose and say that she/he resides at 414 Yellow Wood Drive, New Braunfels, Texas 78130, that she/he is the Chief Executive Officer of Lucas Disaster Recovery Consulting LLC, the corporation described in and which executed the above instrument; and that she/he signed her/his name thereto by order of the board of directors of said corporation.

**RITA P CHANG**  
Notary Public, State of New York  
No. 02CH6289352  
Qualified in New York County  
Commission Expires 9/23/2017

Rita Chang  
NOTARY PUBLIC

## **Appendix A-1: Scope of Work**

- A. LDR Consulting shall provide professional Project Management and Information System services to support the Build it Back Program and its Case Management System (CMS); including, but not limited to:**
- 1. Assisting the Housing Recovery Office in the management of daily production;**
  - 2. Assisting in process flow development;**
  - 3. Assisting in policy and procedure development;**
  - 4. Providing data analysis and interface consultations;**
  - 5. Developing system interface with other HRO consultants and vendors.**
- B. Upon HRO request, LDR shall provide policy management and compliance support services on both a day-to-day basis and on a project-level basis through staff embedded with HRO. If HRO wishes to request such policy management and compliance support services, it shall issue a written Task Order containing a Statement of Services that describes the services the Contractor is required to provide to the City. Task Orders must be signed by both Parties and incorporate the terms and conditions of the Agreement, as modified, and may be issued throughout the term of the Agreement as the need arises. A Task Order may not change the terms and conditions of the Agreement.**
- 1. Support services shall be provided in the form of verbally communicated findings and recommendations and the production of both daily and project level deliverables. If HRO is dissatisfied with support services or deliverables provided on a day-to-day basis, HRO may terminate this contract pursuant to the termination provisions defined in the Agreement, as assigned.**
  - 2. Each Task Order shall:**
    - i. Define a project-level deliverable with specificity;**
    - ii. Specify a deadline for delivery;**
    - iii. Be agreed to by both Parties in writing;**
    - iv. State the specific reason why a project deliverable is justified due to the additional administrative cost that will be incurred to monitor and track performance.**

## **Appendix B-1: CDBG Rider**

## ARTICLE 1. DEFINITIONS

The definitions in Article 1 of Appendix B apply to this Hurricane Sandy CDBG-DR Appendix.

## ARTICLE 2. ADMINISTRATIVE CAP

Pursuant to the Disaster Relief Appropriations Act of 2013 (P.L. 113-2) and Section VI(A)(10)(b) of HUD Docket No. FR-56960-N-01, attached, a Subrecipient shall not be reimbursed for general administration costs that exceed five percent.

## ARTICLE 3. FLOOD INSURANCE

Subrecipients shall implement procedures and mechanisms to ensure that assisted property owners comply with all flood insurance requirements set forth in Section VI(B)(31) of HUD Docket No. FR-56960-N-01.

## ARTICLE 4. CIVIL RIGHTS REQUIREMENTS

Subrecipients shall comply with all civil-rights related requirements, pursuant to 24 CFR § 570.503(b)(5).

## ARTICLE 5. RELIGIOUS ORGANIZATIONS

In addition to the provisions in Article 2(m)(iv) of Appendix B, which cover a religious or denominational institution or organization operated for religious purposes which is supervised or controlled by or in connection with a religious or denominational institution or organization, payment may be authorized for a portion of eligible rehabilitation or construction costs attributable to the non-religious use of a facility that is not used exclusively for religious purposes, pursuant to Section VI(A)(4)(c) of HUD Docket No. FR-56960-N-01.

## ARTICLE 6. QUARTERLY REPORTS

The reports required by Article (5)(b) of Appendix B shall be provided by the Contractor or Subrecipient to the City on a quarterly basis, pursuant to Section VI(A)(2)(e) of HUD Docket No. FR-56960-N-01.

## ARTICLE 7. CONSTRUCTION STANDARDS

The Contractor or Subrecipient shall comply with the construction standards concerning energy efficiency set forth in section VI(A)(1)(a)(5) of HUD Docket No. FR-5696-N-01.

## ARTICLE 8. PROGRAM INCOME

To the extent deemed necessary by the City, the Program Income provisions set forth in Article 2(1) of Appendix B may be waived and instead the City may apply the alternative program requirements set forth in Section VI(A)(17)(a)-(b) of Docket No. FR-56960-N-01, which concern the definition of program income. In such event, the alternative requirements shall be set forth in the Subrecipient Agreement.

## ARTICLE 9. PERFORMANCE REQUIREMENTS AND LIQUIDATED DAMAGES

Contractor and or Subrecipient shall be subject to the performance requirements and liquidated damages set forth in the Agreement.

## APPENDIX B

### NOTICE

THIS PACKAGE CONTAINS SUPPLEMENTARY GENERAL CONDITIONS FOR USE WITH PROCUREMENT CONTRACTS AND SUBRECIPIENT AGREEMENTS WHICH PROVIDE FOR AN ELIGIBLE ACTIVITY FUNDED IN WHOLE OR IN PART UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (P.L. 93-383) AS AMENDED. IT MUST BE ANNEXED TO ALL SUCH CONTRACTS, AND EXPRESSLY MADE A PART OF, AND INCORPORATED BY REFERENCE INTO THOSE CONTRACTS.

|                   |   |    |
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## ARTICLE 2

### FEDERAL CONDITIONS

This Agreement is subject to:

(a) Title 1 of the Housing and Community Development Act of 1974 (P.L. 93-383) as amended (The Act) and all rules, regulations and requirements now issued or hereafter issued pursuant to the Act; the Agreement may be suspended and/or terminated without liability to the City if the Grant to the City pursuant to the Act is suspended or terminated, and unless and until the City or Agency receives Community Development funds in an amount that is deemed sufficient to enable it to fund this Agreement, the City or Agency is under no obligation to make any payments to the Contractor. In this regard, the Agency is under no obligation to make any payments to the Contractor, and shall not make any such payment, and the Contractor shall not commence performance, until:

- (i) the Agency has received from the City's Office of Management and Budget instructions to proceed, evidencing compliance with the National Environmental Policy Act, as amended, and with regulations of the U.S. Department of Housing and Urban Development, related thereto, found at 24 CFR Part 58, and;
- (ii) the Contractor has been notified of such instructions by the Agency. Furthermore, the Contractor and the City mutually agree that the Contractor shall not advance any funds, from any source without limitation, to pay for costs intended to be paid for under this Agreement prior to the receipt and notification described in this paragraph (a), and the City shall not reimburse the Contractor for any costs incurred in violation of this provision.

(b) Title VIII of the Civil Rights Act of 1968 (P.L. 90-284; 42 U.S.C. §§ 3602-3620), as amended, which prohibits discrimination in the sale or rental of housing and in the provision of brokerage services based on race, color, religion, sex, national origin, disability, or familial status, and which requires affirmative action in the furtherance of Fair Housing objectives.

(c) Executive Order 11063, as amended by Executive Order 12259, pursuant to regulations issued at 24 CFR Part 107 which prohibits discrimination on the basis of race, color, religion, sex or national origin and requires equal opportunity in housing constructed, operated or provided with federal funds.

(d) Title VI of the Civil Rights Act of 1964 (P.L. 88-352; 42 U.S.C. §§ 2000d *et seq.*) and implementing regulations in 24 CFR Part 1, which states that no person shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any Program or activity made possible by, or resulting from, this agreement. The provisions of this Article 2(d) shall be incorporated in and made a part of all subcontracts executed in connection with this agreement.

(e) Section 3 of the Housing and Urban Development Act of 1968 (P.L. 90-448). Pursuant to 24 CFR § 135.38, the Contractor agrees to the following:

A. The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701 u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(i) The Historic Preservation Act of 1966 (P.L. 89-665; 16 U.S.C. §§ 470 *et seq.*), the Archeological and Historic Preservation Act of 1974 (P.L. 93-291; 16 U.S.C. §§ 469-469c), Executive Order 11593 and regulations at 36 CFR Part 800. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

(j) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§ 4601-4655) and regulations at 49 CFR Part 24.

**(k) Uniform Administrative Requirements.**

- (i) Subrecipients that are governmental entities, including those that are public agencies or authorities, shall comply with the following:
  - a. Federal Office of Management and Budget (OMB) circular A-87, Cost Principles for State, Local and Indian Tribal Governments;
  - b. Federal Office of Management and Budget (OMB) circular A-133, Audits of States, Local Governments, and Non-Profit Organizations (rev. 6/27/03);
  - c. The sections of 24 CFR Part 85, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, that are set forth in 24 CFR § 570.502(a).
- (ii) Subrecipients, except those which are governmental entities, public agencies or authorities, shall comply with the following:
  - a. Federal Office of Management and Budget (OMB) circular A-122, Cost Principles Non-Profit Organizations;
  - b. In the event that the Contractor is an educational institution, Federal Office of Management and Budget (OMB) circular A-21, Cost Principles for Educational Institutions;
  - c. The sections of 24 CFR Part 84, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-Profit Organizations, that are set forth in 24 CFR § 570.502(b). The provisions of 24 CFR Part 84 implement OMB circular A-110;
  - d. Federal Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations (rev. 6/27/03).
  - e. Execution of a subrecipient agreement.
- (iii) Contractors shall comply with the provisions of 24 CFR Part 85 and 48 CFR Part 31, as applicable.

(l) The Contractor agrees that if any income is generated from the Community Development Block Grant Program funded activities, Contractor shall return such income to the City's Community Development Block Grant Program

for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, sex, religion or national origin.

c. The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other Agreement or understanding, a notice to be provided by the Agency contracting officer, advising the labor union or worker's representatives of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Department and the Secretary of Labor for purposes of investigations to ascertain compliance with such rules, regulations, and orders.

f. In the event of the Contractor'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 Contractor may be declared ineligible for further Government contracts or federally assisted Construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

g. The Contractor will include the provisions of this Article 2(n) 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, as amended, so that provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for non-compliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

(o) The Contractor agrees that if it enters a Construction subcontract as part of its Agreement with the City, and this Construction subcontract is for an amount more than \$10,000, the notice found at FEDERAL EXHIBIT 1 of this Agreement must be included in that Construction subcontract.

- 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 Contractor, 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 Contractor 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. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each 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 Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
  4. The Contractor 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 Contractor 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 Contractor 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,

- 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 Contractor's EEO policies and affirmative action obligations.
8. Contractors 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. A single goal for minorities and a separate single goal for women have been established. The Contractor, 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 Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

(b) At such times on such forms as HUD and/or the City may require, there shall be furnished to HUD and/or the City such statements, records, reports, data and information, as HUD and/or the City may request pertaining to matters covered by this Agreement. At a minimum, such forms will include the following:

- (i) Annual Data Collection Report forms for the purpose of including specific Program description, accomplishment, expenditure and beneficiary information in the City's Annual Performance Report.
- (ii) Annual Property Register forms for the purpose of tracking the use of CDBG purchased real property.

(c) At any time during normal business hours and as often as the City, the Agency, HUD, Inspector General, U.S. General Accounting Office, and/or the Comptroller General of the United States may deem necessary, the Contractor shall make available for examination to the City, HUD, Inspector General, U.S. General Accounting Office and/or representatives of the Comptroller General all of its books, accounts, records, reports, files, and other papers or property with respect to all matters covered by this Agreement and shall permit the City, HUD and/or representatives of the Comptroller General and the U.S. General Accounting Office to audit, examine, make excerpts of, and make transcriptions from such books, accounts, records, reports, files, and other papers or property and to make audits of all contracts, invoices, materials, payrolls, records or personnel, conditions of employment and other data relating to all matters covered by this Agreement.

#### ARTICLE 6

##### UNEARNED PAYMENTS

Unearned payments under this Agreement may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by HUD at any time, or if the Grant to the City under the Act is suspended or terminated. Unearned payments received by the Contractor will be returned to the City. All interest on funds advanced to the Contractor will be returned to the City.

#### ARTICLE 7

##### DISBURSEMENT RESTRICTIONS

No money under this Agreement shall be disbursed by the Agency to any Contractor except pursuant to a written contract which incorporates the applicable Supplementary General Conditions and unless the Contractor is in compliance with HUD requirements with regard to accounting and fiscal matters, to the extent they are applicable, and provided that the Agency has completed HUD requirements, including but not limited to environmental certifications pursuant to 24 CFR 58.

#### ARTICLE 8

##### DOCUMENTATION OF COSTS

All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents, pertaining in whole or in part to the Contract, shall be clearly identified and readily accessible.

#### ARTICLE 9

##### BONDING

The Agency must receive a statement from the Contractor's chief fiscal officer or their insurer assuring that all persons handling funds received or disbursed under this Agreement are covered by fidelity insurance in an amount and

(f) If the Contractor publishes a work dealing with any aspect of performance under this Agreement, or with the results of such performance, the City shall have a royalty-free, non-exclusive irrevocable license to reproduce, publish or otherwise use such work for City governmental purposes.

## ARTICLE 12

### PATENTS

The Contractor shall promptly and fully report to the City any discovery or invention arising out of or developed in the course of performance of this Agreement. In addition, any discovery or invention arising out of or developed in the course of work aided by this Agreement shall be promptly and fully reported to HUD for determination by HUD as to whether patent protection on such invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered, in order to protect the public interest.

## ARTICLE 13

### SUBCONTRACTORS

(a) The provisions of this Agreement shall apply to Subcontractors and their officers, agents and employees in all respects as if they were employees of the Contractor. The Contractor shall not be discharged from its obligations and liabilities, but shall be liable for all acts and negligence of Subcontractors, and their officers, agents and employees, as if they were employees of the Contractor.

(b) Employees of the Subcontractor shall be subject to the same provisions as employees of the Contractor.

(c) The services furnished by Subcontractors shall be subject to the provisions hereof as if furnished directly by the Contractor, and the Contractor shall remain responsible therefor.

## ARTICLE 14

### SUSPENSION AND TERMINATION

(a) Where the Contractor fails to perform the work satisfactorily as enumerated in the part of this Agreement known as the scope of work, the City may withhold payment, in addition to any other remedy provided for by this Agreement. Where there is failure to comply with the Agreement terms, the City reserves the right to terminate the Agreement. The City further reserves the right to terminate the Agreement for convenience.

(b) The Contractor certifies that neither it nor its principals is currently in a state of debarment, suspension or other ineligible status as a result of prior performance, failure, fraud, or violation of City laws. The Contractor further certifies that neither it nor its principals is debarred, suspended, otherwise excluded from or ineligible for participation in Federal assistance programs. The City reserves the right to terminate this Agreement if knowledge of debarment, suspension or other ineligibility has been withheld by the Contractor.

(c) If this Agreement is between the City and a subrecipient, the City may suspend or terminate the Agreement if Subrecipient materially fails to comply with any terms of this Agreement, pursuant to 24 CFR § 85.43, and for convenience, pursuant to 24 CFR § 85.44.

## ARTICLE 15

### REVERSION OF ASSETS

(a) At the Contract's expiration, the Contractor shall transfer to the City all Community Development funds on hand at the time of expiration and any accounts receivable attributable to the use of Community Development funds.

Order 11738, and Environmental Protection Agency regulations (provisions of 40 CFR Part 50 and 2 CFR Part 1532 related to the Clean Air Act and Clean Water Act).

**ARTICLE 18**

**ENERGY EFFICIENCY**

The Contractor shall comply with mandatory standards and policies relating to energy efficiency that are contained in the New York State energy conservation plan issued in compliance with the Energy Policy Conservation Act (Pub. L. 94-163).

**ARTICLE 19**

**HATCH ACT; LOBBYING; CONFLICT OF INTEREST**

(a) Hatch Act: The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

(b) Lobbying: The Subrecipient agrees that no funds provided will be used by it or its subcontractors in violation of 24 CFR § 87.100.

(c) Conflict of Interest: The Subrecipient agrees to abide by the provisions of 24 CFR §§ 84.42, 85.36, and 570.611.

**ARTICLE 20**

**CONFLICTS; EXHIBITS; SUBCONTRACT PROVISIONS**

If any provision in this Appendix B directly conflicts with any other provision in the Contract, the provision in Appendix B shall be controlling.

Federal Exhibits 1 and 2, are attached to, and made a part of this Appendix B.

Any subcontracts entered into pursuant to this Agreement shall incorporate the following City of New York provisions by reference, which shall be binding on every Subcontractor:

- Investigations;
- Executive Order 50; and
- Conflicts of Interest

performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved Construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any Construction subcontract in excess of \$10,000 at any tier for Construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the Subcontractor; employer identification number of the Subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Agreement, the "covered area" is the City of New York.

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (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 contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract in the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the 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 contractor 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 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract 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 contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, 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/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to 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 contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 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;

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 contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 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 contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor will insert in any 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 subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

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

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

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and 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 contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) 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 1 01 0, 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 Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any 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 Contract 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. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which 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 contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in 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.

## Appendix C-1: Budget (April 1, 2014 through December 31, 2015)

April 1, 2014 – December 31, 2015 (21 months)

| Description                   | Unit   | Maximum Hours | Hourly Rate | Not To Exceed |
|-------------------------------|--------|---------------|-------------|---------------|
| LDR Subject Matter Consultant | Hourly | 3,629         | \$215       | \$780,041     |



**Human Resources  
Administration**

Department of  
Social Services

Office of Contracts

W-2-196  
Rev. 03/15

June 9, 2015

Steven Banks  
Commissioner

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John Cape  
Public Financial Management, Inc.  
Two Logan Square, Suite 1600  
Philadelphia, PA 19103

RE: **Addendum to Assignment of Build-it-Back Case Management Services Contract (the "Contract") between the Department of Social Services of the Human Resources Administration ("HRA") on behalf of the City of New York, Public Financial Management, Inc. ("PFM"), and Lucas Disaster Recovery Consulting, LLC ("LDR")**

Dear Mr. Lucas and Mr. Cape:

HRA hereby amends the above-referenced Assignment between the Department of Social Services of the Human Resources Administration ("HRA") on behalf of the City of New York, Public Financial Management, Inc. ("PFM"), and Lucas Disaster Recovery Consulting, LLC ("LDR"). This Addendum shall be annexed to the Assignment document and its terms incorporated therein.

Paragraph 1 of the Assignment shall be amended to add the words in bold and to delete the bracketed words as follows:

Assignor hereby assigns, transfers and conveys to Assignee, Assignor's right, title, and interest in and to the Contract, solely for the portion of Task IV "Task Order On Demand Staffing" services ("Services"), which are comprised of the services indicated in sub-sections A through D [E] below. [The scope and budget of the Services are fully detailed in the Contract.] A total amount not to exceed **thirty eight thousand seven hundred dollars (\$38,700)** [five hundred fifty thousand, seven hundred twenty five dollars (\$550,725)] for the period December 16, 2013 (the "Effective Date") throughout the remainder of the term of the Contract shall be **assigned** [payable] to Assignee pursuant to this Assignment. [and shall include the amount specified in the line-item budget for the Services less any payment already made by the Department to either Assignor or Assignee for Services rendered, regardless of which party performed the Services, however] N[n]o payment shall be made until a duly executed Modification Agreement is registered pursuant to New York City

## ASSIGNMENT, ASSUMPTION, AND CONSENT AGREEMENT

AGREEMENT made as of the <sup>5<sup>th</sup></sup>~~4<sup>th</sup>~~ day of February, 2015 between Public Financial Management, Inc. ("Assignor") a for-profit corporation located at Two Logan Square, Suite 1600, Philadelphia, PA 19103, LDR Consulting, LLC ("Assignee") a for-profit corporation with a place of business at 414 Yellow Wood Drive, New Braunfels, Texas 78130, and the City of New York by and through the Department of Social Services / Human Resources Administration (the "Department") with offices at 180 Water Street, New York NY 10038.

**WHEREAS**, Assignor entered into a contract, dated July 3, 2013, with the Department for the provision of case management services for New York City residents directly affected by Hurricane Sandy (Contract ID Number 069 20141400169) commencing as of June 24, 2013 and continuing through June 23, 2015 (the "Contract"); and

**WHEREAS**, pursuant to the terms of the Contract, Assignor agreed to provide the services specified under Task IV of the Scope of Work (the "Services") through a subcontract with Assignee; and

**WHEREAS**, due to unanticipated programmatic changes and delays in the Contract, Assignor has determined it is in the best interests of all parties to assign the overall requirements of the Contract; and

**WHEREAS**, such unanticipated programmatic changes will result in multiple agreements to assign all Tasks of the Contract, of which this Agreement is one; and

**WHEREAS**, Assignor has agreed to assign the portions of Task IV of the Contract specified herein, subject to the consent and approval of the Department, and Assignee has agreed to accept such assignment on the terms set forth herein;

**NOW, THEREFORE**, for good and valuable consideration, including the mutual covenants contained herein, and intending to be legally bound, Assignor, Assignee and the Department, hereby agree as follows:

1. Assignor hereby assigns, transfers and conveys to Assignee, Assignor's right, title, and interest in and to the Contract, solely for the portion of Task IV "Task Order On Demand Staffing" services ("Services"), which are comprised of the services indicated in sub-sections A through E below. The scope and budget of the Services are fully detailed in the Contract. A total amount not to exceed five hundred fifty thousand, seven hundred twenty five dollars (\$550,725) for the period December 16, 2013 (the "Effective Date") throughout the remainder of the term of the Contract shall be payable to Assignee pursuant to this Assignment and shall include the amount specified in the line-item budget for the Services less any payment already made by the Department to either Assignor or Assignee for Services rendered, regardless of which party performed the Services, however no payment shall be made until a duly executed Modification Agreement is registered pursuant to New York City Charter section 328. The

Parties hereto acknowledge that the originally budgeted funds for the Services have been expended, and that additional funds for the Services will be allocated in an amendment to follow.

- A. Conduct program management analytics.
- B. Engage in policy evaluation.
- C. Act as liaison to the IT Change Control Board.
- D. Perform related duties including management of application production and process flow development.

2. Assignee, for the benefit of Assignor and the City of New York, hereby accepts the Assignment and assumes and agrees to perform all obligations and duties of Assignor under the portion of Task IV Project Management services specified in Article 1 of this Agreement, as of the Effective Date and throughout the remainder of the term of the Contract. Subject to the provisions of this Agreement, Assignee agrees to be bound by the terms of the Contract in every way as if Assignee were the original party to the Contract, including, but not limited to, the insurance requirements set forth in the Contract and the requirements for CDBG-DR funding set forth in the Hurricane Sandy CDBG-DR Appendix and Attachment 1 (also referred to as Appendix B) on and after the Effective Date. Assignee assumes all liability for performance or nonperformance on and after the Effective Date.

3. By signing this Agreement, the Department consents to the assignment of the portion of Task IV Project Management services specified in Article 1 of this Agreement. This Agreement shall not be effective until the Department, by its authorized representative, has consented thereto by signing this Agreement and the fully-executed Agreement has been registered pursuant to New York City Charter section 328. This Agreement shall be governed by and be construed in accordance with the laws of the State of New York. By its consent to this Agreement, the Department, for itself and for the City of New York, releases and fully discharges Assignor from any duties, payments, obligations, performance and other requirements arising under or with respect to the portion of Task IV Project Management services specified in Article 1 of this Agreement on or after the Effective Date.

4. Assignor shall defend, indemnify, and hold harmless Assignee, Assignee's affiliates, and each of their respective successors, assigns, officers, directors, shareholders, managers, members, partners, employees, representatives, and agents from and against any and all suits, actions, losses, claims, or liability of any character, type, or description, including all expenses of litigation, court costs, and attorney fees, to the extent arising from the negligent or intentionally wrongful performance or non-performance, before the Effective Date, of Assignor's obligations under the Contract.

5. Assignor hereby irrevocably and unconditionally agrees, to fully and finally release and discharge Department and the City from any further obligation or liability for payments for any services performed pursuant to the above-referenced contract by either Assignor or Assignee between June 24, 2013 and June 30, 2014, if the Department has already paid either Assignor or Assignee for performing those services as of the date of execution of this Agreement, regardless of who actually performed those services.

6. Assignee hereby irrevocably and unconditionally agrees, to fully and finally release and discharge Department and the City from any further obligation or liability for payments for any services performed pursuant to the above-referenced contract by either Assignor or Assignee between June 24, 2013 and June 30, 2014, if the Department has already paid either Assignor or Assignee for performing those services as of the date of execution of this Agreement, regardless of who actually performed those services.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date referenced above.

**PUBLIC FINANCIAL MANAGEMENT, INC.**

By:   
Name: John B. Cape  
Title: Managing Director

Date: 1/29/15

**LDR CONSULTING, LLC**

By:   
Name: John Stone Lucas  
Title: Chief Executive Officer

Date: 4 FEB 15

**CITY OF NEW YORK  
DEPARTMENT OF SOCIAL SERVICES /  
HUMAN RESOURCES ADMINISTRATION**

By:   
Name: Vincent R. An  
Title: AN



