

STANDARD TERMS & CONDITIONS  
**AGREEMENT FOR [SERVICES]**  
Tourism Industry Recovery, II



**DEFINITIONS AND FACTS.** This contract, together with *Section D: Standard Terms* (collectively, the "Agreement"), govern the terms under which **[AGENCY]** may manage        **services** for the **Hattiesburg Tourism Commission (d.b.a. VisitHATTIESBURG)**. References to "AGENCY" mean        and references to "DMO" mean **VisitHATTIESBURG**.

This contract is presented with reference to the following facts:

- a. This contract will be funded through federal American Rescue Plan Act (ARPA) dollars for Mississippi Tourism Recovery, II (HB453), which authorizes Destination Marketing Organizations to use such funds to pay the costs of certain marketing activities. Marketing activities include multimedia marketing and advertising, such as digital media, broadcast media and printed media; travel publications; production; travel market sector analysis; consumer travel sentiment; public relations; communication strategy; direct sales bookings; group tour bookings; and tourism development.
- b. AGENCY is organized and equipped to carry out the promotional, tourism, and business assistance activities desired by DMO, and has special knowledge, expertise, skill, and facilities for such work.

Both the AGENCY and DMO hereby mutually agree that:

**SERVICES.** XYZ

**CONTRACT TERMS.** XYZ

**FOR VISITHATTIESBURG**

**FOR [AGENCY]**

\_\_\_\_\_  
[SIGNEE]  
VisitHATTIESBURG

\_\_\_\_\_  
[SIGNEE]  
[AGENCY NAME]

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## SECTION A: DELIVERABLES

XYZ

A detailed Scope of Services will be provided in an addendum to this Master Services Agreement.

## SECTION B: BUDGET & BILLING

**COMPENSATION.** XYZ

**BUDGET.** VisitHATTIESBURG will fund this contract \_\_\_\_\_. This budget is based on \_\_\_\_\_.

**BILLING.** VisitHATTIESBURG limits invoicing to one invoice per \_\_\_\_\_, with a minimum of \_\_\_\_\_ per invoice. Each invoice should be on letterhead from the AGENCY and include the month(s) for which payment is due as well as detail of work completed.

## SECTION C: AGENCY RATES

**RATE.** XYZ

**RATE CHANGES.** XYZ

## SECTION D: STANDARD TERMS

**INTERPRETATION.** The terms and conditions of this Agreement shall be construed pursuant to their plain and ordinary meaning and shall not be interpreted against the DMO by virtue of that party having drafted this Agreement.

**CONFIDENTIALITY.** Information that is disclosed by one party to the other party, and that is marked "confidential," or which under the circumstances ought reasonably to be treated as confidential information (including this Agreement), will be treated as confidential. AGENCY will not disclose to a third party such information or use such information other than for the purpose for which it was provided without the written consent of DMO.

AGENCY and DMO collectively agree to keep the terms of this Agreement and all information pertaining to services, either party's business, and other information strictly confidential. Disclosure by AGENCY or DMO to its attorneys, accountants, or tax advisors and sales representatives, or as may be required by law to any governmental AGENCY or authority or to a court or arbitrator shall be conditioned on all reasonable steps being taken to maintain the confidentiality of the terms of this Agreement. Either party shall notify the other party promptly if any such disclosure is requested or required.

Neither party shall issue any press releases or public announcements pertaining to this Agreement or contracts, unless such releases or announcements have been approved by the other party prior to issuance.

All data collected by AGENCY, DMO and/or any third party in connection with this Agreement shall be exclusively owned by DMO, and not used or disclosed by AGENCY without DMO's prior approval in each instance.

Results of DMO's media placement or earned media will be privileged information only shared between the DMO and AGENCY, unless otherwise noted by the DMO.

**INTELLECTUAL PROPERTY AND COPYRIGHT.** The DMO retains all usage, ownership, and intellectual property rights of materials produced by the AGENCY upon completion of and payment of deliverables. DMO and AGENCY recognize that the copyright created by AGENCY during the contract term is owned by the DMO. DMO and AGENCY agree that DMO has the non-exclusive right, for the full term of copyright, by itself or through third parties, to republish, retransmit, re-perform, redistribute or otherwise re-use any artwork, logos, taglines, descriptions, imagery, video, branding, etc., in whole or in any part, whether or not combined with material of others. AGENCY retains the right to display such materials on business website, social media accounts, and in other portfolio of work.

**ACCURACY AND TRUTH.** The DMO agrees to assume full responsibility for the accuracy and truth of information furnished to the AGENCY for use in advertising activity and be legally responsible therefore. The AGENCY agrees to assume full responsibility for accurately communicating and using the information provided by the DMO in advertising activity and otherwise.

**REPORTING.** AGENCY will provide monthly reports, at a minimum, taken directly from the applicable advertising / media account(s), demonstrating key performance indicators as disclosed in proposal and contracts.

**COUNTS AND MAKE GOODS.** AGENCY counts instances of content being delivered based on requests, and AGENCY will issue monthly tracking reports on that basis. If AGENCY fails to deliver the contracted impressions during the contract term, DMO's sole remedy for such failure will be an extension of this Agreement until the contracted deliverables are provided in full. The final determination of delivery will be reported by AGENCY's ad server platforms. AGENCY guarantees costs and assumes all risks based on current levels of online inventories and marketplace demand.

**ASSIGNMENT.** AGENCY shall have no right or ability to assign, transfer, or sublicense any obligations under this Agreement without the prior written consent of DMO (and any attempt will be void).

**MODIFICATION.** This Agreement may only be modified in writing and signed by both parties hereto.

**TERMINATION OF AGREEMENT.** DMO may terminate this Agreement, with or without cause, upon DMO's giving written notice thereof to AGENCY. The DMO or AGENCY reserve the right to cancel this contract with a 60-day written notice supplied to the signers of this contract, or their designated representative.

Upon such termination, on DMO's demand, AGENCY shall promptly reimburse DMO on a pro-rata basis for any unearned portion of the monthly payment.

In the event, and only in the event, market conditions shift to prevent the execution of the contract as contemplated by the parties, DMO and AGENCY may mutually agree to alter the Agreement terms or either party may terminate the contract upon 10 business days' notice in party's sole discretion.

**FAILURE TO MEET MINIMUM REQUIREMENTS.** If AGENCY fails to fulfill the minimum requirements of this Agreement, or to otherwise comply with any provision of this Agreement, then the matter shall be investigated by DMO's Administrator, or its designee, who shall make a recommendation to DMO's Board/Director as to the remedy for breach of this Agreement. The breach may be cured by reasonable substitution of services provided, by reimbursement of a portion of the fee paid by DMO to AGENCY, or by other such remedy as the DMO

Board/Director may reasonably require. DMO and AGENCY agree the decision of the DMO Board/Director shall be final and conclusive.

**DISCRIMINATION.** No person shall, on the grounds of race, sex, creed, color, religion, national origin, handicap, or disability, be excluded from participation in, refused the benefits of, or otherwise subjected to discrimination in any activities, programs, or employment supported by this Agreement.

**COMPLIANCE WITH LAWS.** This Agreement shall be governed by the laws of the State of Mississippi. AGENCY shall comply with all applicable laws, ordinances, and codes of the State of Mississippi and City of Hattiesburg, and any legal actions shall be brought in an applicable court in Forrest County, Mississippi.

## SECTION E: SUPPLEMENTAL TERMS

### (A) EQUAL OPPORTUNITY CLAUSE.

- I. During the performance of this contract, the contractor agrees as follows:
  - a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
  - 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, religion, sex, sexual orientation, gender identity, or national origin.
  - c. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
  - d. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- e. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

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

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

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

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

- II. Contractor agrees to include the equal opportunity clause above in each of its nonexempt subcontracts.

**(B) TITLE VI OF THE CIVIL RIGHTS ACT OF 1964.**

The contractor shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract or agreement.

**(C) OTHER NON-DISCRIMINATION STATUTES.**

Contractor acknowledges that the Hattiesburg Tourism Commission is bound by and agrees, to the extent applicable to contractor, to abide by the provisions contained in the federal statutes enumerated below and any other federal statutes and regulations that may be applicable to the expenditure of Fiscal Recovery Funds: The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability; Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance; The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability in programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

**(D) COPELAND ANTI-KICKBACK ACT.**

- I. **Contractor.** Contractor agrees it shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors

on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The obligations thereunder include, but are not limited to, the requirement that Contractor shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by 29 C.F.R. Part 3 and 29 C.F.R. Part 5 during the preceding weekly payroll period. This statement shall include a “Statement of Compliance” executed by the Contractor or Subcontractor or by an authorized officer or employee of the Contractor or Subcontractor who supervises the payment of wages, and shall be on the back of Form WH 347, “Payroll (For Contractors Optional Use)” or on any form with identical wording. Copies of WH 347 may be obtained from the Government contracting or sponsoring agency or from the Wage and Hour Division Web site at <https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification> or its successor site. The Contractor shall comply with all other applicable “Anti-Kickback” regulations in 29 CFR Part 3 and shall insert appropriate provisions in all subcontracts covering work under this Contract to ensure compliance by the Subcontractors with such regulations, and shall be responsible for the submission of affidavits required of Subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

- II. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the Department of Treasury may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- III. **Breach.** A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

(E) **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.** As used in this paragraph, the terms “laborers” and “mechanics” include watchmen and guards.

- I. **Overtime requirements.** No Contractor or Subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 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. The Contractor or Subcontractor shall comply with all other applicable Contract Work Hours and Safety Standards Act regulations in 29 CFR Part 5 and shall insert appropriate provisions in all subcontracts covering work under this Contract to ensure compliance by the Subcontractors with such regulations, and shall be responsible for the submission of affidavits required of Subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.
- II. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph (F), the Contractor and any Subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable 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 (F), in the sum of \$29 for each calendar day (or higher as provided by any subsequent federal regulations) 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 sub-paragraph (1) of this paragraph (F).

- III. **Withholding for unpaid wages and liquidated damages.** The Department of Treasury or the Hattiesburg Tourism Commission shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- IV. **Appeal of withholding for unpaid wages and liquidated damages.** Any contractor aggrieved by the withholding of liquidated damages shall have the right to appeal to the Secretary of the Treasury or her designee. Any appeal shall be pursuant to the requirements and/or procedures contained in 29 CFR Part 3 or any other applicable regulations.
- V. **Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (5) of this paragraph (D) and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any Subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (5) of this paragraph.

**(F) RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

- I. **Standard.** If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the Hattiesburg Tourism Commission wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by the Department of Treasury. See 2 C.F.R. Part 200, Appendix II(F).
- II. **Applicability.** This requirement applies to “*funding agreements*,” but it DOES NOT apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as federal awards under these programs do not meet the definition of “*funding agreement*.”
- III. **Funding Agreements Definition.** The regulation at 37 C.F.R. § 401.2(a) defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

**(G) ENVIRONMENTAL COMPLIANCE.**



- I. **Standard.** Contractor and/or Subcontractor agrees that it will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Contractor and/or Subcontractor agrees that it will report all violations to the U.S. Department of the Treasury and the Regional Office of the Environmental Protection Agency (EPA).
- II. **Applicability.** This requirement applies to contracts awarded by the Hattiesburg Tourism Commission of amounts in excess of \$150,000 under a federal grant.

**(H) DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689).**

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

**(I) PROCUREMENT OF RECOVERED MATERIALS.** Contractor and/or Subcontractor agrees that it will comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the requirements of which include:

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

**(J) PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.** Contractor and/or Subcontractor agrees and acknowledges that it is prohibited from obligating or expending loan or grant funds to:

- I. Procure or obtain;
- II. Extend or renew a contract to procure or obtain; or

- III. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, “covered telecommunications equipment” is telecommunications equipment produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

The prohibition in this section includes (a) telecommunications or video surveillance services provided by such entities listed above or using such equipment; and (b) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

**(K) DOMESTIC PREFERENCES FOR PROCUREMENTS.**

Contractor agrees, to the greatest extent practicable under this Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Contractor and/or Subcontractor further agrees that the requirements of this subsection must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this subsection: (1) “produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; and (2) “manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**(L) MISSISSIPPI EMPLOYMENT PROTECTION ACT.**

Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act (Senate Bill 2988 from the 2008 Regular Legislative Session, codified as Miss. Code Ann. § 71-11-1, *et seq.*) and will register and participate in the status verification system for all newly hired employees. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-verify Program, or any other successor electronic verification system replacing the E-verify Program. Contractor agrees to maintain records of such compliance and, upon request of the State, to provide a copy of each such verification to the State. Subrecipient and contractor further represent and warrant that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor understands and agrees that any breach of these warranties may subject contractor to the following: (a) termination of this Contract and ineligibility for any state or public contract in Mississippi for up to 3 years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to contractor by an agency, department or government entity for the right to do business in Mississippi for up to 1 year, or (c) both. In the event of such cancellation/termination, contractor would

also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit.

**(M) BIDS FOR PUBLIC WORKS PROJECTS UTILIZING FUNDS RESULTING FROM A FEDERALLY DECLARED DISASTER.**

Pursuant to Mississippi Code Annotated § 31-5-37, all contractors submitting bids for public works projects that involve an expenditure of Five Thousand Dollars (\$5,000.00) or more and that are financed, in whole or in part, through the use of funds received by state or local governmental entities resulting from a federally declared disaster shall submit with their bid a certification that they will comply with the provisions of this section if they are awarded a contract. Contractor therefore agrees that it shall submit to the Hattiesburg Tourism Commission and the Mississippi Department of Employment Security an employment plan within seven (7) days after the award of this Contract which shall include the following:

- a. The types of jobs involved in the public works project;
- b. The skill level of the jobs involved in the project;
- c. Wage information on the jobs involved in the project;
- d. The number of vacant positions that the Contractor and any subcontractor needs to fill;
- e. How the Contractor and any subcontractor will recruit, low-wage and unemployed individuals for job vacancies;
- f. Such other information as may be required by the Mississippi Department of Employment Security; and
- g. Proof of registration with the Mississippi Department of Employment Security for taxation in accordance with the provisions of Title 71 of the Mississippi Code.

Further, Contractor and/or Subcontractor agree that, from the date written notice of the Contract award is received and until ten (10) business days after the receipt of the employment plan by the Mississippi Department of Employment Security, Contractor and any Subcontractor shall not hire any personnel to fill vacant positions necessary for this public works project except residents of the State of Mississippi who are to be verified by the Mississippi Department of Employment Security and/or those qualified individuals who are submitted by the Mississippi Department of Employment Security. For purposes of this subsection, the Contractor and/or Subcontractor is authorized to employ Mississippi residents to begin work immediately, and such persons are to be verified by the Mississippi Department of Employment Security after employment by the Contractor and/or Subcontractor. During the ten-day period the Mississippi Department of Employment Security shall submit qualified individuals to the Contractor to consider for the vacant positions. The Contractor shall review the individuals submitted by the department before hiring individuals who are not submitted by the department. The Contract award shall be vacated if the Contractor fails to comply with the provisions of this subsection.

**(N) RECORDS.**

Financial records, supporting documents, statistical records, and all other Contractor and/or Subcontractor records pertinent to this Contract must be retained for a period of three years from the date of submission of the final expenditure report by the Hattiesburg Tourism Commission to the U.S. Department of Treasury. The only exceptions to the requirements listed above in this subsection are contained in 2 C.F.R. § 200.334. All financial information and data relevant to this Contract or any work performed thereto shall be compiled and maintained in accordance generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Contract or any subcontract thereunder. The Contractor and/or

Subcontractor shall also maintain the financial information and data used in the preparation or support of any cost submission for any negotiated subcontract or change order and a copy of the cost summary submitted to the Hattiesburg Tourism Commission.

**(O) ACCESS TO RECORDS.**

- I. Contractor and/or Subcontractor agrees to allow the Hattiesburg Tourism Commission, the U.S. Department of Treasury, the Comptroller General of the United States, and any of their duly authorized representatives access to any books, documents, papers, and records of the Contractor and/or Subcontractor which are directly pertinent to the Contract or the Coronavirus State Fiscal Recovery Fund and the Coronavirus State and Local Fiscal Recovery Fund established under the American Rescue Plan Act for the purpose of making audits, examinations, excerpts, and transcriptions. The rights of access in this subsection are not limited to the required retention period but last as long as the records are retained.
- II. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- III. The Contractor agrees to provide the Secretary of the Treasury or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- IV. In compliance with the Disaster Recovery Act of 2018, the Hattiesburg Tourism Commission and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the U.S. Department of Treasury or the Comptroller General of the United States.

**(P) PUBLICATIONS.**

Any publications produced with funds from this award must display the following language: "This project [*is being*] [*was*] supported, in whole or in part, by federal award number [*enter project FAIN*] awarded to [*name of Recipient*] by the U.S. Department of the Treasury."

**(Q) INCREASING SEAT BELT USE IN THE UNITED STATES.**

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for your employees when operating company-owned, rented or personally owned vehicles.

**(R) REDUCING TEXT MESSAGING WHILE DRIVING.**

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor is encouraged to adopt and enforce policies that ban text messaging while driving and establish workplace safety policies to decrease accidents caused by distracted drivers.

**(S) CHANGES**

- I. **Standard.** To be eligible for assistance under the Hattiesburg Tourism Commission's federal award, grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.
- II. **Applicability.** Treasury recommends, therefore, that the Hattiesburg Tourism Commission include a changes clause in its contract that describes how, if at all, changes can be made by either party to

alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

**(T) DEPARTMENT OF TREASURY SEAL, LOGO, AND FLAGS.**

The contractor shall not use the Department of Treasury seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific Treasury's pre-approval.

**(U) COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS.**

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

**(V) NO OBLIGATION BY FEDERAL GOVERNMENT.**

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

**(W) PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.**

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

**(X) MINORITY AND WOMEN BUSINESS ENTERPRISES.**

Contractor hereby agrees to comply with the following when applicable: The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise), when applicable. Accordingly, the contractor hereby agrees to take affirmative steps to assure that women and minority businesses are utilized when possible as sources of supplies, equipment, construction, and services. Affirmative steps shall include the following:

- I. Including qualified women's business enterprises and small and minority businesses on solicitation lists;
- II. Assuring that women's enterprises and small and minority businesses are solicited whenever they are potential sources;
- III. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small and minority business, and women's business enterprises;
- IV. Where the requirement permits, establishing delivery schedules which will encourage participation by women's business enterprises and small and minority business; and
- V. Using the services and assistance of the Small Business Administration, and the U.S. Office of Minority Business Development Agency of the Department of Commerce; and/or the Mississippi Procurement Technical Assistance Program (<https://mscpc.com>).

**(Y) CONFLICTS AND INTERPRETATION.**

- I. To the extent that any portion of these Supplemental Terms conflicts with any term or condition of this contract expressed outside of these Supplementary Terms, the Supplemental Terms shall govern.

- II. The term “contractor” as used in these Supplemental Terms shall also include any subcontractors that contract with a contractor and whose contract for goods and/or services is funded in whole or in part by a federal grant award.

**(Z) REMEDIES**

- I. Contracts for more than the simplified acquisition threshold, currently set at \$250,000, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II(A).
- II. This requirement applies to all federally funded grant and cooperative agreement programs.

**(AA) TERMINATION FOR CAUSE AND CONVENIENCE**

- I. All contracts in excess of \$10,000 are subject to termination for cause and for convenience by the Hattiesburg Tourism Commission including the manner by which it will be affected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II(B)
- II. (This requirement applies to all federally funded grant and cooperative agreement programs.)

**(BB) ANTI-LOBBYING AMENDMENT.** Contractor and/or Subcontractor certifies, to the best of its knowledge and belief that:

- I. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor and/or Subcontractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; and
- II. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Contractor and/or Subcontractor shall complete and submit OMB Standard Form LLL, Disclosure of Lobbying Activities in accordance with its instructions.
- III. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

**SAMPLE**