City of Hattiesburg, MS

200 Forrest St.
P.O. Box 1898
Hattiesburg, MS 39401

Meeting Agenda - Final

Monday, July 1, 2019

4:00 PM

Council Chambers

City Council - Public Hearing, Unsafe Properties

I. Call to Order

II. Public Hearing

II.-1 2019-469 Hold Public Hearing on Monday July 1, 2019 to determine if the following properties are in such a state of uncleanliness so as to be a menace to the health and safety of the community, according to the provisions of MS Code 1972, Section 21-19-11.

Attachments: Public Hearing 07.01

1. 2202.5 Adeline St
2. 405 E 5th St
3. 2-029F-04-310 Montague Dr
4. 325 W 4th St
5. 707 Lafayette Ave
6. 520 North St
7. 908 Atlanta St
8. 313 Rosa Ave
9. 906 Edwards St
10. 2504 Arcadia St
11. 1200 Carter Dr
12. 712 Ida Ave
13. 440 Gasway Loop
14. 106 Independence St
15. 114 Marin Luther King Ave
16. 506 Mccomb St
17. 515 E 5th St
18. 724 New Orleans St
19. 811 Jordan Ave

Agenda Adjustments

Add Policy Items V.-12 and V.-13 at the request of the Administration.

V.-12 2019-479 Authorize Mayor to execute Fire Protection Agreement between the City of Hattiesburg and the University of Southern Mississippi to provide fire protection and related services for a one (1) year term, beginning July 1,2019 and ending on June 30,2020, in the amount of $95,652.00.

Attachments: USM Fire protection agreement-2019-2020

V.-13 2019-480 Authorize acceptance and submission of the Department of Commerec's Economic Development Administration (EDA) grant award in the amount of $1,700,000.00 for infrastructure improvements to Lamar Boulevard, with a total estimated project cost of $2,155,968.00 with a breakdown of $1,700,00 being federal share cost and $455,968.00 as the recipient share cost.

Attachments: Financial Assistance Award
Project Cost Classifications
Terms and Conditions

III. Agenda Review

IV. Citizen's Forum

V. Work Session

1. **2019-483** Proposed Animal Control Ordinance

Attachments: DRAFT of Proposed Animal Control Ordinance
Animal Control Ordinance Presentation

2. **2019-484** Proposed Rental Ordinance

Attachments: DRAFT of Proposed Rental Ordinance
RENTAL ORDINANCE 2019 DRAFT PRESENTATION

3. Burned structures - Mary Dryden

4. Parking lot maintenance - Mary Dryden

5. Gateways into downtown, passing through Ward 2/Twin Forks Rising - Deborah Delgado

VI. Meeting Recess

City of Hattiesburg, MS

200 Forrest St.
P.O. Box 1898
Hattiesburg, MS 39401

Master

File Number: 2019-469

File ID:	2019-469	**Type:**	Regular Agenda Item	**Status:**	Agenda Ready
Version:	1	**Reference:**		**In Control:**	City Council
Requester:	Code Enforcement			**File Created:**	06/20/2019
Brief Title:	Hold Public Hearing on Monday July 1, 2019 to determine if the following properties are in such a state of uncleanliness so as to be a menace to the health and safety of the community.			**Final Action:**	

Minute Book Number:

Title:

Hold Public Hearing on Monday July 1, 2019 to determine if the following properties are in such a state of uncleanliness so as to be a menace to the health and safety of the community, according to the provisions of MS Code 1972, Section 21-19-11.

Notes:

		Agenda Date:	07/01/2019
Indexes:		**Agenda Number:**	II.-1
Sponsors:		**Enactment Date:**	
Attachments:	Public Hearing 07.01, 1. 2202.5 Adeline St, 2. 405 E 5th St, 3. 2-029F-04-310 Montague Dr, 4. 325 W 4th St, 5. 707 Lafayette Ave, 6. 520 North St, 7. 908 Atlanta St, 8. 313 Rosa Ave, 9. 906 Edwards St, 10. 2504 Arcadia St, 11. 1200 Carter Dr, 12. 712 Ida Ave, 13. 440 Gasway Loop, 14. 106 Independence St, 15. 114 Marin Luther King Ave, 16. 506 Mccomb St, 17. 515 E 5th St, 18. 724 New Orleans St, 19. 811 Jordan Ave	**Enactment Number:**	
Contact:		**Meeting Date:**	07/01/2019
Drafter:	Ashley Fortenberry	**Effective Date:**	

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council - Public Hearing, Unsafe Properties	07/01/2019					

Action Text: Urban Development Director Andrew Ellard presented the properties to be considered. Mr. Ellard recommended the that the Council adopt resolutions determining the properties are in such a state of uncleanliness so as to be a menace to the health and safety of the community, providing a specified period of time to remove the violations, and declaring the City's intent to take action to clear violations and chare the cost plus penalty against the property if the violations are not resolved in the specified period of time. He recommended resolutions allowing homeowners 15 days to resolve violations.

Regarding case number 17, 515 East 5th Street, Mr. Jerry Ford stated that his mother (owner for the property) has been deceased for five years. He is requesting for additional time to have the property cleaned. Mr. Ellard advised the Council to pursue with the resolution to allow Mr. Ford 15 days to resolve the violation. Council President Carroll responded in the affirmative and told Mr. Ford that Code Enforcement will work with him.

There were no other citizens present who wished to address the Council regarding properties listed for the public hearing.

Text of Legislative File 2019-469

Title

Hold Public Hearing on Monday July 1, 2019 to determine if the following properties are in such a state of uncleanliness so as to be a menace to the health and safety of the community, according to the provisions of MS Code 1972, Section 21-19-11.

Summary

Hold Public Hearing to determine if the following properties are in such state if uncleanliness.

MAYOR
Toby Barker

COUNCIL - WARD ONE	COUNCIL - WARD TWO	COUNCIL - WARD THREE	COUNCIL - WARD FOUR	COUNCIL - WARD FIVE
Jeffrey George	*Deborah Denard Delgado*	*Carter Carroll*	*Mary Dryden*	*Nicholas Brown*

MEMORANDUM

TO: Mayor and City Council

FROM: Code Enforcement Division

DATE: June 18, 2019

RE: Public Hearing 7/1/2019

Hold Public Hearing on Monday July 1, 2019 to determine if the following properties are in such a state of uncleanliness so as to be a menace to the health and safety of the community, according to the provisions of MS Code 1972, Section 21-19-11.

	Address	PPIN #	Ward	Violations	Proposed Actions	Estimate Clean up/Demo	Estimate Penalty	Notes
1.	2202 ½ Adeline St	026919	4	AB, DB, OGL, Accumulation of Rubbish/Garbage	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot *Clean lot of trash & litter	**$5,000**	**$2,500**	
2.	405 E 5th St	018866	2	DS, OGL, T&L, VS	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot *Clean lot of trash & litter	**$5,000**	**$2,500**	
3.	2-029F-04-310 Montague	019926	2	DS, OGL, T&L, VS	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot *Clean lot of trash & litter	**$4,500**	**$2,250**	
4.	325 W 4th St.	014438	2	OGL, VS	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot	**$6,500**	**$3,250**	

5.	707 Lafayette Ave	013755	5	AB, DB, OGL	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot	**$9,500**	**$4,750**	
6.	520 North St.	026001	2	AS, AV, DB, OGL, OS, T&L	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot *Clean lot of trash & litter *Removal of abandoned vehicles	**$2,000**	**$1,500**	
7.	908 Atlanta St.	025698	2	DB, OGL, T&L, VS, glazing	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot *Clean lot of trash & litter	**$7,000**	**$3,500**	
8.	313 Rosa Ave	013842	2	DS, OGL, OS, VS, Non-op vehicle	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot *Removal of vehicles	**$3,500**	**$1,750**	
9.	906 Edwards St.	012918	2	AS, DS, OGL, OS, T&L, VS	*Demolish dangerous and vacant structure	**$7,000**	**$3,500**	

					*Cut and maintain Overgrown lot *Clean lot of trash & litter			
10.	2504 Arcadia St.	024506	4	OGL, T&L, PT, VS	*Cut and maintain Overgrown lot *Clean lot of trash & litter Emergency repair	**$2,000**	**$1,500**	
11.	1200 Carter Dr.	024232	4	ES, OGL, T&L, VS	*Cut and maintain Overgrown lot *Clean lot of trash & litter Emergency repair	**$2,000**	**$1,500**	
12.	712 Ida Ave	021515	5	Accumulation of Rubbish/Garbage	*Clean lot of trash & litter	**$2,000**	**$1,500**	
13.	440 Gasaway Loop	006728	5	AB, DB	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot	**$4,000**	**$2,000**	
14.	106 Independence Ave.	018006	5	AB, DB, OGL	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot	**$5,000**	**$2,500**	
15.	114 Martin Luther King	021682	5	AB, DB, OGL	*Demolish dangerous and vacant structure	**$4,000**	**$2,000**	

					*Cut and maintain Overgrown lot			
16.	506 McComb St.	022410	2	AB, DB, OGL, T&L	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot *Clean lot of trash & litter	**$5,500**	**$2,750**	
17.	515 E 5th St.	018892	2	AB, DB, OGL, T&L	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot *Clean lot of trash & litter	**$4,000**	**$2,000**	
18.	724 New Orleans St.	025752	2	AB, DB, OGL, T&L	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot *Clean lot of trash & litter	**$5,000**	**$2,500**	
19.	811 Jordan	021509	5	EW, OGL	*Demolish dangerous and vacant structure *Cut and maintain Overgrown lot *Clean lot of trash & litter	**$5,000**	**$2,500**	

Trash & Litter=T&L
Vacant Structure=VS
Dangerous Structure=DS
Overgrown Lot=OGL
Open Storage=OS
Protective Treatment=PT
Accessory Structure=AS
Unsafe Structure=US
Abandoned Vehicle=AV
Interior Structure=IS
Exterior Structure=ES
Electrical=EL
Responsibility (Water) =RW
Hazardous Tree=HT
Glazing=GL
PID=Premise Id
X's2=2 Structures
Structure Built in Right of Way= SBROW
Demo=DM

Case History For

2202 ½ Adeline St

Ward: 4

Action Center: 01-19-006473

Date: January 18, 2019

PPIN: 026919

Owners: Charles & Connie Holt

Violations: Abandoned Building, Dilapidated Building, Overgrown Lot & Weeds, Accumulation of Rubbish/Garbage

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Kendrick Laster

601-545-4600

Case 1

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: CHARLES W. HOLT & CONNIE S. HOLT, 914 BEVERLY HILLS RD. HATTIESBURG, MS 39401; TTLBL LLC, address unknown; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-039B-17-028, 2202 1/2 ADELINE ST. HATTIESBURG, MS 39401 and better described as A part and portion of the NW 1/4 of Section 17; T 4 N; R 13 W; in Forrest County, Miss., and described as:

Commencing at the Northeast corner of the NE ¼ of the NW ¼ of said Section 17, at the intersection of the centerlines of South 21st Avenue and Adeline Street and run thence South for a distance of 25.0 feet; thence, at an angle of 89° 18’ right, run South 89° 18’ West over and across the West half of South 21st Avenue and along the South margin line of Adeline Street for a distance of 565.0 feet; thence, run South for a distance of 150.0 feet, to and for the Point of Beginning. As per map or plat thereof on file in the office of the Chancery Clerk of Forrest County, Mississippi, together with all improvements thereon and appurtenances thereunto belonging.

Publication: June 20, 2019

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JUN 2019
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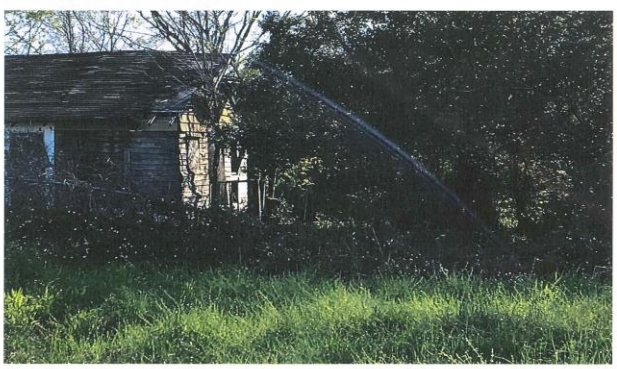
2202 1/2

Sent To Charles & Connie Holt
Street and Apt. No., or PO Box No. 914 Beverly Hills Rd
City, State, ZIP+4® Hattiesburg, MS 39401

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

2202 ½ Adeline St.



Case History For

405 E 5th ST

Ward: 2

Action Center: 02-19-006533

Date: February 19, 2019

PPIN: 018866

Owners: State of Mississippi

Violations: Dilapidated Building, Vacant Structure and Land, Overgrown Lot & Weeds,

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Karnella Myers

601-545-1009

Case 2

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: State of Mississippi, 405 E 5th St. HATTIESBURG, MS 39401; State of Mississippi, P.O. Box 136 Jackson, MS 39205; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-029G-03-545, 405 E 5th St. HATTIESBURG, MS 39401 and better described as Beginning at a point 80 feet East of the Northwest corner of Lot 8 in Block 103 of the Kamper and Whinnery Survey number two in section Three, Township 4 North, Range Thirteen West, and 80.32 feet South of said point or the point of beginning of the land herein described thence run South 106.86 feet to the North Margin of the Mississippi Central Railroad Right of Way, thence East along said North Margin of said Railroad for a distance of 40 feet, thence at right angles run North 106.86 feet thence run West 40 feet back to the point of beginning together with improvements and appurtenances thereunto belonging.

Publication: June 20, 2019

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405 E. 5th

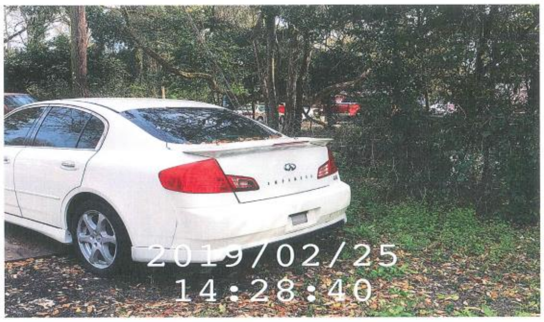
Sent To State of Mississippi

Street and Apt. No., or PO Box No. P.O. Box 136

City, State, ZIP+4® Jackson, MS 39205

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

405 E 5th St



Case History For

2-029F-04-310 Montague Dr.

Ward: 2

Action Center: 04-19-006640

Date: April 1, 2019

PPIN: 019926

Owners: State of Mississippi

Violations: Trash and Litter, Open Storage, Overgrown Lot & Weeds, Non-Operational Vehicle

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Karnella Myers

601-545-1009

Case 3

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: State of Mississippi, P.O. Box 136 Jackson, MS 39205; Covenant Partners, LLC, address unknown; Mike Garvey Inc., address unknown; Squire Title Services LLC, address unknown; Ola Mickell II, address unknown; Louis Thomas and Ruby Lee Thomas, address unknown; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-029F-04-310, Montague Dr. HATTIESBURG, MS 39401 and better described as LT 6 & E 16FT OF LT 7 BLK 2 LIVE OAKE SUB (Montague Drive)

Publication: June 20, 2019

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Montague Dr.

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City, State, ZIP+4® Jackson, MS 39205

April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

2-029F-04-310 Montague Dr.

Case History For

325 W 4th St.

Ward: 2

Action Center: 02-19-006527

Date: February 2, 2019

PPIN: 014438

Owners: Debbie Catt

Violations: Exterior Structure, Vacant Structure, Protective Treatment

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Kendrick Laster

601-554-1011

Case 4

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Debbie Catt, 9523 Broadus Rd, Moss Point, MS 39562; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-029F-04-211, 325 W 4th St. HATTIESBURG, MS 39401 and better described as All that part of Lot 7 of Block 170 of the Crittenden Survey to the City of Hattiesburg, Forrest County, Mississippi, and more particularly described as beginning at the intersection the Northern line of West Fourth Street with the Eastern line of West Street (formerly Central Avenue); run thence East along the Northern line of West Fourth Street 100 feet; thence in a Northerly direction and parallel with the Eastern lone of West Street to the Southern line of the Illinois Central Gulf Railroad (formerly Mississippi Central Railroad) right of way; thence in a Westerly direction along the Southern line of said right of way 100 feet, more or less, to the Eastern line of West Street; thence run in a Southerly direction along the Eastern line of West Street to the Point of Beginning; bearing Municipal No. 325 West Fourth Street, Hattiesburg, Mississippi; all together with all improvements thereon and appurtenances thereunto belonging.

Publication: June 20, 2019

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325 W 4th

Sent To Debbie Catt
Street and Apt. No., or PO Box No. 9523 Broadus Rd
City, State, ZIP+4® Moss Point, MS 39562

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

325 W 4th St.

Case History For

707 Lafayette Ave

Ward: 5

Action Center: 04-19-006652

Date: April 9, 2019

PPIN: 013755

Owners: Lonnie C Watson

Violations: Abandoned Building, Overgrown Lot or Weeds

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Tywan Kidd

601-545-1007

Case 5

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Lonnie Watson, P.O. Box 1331 Sugarland, TX 77487; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-038H-15-148, 707 Lafayette Ave. HATTIESBURG, MS 39401 and better described as Lots 2 to 4, Block 34, Burkett Subdivision, Section 15, Township 4 North, Range 13 West, City of Hattiesburg, Forrest County, Mississippi. Also being PPIN# 13755 and Parcel # 2-0238H-15-148.00.

Publication: June 20, 2019

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Lafayette
707 Lafayette

Sent To Lonnie Watson

Street and Apt. No., or PO Box No. P.O. Box 1331

City, State, ZIP+4® Sugarland, TX 77487

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

707 Lafayette Ave

Case History For

520 North St.

Ward: 2

Action Center: 02-19-006551

Date: February 25, 2019

PPIN: 026001

Owners: Scott J Steadman

Violations: Abandoned Structure, Abandoned Vehicle, Abandoned Boat and Trailer, Overgrown Lot or Weeds, Open Storage, Vacant Structure, Trash and Litter

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Karnella Myers

601-554-1009

Case 6

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Scott J Steadman, 520 North St, Hattiesburg, MS 39401; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-029E-04-133, 520 North St. HATTIESBURG, MS 39401 and better described as Beginning at the Southeast corner of the Southwest Quarter of Section 4, Township 4 North, Range 13 West and run North 744 feet for point of beginning run thence West 185 feet, run thence North 125 feet, run thence East 185 feet run thence South 125 feet to the point if beginning less and except a strip of land approximately 20 feet wide and extending from North to South across the eastern portion of the above described land and designated as North Street, a public thoroughfare.

Publication: June 20, 2019

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520 North St.

Sent To Scott J. Stadman

Street and Apt. No., or PO Box No. 520 North St.

City, State, ZIP+4® Hattiesburg, MS 39401

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

520 North St.

Case History For

908 Atlanta St.

Ward: 2

Action Center: 03-19-006580

Date: March 8, 2019

PPIN: 025698

Owners: Atlanta Church of God

Violations: Dilapidated Building, Overgrown Lot or Weeds, Vacant Structure, Trash and Litter, Glazing

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Karnella Myers

601-554-1009

Case 7

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Atlanta Church of God, 908 Atlanta St, Hattiesburg MS 39401; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-029G-03-158, 908 Atlanta St. HATTIESBURG, MS 39401 and better described as Lot number 2 of Block 10 of the Yellow Pine Park survey or addition to the City of Hattiesburg, Mississippi as per plat thereof now on file in the office of the Chancery Clerk of said County.

Publication: June 20, 2019

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908 Atlanta

Sent To Atlanta Church of God

Street and Apt. No., or PO Box No. 908 Atlanta St.

City, State, ZIP+4® Hattiesburg, MS 39401

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

908 Atlanta St.

Case History For

313 Rosa Ave

Ward: 2

Action Center: 11-18-006391

Date: March 11 2018

PPIN: 013842

Owners: Adarrious Campbell

Violations: Dangerous Structure, Overgrown Lot or Weeds, Open Storage, Vacant Structure, Trash and Litter, Non-op Vehicle

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Karnella Myers

601-554-1009

Case 8

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Adarrious Antwon Campbell, 306 Ruby Ave., Hattiesburg, MS 39401; Joye Carol Green, 315 Rosa Ave, Hattiesburg, MS 39401; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-038B-15-224, 313 Rosa Ave. HATTIESBURG, MS 39401 and better described as Lot Four (4) in Block Seven (7) of the J. H. Buschman Subdivision, of the Kamper and Lewin Survey in the City of Hattiesburg, Forrest County, Mississippi, as per the official map or plat thereon on file in the office of the Chancery Clerk of Forrest County, Mississippi; together with all improvements thereon and appurtenances thereunto belonging.

Publication: June 20, 2019

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313 Rosa

Sent To
Adamious Campbell
Street and Apt. No., or PO Box No.
306 Ruby Ave.
City, State, ZIP+4®
Hattiesburg, MS 39401

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

313 Rosa Ave

Case History For

906 Edwards St.

Ward: 2

Action Center: 01-19-006466

Date: January 31 2019

PPIN: 012918

Owners: Joseph & Carolyn Williams

Violations: Abandoned Structure, Dangerous Structure, Overgrown Lot or Weeds, Open Storage, Vacant Structure, Trash and Litter

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Karnella Myers

601-554-1009

Case 9

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Joseph & Carolyn Williams, 2428 Bengal Road, North Charleston, SC 29406; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-038A-15-150, 906 Edwards St. HATTIESBURG, MS 39401 and better described as Beginning at the Southwest Corner of Lot One (1) of Block Nine (9), of the J. E. Arledge Subdivision in the City of Hattiesburg, Forrest County, Mississippi, and run thence North 54 feet, thence run East 208 2/3 feet; thence South 54 feet; thence West 208 2/3 feet back to the Point of Beginning, together with all improvements located thereon and appurtenances thereunto belonging.

Publication: June 20, 2019

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906 Edwards

Sent To Joseph & Carolyn Williams

Street and Apt. No., or PO Box No. 2428 Bengal Road

City, State, ZIP+4® North Charleston, SC 29406

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

906 Edwards St.

Case History For

2504 Arcadia St.

Ward: 4

Action Center: 11-18-006394

Date: November 9, 2018

PPIN: 024506

Owners: George B. & Willie May Taylor c/o Beth Taylor

Violations: Overgrown Lot or Weeds, Open Storage, Vacant Structure and Land, Protective Treatment

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Kendrick Laster

601-545-1011

Case 10

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: George B. and Willie Mae Taylor c/o Beth Taylor, 6068 Hwy 98 STE 1 PMB 103, Hattiesburg, MS 39402; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-039B-17-177, 2504 Arcadia St. HATTIESBURG, MS 39401 and better described as LT 14 SECTION 17 TOWNSHIP 04N RANGE 13W Villa Verde Sub

Publication: June 20, 2019

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2504 Arcadia

Sent To George & Willie Taylor

Street and Apt. No., or PO Box No. 6068 Hwy 98 Ste. 1 PMB103

City, State, ZIP+4® Hattiesburg, MS 39402

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

2504 Arcadia St.

Case History For

1200 Carter Dr.

Ward: 4

Action Center: 10-18-006322

Date: October 2, 2018

PPIN: 024232

Owners: Nancy Jo Carter Murphy

Violations: Overgrown Lot or Weeds, Vacant Structure and Land

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Kendrick Laster

601-545-1011

Case 11

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Nancy Jo Carter Murphy, 5868 Westheiner 3549, Houston, TX 77057; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-039G-17-069, 1200 Carter Dr. HATTIESBURG, MS 39401 and better described as Lot 1, 2 and the West 4.2 feet of Lots 15 and 16, Block D, SYLVAN PARK SUBDIVISION, County of Forrest, State of Mississippi, as per the Official Plat or Map thereof on file in the office of the Chancery Clerk of Forrest County, Mississippi; together with all improvements thereon and appurtenances thereunto belonging.

Publication: June 20, 2019

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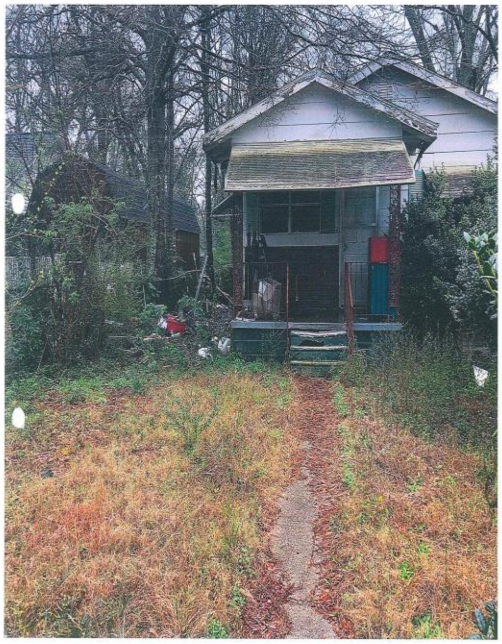
Sent To: Nancy Murphy

Street and Apt. No., or PO Box No.: 6868 Westheimer 3549

City, State, ZIP+4®: Houston, TX 77057

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

1200 Carter Dr.



Case History For

712 Ida Ave

Ward: 5

Action Center: 02-19-006535

Date: February 20, 2019

PPIN: 021515

Owners: The Secretary of Housing and Urban Development

Violations: Accumulation of Rubbish and Garbage

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Tywan Kidd

601-554-1007

Case 12

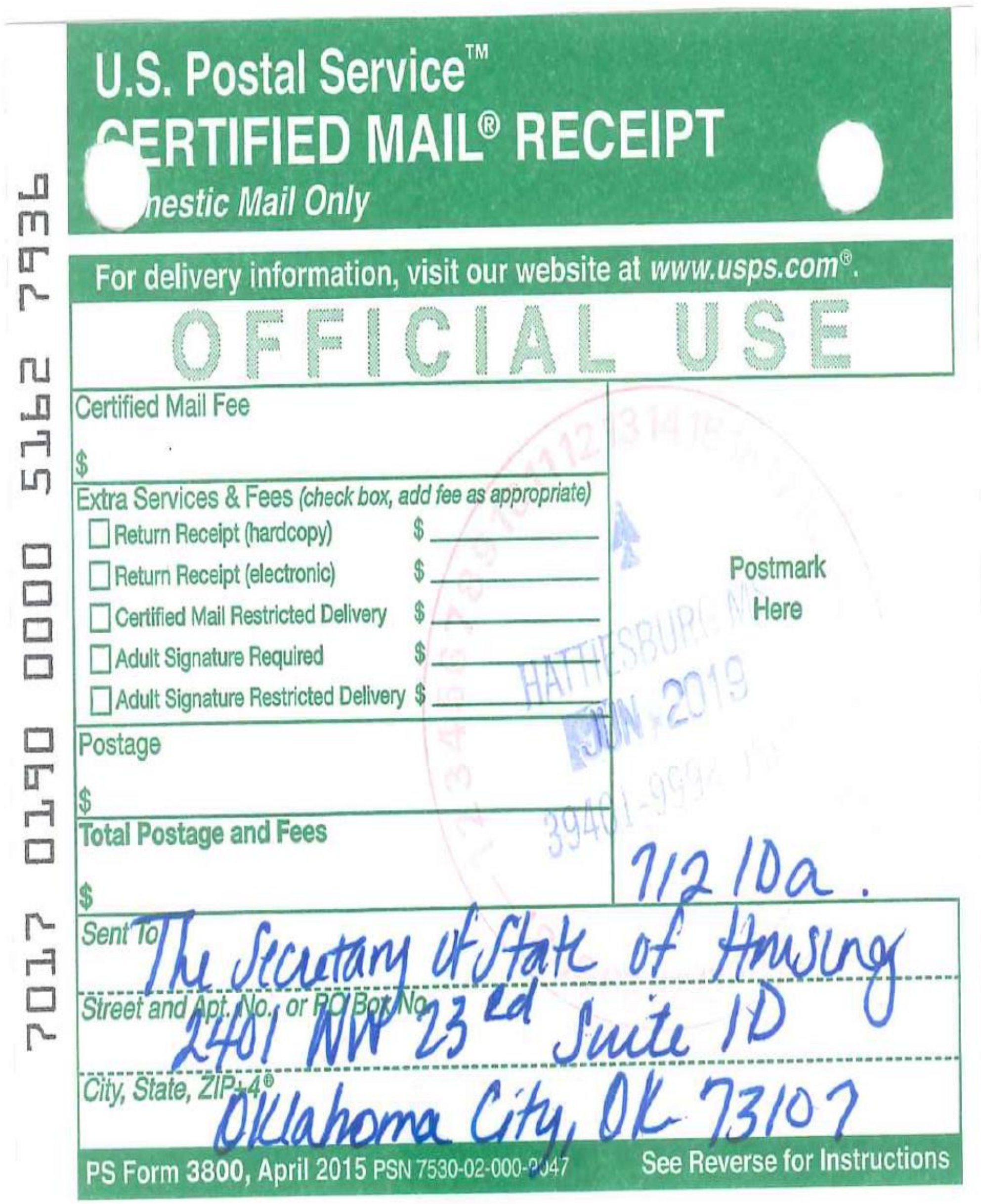
NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: The Secretary of Housing & Urban Development, 2401 NW 23rd St Suite 1D, Oklahoma City, OK 73107; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-038F-16-203, 712 Ida Ave. HATTIESBURG, MS 39401 and better described as East 80.11 feet to a ½' rod; thence run South 38 degrees 52 minutes 14 seconds East, 65.43 feet to a ½' rod; thence run South 14 degrees 24 minutes 56 seconds East , 169.61 feet to a ½' rod; thence run West, 195.80 feet to a ½' rod; thence run North 00 degrees 36 minutes 23 seconds East, 296.00 feet back to the Point of Beginning. Containing 1.00 acres, more or less, and all being in the Southwest Quarter of the Southwest Quarter, Section 25, Township 5 North Range 14 West, Forrest County, Mississippi, and : A perpetual, non-exclusive easement for purpose of ingress, egress, regress, and drainage, running with the land conveyed, all pertaining to installation and maintenance of water, sewer and drainage lines, and for purposes of allowing waste water from a sewage treatment system drain and/or otherwise pass over and across the following describes real property: Commence at a 5/8' bolt and nut marking the Northwest Corner of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter, Section 25, Township 5 North, range 14 West Forrest County, Mississippi and run South 89 degrees 08 minutes 33 seconds East, 30.00 feet to a ½' rod: thence run South 00 degrees 36 minutes 23 seconds West 296.00 feet to the Point of Beginning of said Sewage Easement, thence continue South 00 degrees 36 minutes 23 seconds West, 196.19 feet to a ½' rod; thence run East 248.30 feet to a ½' rod: thence run North 14 degrees 24 minutes 56 seconds West 202.55 feet to a ½' rod; thence run West 198.80 feet back to the Point of Beginning. Containing 1.00acres, more or less and all being in the Southwest Quarter of the Southwest Quarter Section 25 Township 5 North Range 14 West Forrest Mississippi.

Publication: June 20, 2019



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712 Ida.

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City, State, ZIP+4® Oklahoma City, OK 73107

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

712 Ida Ave

Case History For

440 Gasaway Loop

Ward: 5

Action Center: 02-19-006532

Date: February 19, 2019

PPIN: 006728

Owners: Mary Jones

Violations: Abandoned Building, Dilapidated Building

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Tywan Kidd

601-554-1007

Case 13

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Mary Jones, 440 Gasaway Loop, Hattiesburg, MS 39401; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-042C-26-054, 440 Gasaway Loop. HATTIESBURG, MS 39401 and better described as A strip of land being 105.00 feet by 89.30 feet being and being situated in and forming a part of the set of the NE ¼ of Section #26, Township 4 North of Range 13 West, in Forrest County, Miss., and being more particularly describes by metes and bounds as: Commencing at the Southwest corner of the SE ¼ of the NE1/4 of Section 26, Township 4 North of Range 13 West, in Forrest County, Miss., and run thence East on and along the South boundary line of the said SE1/4 of the NE1/4 for a distance of 690.00 feet; thence, at right angles, run North and parallel to the West Boundary line of the said SE1/4 of the NE1/4 for a distance of 210.00 feet, to an iron pin at the Southeast corner of the property herein conveyed and the point of beginning. Thence from this point of beginning continue North and parallel to the West boundary line of the said SE1/4 of the NE1/4 for a distance of 105.00 feet; thence, at right angles run west and parallel to the South boundary line of the said SE1/4 of the NE1/4 for a distance of 89.30 feet; thence at right angles, run South and parallel to the West boundary line of the aforesaid SE1/4 of the NE1/4 for a distance of 105.00 feet, to the dividing line between the Charles Miller and the Della Gassaway properties; thence at right angle run East on and along the said dividing line between the Charles Miller and the Della Gassaway properties for a distance of 89.30 feet to the point of beginning. Being situated in and forming a part of the SE1/4 of the NE1/4 if the aforesaid Section. Township and Range and containing 0.216 of an acre.

Publication: June 20, 2019

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HATTIESBURG MS

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440 Gasaway

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Mary Jones

Street and Apt No., or PO Box No.
440 Gasaway Loop

City, State, ZIP+4®
Hattiesburg, MS 39401

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

440 Gasaway Loop

Case History For

106 Independence Ave

Ward: 5

Action Center: 04-19-006666

Date: April 16, 2019

PPIN: 018006

Owners: Hattiesburg Public School

Violations: Abandoned Building, Dilapidated Building, Overgrown Lot

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Tywan Kidd

601-554-1007

Case 14

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Hattiesburg Public School District, 1001 Fairley St, Hattiesburg, MS 39401; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-038C-16-206, 106 Independence Ave. HATTIESBURG, MS 39401 and better described as LT 4 BLK 1 HOMEWOOD TERRACE BK 622 PG 432 09/13/1989

Publication: June 20, 2019

7017 0190 0000 5162 7950

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Total Postage and Fees $	

Sent To Hattiesburg Public School

Street and Apt. No., or PO Box No. 1001 Fairley St.

City, State, ZIP+4® Hattiesburg, MS 39401

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

106 Independence St.

Case History For

114 Martin Luther King Ave

Ward: 5

Action Center: 04-19-006668

Date: April 17, 2019

PPIN: 021682

Owners: Louis or Eddie Jenkins

Violations: Abandoned Building, Dilapidated Building, Overgrown Lot

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Tywan Kidd

601-554-1007

Case 15

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Louis C Jenkins c/o Eddie Jenkins, 1212 Arledge St, Hattiesburg, MS 39401; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-038C-16-010, 114 Martin Luther King Ave. HATTIESBURG, MS 39401 and better described as A part of Block 66 of the D. D. McInnis 3rd Survey of the City of Hattiesburg, Forrest County, Mississippi, more particularly described as beginning at the Southwest Corner of said Block and run Northeasterly a distance of 70 ¾ feet for a point of beginning and thence continue in a Northeasterly direction a distance for 70 ¾ thence run East 100 feet thence South 71 feet thence West 100 feet more or less to the point of beginning the said described property being a 16th Section Leasehold Interest by Sixteenth Section Lease for 99 years from 8/22/50 recorded in Book 111 at Page 571 of the records on file in the Office of the Chancery Ckerk of Forrest County, Mississippi.

Publication: June 20, 2019

7017 0190 0000 5162 7967

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Postage $	
Total Postage and Fees $	114 Martin

Sent To Louis Jenkins c/o Eddie Jenkins

Street and Apt. No., or PO Box No. 131 Arledge St.

City, State, ZIP+4® Hattiesburg, MS 39401

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

114 Martin Luther King Ave

Case History For

506 McComb St.

Ward: 2

Action Center: 04-19-006649

Date: April 8, 2019

PPIN: 022410

Owners: Andrew Moore

Violations: Abandoned Building, Dilapidated Building, Overgrown Lot, Trash and Litter

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Karnella Myers

601-554-1009

Case 16

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Andrew Moore, 2428 Bengal Road, 705 Souix Lane, Hattiesburg, MS 39401; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-030M-11-185, 506 McComb St. HATTIESBURG, MS 39401 and better described as 43-696-7-9-N 50 FT LT 7 & N 30FT LT LT 8 BLK 7 OMEGA SUB 2-03M-11-185

Publication: June 20, 2019

7017 0190 0000 5162 7974

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Postage
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Total Postage and Fees
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HATTIESBURG MS
JUN 2019
39401-9998 USPS

506 McComb

Sent To Andrew Moore

Street and Apt. No., or PO Box No. 705 Sonix Lane

City, State, ZIP+4® Hattiesburg, MS 39402

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

506 McComb St.

Case History For

515 E 5th St.

Ward: 2

Action Center: 03-19-006617

Date: March 29, 2019

PPIN: 018892

Owners: Fannie Lois Ford

Violations: Abandoned Building, Dilapidated Building, Overgrown Lot, Trash and Litter

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Karnella Myers

601-554-1009

Case 17

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Fannie Louis Ford, 106 Lynnox Circle, Hattiesburg, MS 39401; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-029G-03-573, 515 E 5th St. HATTIESBURG, MS 39401 and better described as W ½ 3 Less 25ft Off N End Blk 106 Kamper & Whinnery Sub 1: Parcel# 34-44-35-6 416 East 5th Street

Publication: June 20, 2019

7017 0190 0000 5162 7981

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Total Postage and Fees
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HATTIESBURG MS
JUN 2019
39401

515 E 5th

Sent To Fannie Louis Ford

Street and Apt. No., or PO Box No. 106 Lynnox Circle

City, State, ZIP+4® Hattiesburg, MS 39401

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

515 E 5th St.

Case History For

724 New Orleans St.

Ward: 2

Action Center: 02-19-006563

Date: February 28, 2019

PPIN: 025752

Owners: HL&C Forrest

Violations: Abandoned Building, Dilapidated Building, Overgrown Lot, Trash and Litter

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Karnella Myers

601-554-1009

Case 18

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: HL&C Forrest, PO Box 1 Picayune, MS 39466; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-029G-03-193, 724 New Orleans St. HATTIESBURG, MS 39401 and better described as Receipt #23109 Parcel #2-029G-03-193 PPIN# 25752 Lot 8 BLK 13 YELLOW PINE PARK 9/91 658/350 679/174 10/14/92 PREV# H0992-13-011 STR 03-04N-13W

Publication: June 20, 2019

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724 New Orlean

Sent To HL & C Forest

Street and Apt. No., or PO Box No. P.O. Box 1

City, State, ZIP+4® Picayune, MS 39466

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

724 New Orleans St.

Case History For

811 Jordan Ave

Ward: 5

Action Center: 07-18-006132

Date: July 11, 2018

PPIN: 021509

Owners: Alberta Lee Mack

Violations: Exterior Wall, Sanitation, Unsafe Structure

Case History: This property is in an abandoned and dilapidated state which has continued for several years. Code Enforcement seeks a Council Resolution in an effort to correct the violations.

Inspector:

Kendrick Laster

601-545-1011

Case 19

NOTICE OF HEARING BEFORE THE CITY COUNCIL OF THE CITY OF HATTIESBURG, MISSISSIPPI TO CONDEMN DILAPIDATED BUILDING (S) AND/OR TO CLEAR ALL CODE VIOLATIONS

To: Alberta Lee Mack, 811 Jordan Ave, Hattiesburg, MS 39401; and all unknown persons claiming any right, title or interest in or to the hereinafter described property.

PLEASE TAKE NOTICE PURSUANT TO §21-19-11 of the Mississippi Code of 1972, as annotated and amended, the City Council of the City of Hattiesburg will hold a public hearing at 4:00p.m. On Monday July 1, 2019 in the Council room of the City Hall, Hattiesburg, MS to determine whether or not the hereinafter-described property is in such a state of uncleanliness to be a menace to the public health and safety of the community. You have a right to file an answer and to appear at said hearing in person or otherwise and to offer your defense, if any. If, at such hearing, the City Council shall adjudicate the property in its then condition to be a menace to the health and safety of the community, the City of Hattiesburg shall, if the owner will not do so himself, proceed to have the land cleared pursuant to the aforesaid statute. The City of Hattiesburg may then adjudicate the costs plus penalty of cleaning said property and the costs may become assessment against the property, which shall be a lien against said property all as provided by statue, to wit:

PARCEL: 2-038F-16-218, 811 Jordan Ave. HATTIESBURG, MS 39401 and better described as The Southwest 150 feet of the SE ¼ of Lot 3, Block 49 D.D. McInnis Third Survey of the City of Hattiesburg, Mississippi, according to the official plat of said survey of file in the Chancery Clerk of Forrest County, Mississippi.

Publication: June 20, 2019

7017 0190 0000 5162 8001

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Postage
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Total Postage and Fees
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HATTIESBURG MS
JUN 2019
39401-9502 USPS

Sent To Alberta Lee Mack

Street and Apt. No., or PO Box No. 811 Jordan Ave

City, State, ZIP+4® Hattiesburg, MS 39401

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

811 Jordan Ave

City of Hattiesburg, MS

200 Forrest St.
P.O. Box 1898
Hattiesburg, MS 39401

Master

File Number: 2019-479

File ID:	2019-479	**Type:**	Regular Agenda Item	**Status:**	Agenda Ready
Version:	1	**Reference:**		**In Control:**	City Council
Requester:				**File Created:**	07/01/2019
Brief Title:	Fire protection agreement between the City of Hattiesburg and the University of Southern Mississippi,in the amount of $95,652.00.			**Final Action:**	07/02/2019
				Minute Book Number:	

Title:

Authorize Mayor to execute Fire Protection Agreement between the City of Hattiesburg and the University of Southern Mississippi to provide fire protection and related services for a one (1) year term, beginning July 1,2019 and ending on June 30,2020, in the amount of $95,652.00.

Notes:			
		Agenda Date:	07/02/2019
Indexes:		**Agenda Number:**	V.-12
Sponsors:		**Enactment Date:**	
Attachments:	USM Fire protection agreement-2019-2020	**Enactment Number:**	
Contact:		**Meeting Date:**	
Drafter:		**Effective Date:**	

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council - Public Hearing, Unsafe Properties	07/01/2019					
1	City Council	07/02/2019	Authorize				Pass

Action Text: A MOTION was made by Council Member George and seconded by Council Vice President Dryden to Authorize Mayor to execute Fire Protection Agreement between the City of Hattiesburg and the University of Southern Mississippi to provide fire protection and related services for a one (1) year term, beginning July 1,2019 and ending on June 30,2020, in the amount of $95,652.00.

There being no discussion, the Motion received the affirmative vote of the Council as follows:

Yeas: 5 - George, Delgado (via teleconference), Carroll, Dryden and Brown

Nays: 0

Yea:	5	Council Member George Council Member Delgado Council President Carroll Council Vice President Dryden Council Member Brown

Text of Legislative File 2019-479

Title

Authorize Mayor to execute Fire Protection Agreement between the City of Hattiesburg and the University of Southern Mississippi to provide fire protection and related services for a one (1) year term, beginning July 1,2019 and ending on June 30,2020, in the amount of $95,652.00.

Summary

Fire protection agreement services between the City of Hattiesburg and USM in the amount of $95,652.00.

Budget Information

Expenditure Type.

Purchasing Item

Publication Information

FIRE PROTECTION AGREEMENT BY AND BETWEEN THE CITY OF HATTIESBURG AND THE UNIVERSITY OF SOUTHERN MISSISSIPPI

STATE OF MISSISSIPPI

COUNTY OF FORREST

THIS AGREEMENT is made and entered into on July 1, 2019, between the City of Hattiesburg (herein after also referred to as "City") and The University of Southern Mississippi (herein after also referred to as "University") for fire protection and related services.

RECITALS

1. The University of Southern Mississippi campus is a legally constituted fire district, created pursuant to the statutory laws of the State of Mississippi as evidenced by Ordinance No. 1687 of the City of Hattiesburg, adopted on August 19, 1970. (Mississippi Code Section 21-25-23)
2. It is the desire of the University that the City provide fire protection and related services to the aforesaid fire district to the same extent such protection and services are provided to the citizens of the City.
3. It has been determined that the City has the capability of providing the protection and services contemplated by the terms of this Agreement.
4. It is the desire of the parties to terminate all previous agreements relating to the providing of fire protection and related services to the University by the City.

AGREEMENT

1. Services: The City shall furnish to the University, fire protection and related services to the University to the same extent and at that same level provided to its Citizens.
2. Terms: The term of this Agreement shall be for one (1) years and shall commence on July 1, 2019 and shall terminate on June 30, 2020.
3. Consideration: During the term of this Agreement, the University shall pay unto the City an annual fee that is due by August 31 each year according to the following fees schedule: August 31, 2020: $95,652.00
4. Review and Adjustments: Annually and on or before the 1st day of May of each year of this Agreement, the protection and services being provided to the University by the City shall be reviewed by the University and appropriate members of the Hattiesburg Fire Department to determine whether or not there is any need to increase the level of services being provided by the City to meet some specialized need of the University. If it is determined that there is a need to increase the level of services being provided to the University or if it is determined that there exists a specialized need by the University for fire protection, then and in that event, the annual fee herein provided shall be adjusted to compensate the City for the increased level of services or meeting the specialized needs of the University.
5. Related Services: The City shall provide support for all emergency situations on the University campus, including but not limited to incidents of hazardous waste spills and cleanup, persons trapped in elevators, concerts, and other events of public safety concerns. The University agrees to replace all materials used by the City in addressing any hazardous waste spill occurring on campus.
6. Communications: The University shall provide and maintain fire alarms, telephone lines and radio frequencies in order to establish more efficient communications between the Hattiesburg Fire Department and the University personnel at the Physical Plant Department and the Campus Police.
7. Fire Protection Systems: The University shall be responsible for maintenance and/or replacement of all fire extinguishers, sprinkler systems, water mains and fire hydrants, and fire flow infrastructure located on campus and under its dominion and control consistent with established standards; and provide the City with a current map detailing the location of all hydrants, valves and water mains.

8. Fire Prevention and Fire Safety Education: The University Safety Department shall have primary responsibility for fire and safety inspections of all University buildings and for fire safety education on campus. The Chief of Fire Prevention of the City of Hattiesburg shall provide technical support for life and property safety on campus. The Director of the Physical Plant of the University or a representative will serve as the primary liaison officer between the University and the Fire Prevention Office of the City of Hattiesburg Fire Department.
9. Emergency Response: In all situations of emergency nature other than law enforcement and emergency medical response, the City of Hattiesburg Fire Chief or his representative shall be the officer in charge. The University agrees to provide support services from the Physical Plant Department and Campus Police to insure order and public safety during such emergencies.
10. Entire Agreement and Binding Effect: This Agreement constitutes the entire Agreement between the City and University. No prior written, contemplation, subsequent oral promises or representations shall be binding. This Agreement shall not be amended or changed except by written instrument signed by all parties hereto. Captions herein are for the convenience of the parties only and neither limit nor expand the intent, purpose or meaning of this Agreement.

IN WITNESS WHERE, the parties have executed this Agreement as of the date and year first above written,

City of Hattiesburg, MS **Attest**

By: ______________________ **By:** ______________________

Mayor **City Clerk**

The University of Southern Mississippi

By: ______________________

Vice President for Finance and Administration

City of Hattiesburg, MS

200 Forrest St.
P.O. Box 1898
Hattiesburg, MS 39401

Master

File Number: 2019-480

File ID:	2019-480	**Type:**	Regular Agenda Item	**Status:**	Approved
Version:	1	**Reference:**		**In Control:**	City Council
Requester:				**File Created:**	07/01/2019
Brief Title:	Authorize acceptance and submission of the Department of Commerec's Economic Development Administration (EDA) grant award			**Final Action:**	07/02/2019

Minute Book Number:

Title:

Authorize acceptance and submission of the Department of Commerec's Economic Development Administration (EDA) grant award in the amount of $1,700,000.00 for infrastructure improvements to Lamar Boulevard, with a total estimated project cost of $2,155,968.00 with a breakdown of $1,700,00 being federal share cost and $455,968.00 as the recipient share cost.

Notes:

		Agenda Date:	07/02/2019
Indexes:		**Agenda Number:**	V.-13
Sponsors:		**Enactment Date:**	
Attachments:	Financial Assistance Award, Project Cost Classifications, Terms and Conditions	**Enactment Number:**	
Contact:		**Meeting Date:**	
Drafter:		**Effective Date:**	

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council - Public Hearing, Unsafe Properties	07/01/2019					
1	City Council	07/02/2019	Acknowledge				Pass

Action Text: A MOTION was made by Council Member George and seconded by Council Vice President Dryden to Acknowledge receipt of the United States Department of Commerce's Economic Development Investment for Infrastructure

There being no discussion, the Motion received the affirmative vote of the Council as follows:

Yeas: 5 - George, Delgado (via teleconference), Carroll, Dryden and Brown

Nays: 0

Yea:	5	Council Member George Council Member Delgado Council President Carroll Council Vice President Dryden Council Member Brown

Text of Legislative File 2019-480

Title

Authorize acceptance and submission of the Department of Commerec's Economic Development Administration (EDA) grant award in the amount of $1,700,000.00 for infrastructure improvements to Lamar Boulevard, with a total estimated project cost of $2,155,968.00 with a breakdown of $1,700,00 being federal share cost and $455,968.00 as the recipient share cost.

Summary

EDA Grant award in the amount of $1,700.00. from the EDA of the Department of Commerce with a city share cost of $455,968.00 bringing the total estimated project cost to a total of $2,155,968.00.

Budget Information

Expenditure Type

Purchasing Item

Publication Information

FORM CD-450
(REV. 10/18)

U.S. DEPARTMENT OF COMMERCE

FINANCIAL ASSISTANCE AWARD

☑ GRANT ☐ COOPERATIVE AGREEMENT

FEDERAL AWARD ID NUMBER 04-79-07362	
RECIPIENT NAME City of Hattiesburg	PERIOD OF PERFORMANCE 45 months after date of EDA approval
STREET ADDRESS 200 Forrest Street	FEDERAL SHARE OF COST $ 1,700,000
CITY, STATE, ZIP CODE Hattiesburg, Mississippi 39401-3451	RECIPIENT SHARE OF COST $ 455,968
AUTHORITY Public Works and Economic Development Act of 1965, as amended	TOTAL ESTIMATED COST $ 2,155,968

CFDA NO. AND NAME
11.307 Economic Adjustment Program

PROJECT TITLE
Roadway Improvements

This Award Document (Form CD-450) signed by the Grants Officer constitutes an obligation of Federal funding. By signing this Form CD-450, the Recipient agrees to comply with the Award provisions checked below and attached. Upon acceptance by the Recipient, the Form CD-450 must be signed by an authorized representative of the Recipient and returned to the Grants Officer. If not signed and returned without modification by the Recipient within 30 days of receipt, the Grants Officer may unilaterally withdraw this Award offer and de-obligate the funds.

- ☐ DEPARTMENT OF COMMERCE FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS
- ☐ R & D AWARD
- ☐ FEDERAL-WIDE RESEARCH TERMS AND CONDITIONS, AS ADOPTED BY THE DEPT. OF COMMERCE
- ☑ SPECIFIC AWARD CONDITIONS (See attached Exhibit "A")
- ☑ LINE ITEM BUDGET (See Attachment 1)
- ☑ 2 CFR PART 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS, AS ADOPTED PURSUANT TO 2 CFR § 1327.101
- ☑ 48 CFR PART 31, CONTRACT COST PRINCIPLES AND PROCEDURES
- ☐ MULTI-YEAR AWARD. PLEASE SEE THE MULTI-YEAR SPECIFIC AWARD CONDITION.
- ☑ OTHER(S): EDA Standard Terms and Conditions for Construction Projects, dated February 12, 2016

SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER H. Philip Paradice, Jr., Director, Atlanta Regional Office	DATE JUN 20 2019
PRINTED NAME, PRINTED TITLE, AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL Toby Barker, Mayor, City of Hattiesburg	DATE

Form ED-508
(Rev. 3/89)

Attachment No. 1

U.S. DEPARTMENT OF COMMERCE
ECONOMIC DEVELOPMENT ADMINISTRATION

PUBLIC WORKS PROJECT COST CLASSIFICATIONS

EDA Investment No. 04-79-07362 **State: Mississippi** **County: Forrest**

Cost Classification	Proposed	Approved
Administrative and legal expenses	$ 25,000	$ 25,000
Land, structures, and rights-of-way appraisals, etc.		
Relocation expenses and payments (Cost incidental to transfer of titles)		
Architectural and engineering fees		
Other architectural and engineering fees		
Project inspection fees and audit		
Site Work		
Demolition and removal		
Construction	1,937,244	1,937,244
Equipment		
Miscellaneous		
Contingencies	193,724	193,724
TOTAL PROJECT COSTS	**$ 2,155,968**	**$ 2,155,968**

Remarks:

U.S. DEPARTMENT OF COMMERCE
ECONOMIC DEVELOPMENT ADMINISTRATION

STANDARD TERMS AND CONDITIONS FOR CONSTRUCTION PROJECTS

Title II of the Public Works and
Economic Development Act of 1965
Public Works and Economic Development Facilities
and
Economic Adjustment Assistance Construction Components

February 12, 2016

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U.S. DEPARTMENT OF COMMERCE
ECONOMIC DEVELOPMENT ADMINISTRATION

STANDARD TERMS AND CONDITIONS
FOR CONSTRUCTION PROJECTS

Title II of the Public Works and
Economic Development Act of 1965
Public Works and Economic Development Facilities
and
Economic Adjustment Assistance Construction Components

PREFACE

This document sets out the Standard Terms and Conditions for Construction Projects (hereinafter referred to as the "Construction Standard Terms and Conditions" or "Construction ST&Cs") applicable to Economic Development Administration ("EDA") financial assistance awards. A Recipient of an EDA construction financial assistance award must, in addition to the assurances made as part of the Application, comply and require each of its subrecipients, contractors, and subcontractors employed in the completion of the Project to comply with all applicable statutes, regulations, executive orders, Office of Management and Budget ("OMB") circulars, provisions of the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (codified at 2 CFR part 200) ("Uniform Guidance"), provisions of these Construction ST&Cs, the EDA-approved Project budget and scope of work, any other incorporated terms and conditions, and approved Applications (collectively, "Terms and Conditions of the Award").

This Award is subject to the laws and regulations of the United States. Any inconsistency or conflict in the Terms and Conditions specified in this Award will be resolved according to the following order of precedence: public laws, regulations (including applicable notices published in the *Federal Register (Fed. Reg.*)), executive orders, OMB circulars, EDA's Construction ST&Cs, and special award conditions. A special award condition may amend or take precedence on a case-by-case basis over a Construction ST&C when warranted by specific Project circumstances.

Some of these Construction ST&Cs contain, by reference or substance, a summary of the pertinent statutes or regulations published in the *Federal Register* or the Code of Federal Regulations ("CFR"), executive orders, OMB circulars, or the certifications and assurances provided by applicants through Standard Forms (*e.g.*, Forms SF-424B and SF-424D). To the extent that it is a summary, such provision is not in derogation of, or an amendment to, any such statute, regulation, executive order, OMB circular, or assurance.

ECONOMIC DEVELOPMENT ADMINISTRATION STANDARD TERMS AND CONDITIONS FOR CONSTRUCTION PROJECTS

Public Works and Economic Development Facilities and Economic Adjustment Assistance Construction Components

A. GENERAL REQUIREMENTS AND RESPONSIBILITIES.

1. Purpose.

The Economic Development Administration's ("EDA's") grants for (i) public works (42 U.S.C. § 3141) and (ii) construction economic adjustment assistance (42 U.S.C. § 3149) Projects awarded under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. § 3121 *et seq.*) ("PWEDA") are designed to enhance regional competitiveness and promote long-term economic development in regions experiencing substantial economic distress. EDA provides construction, design, and engineering grants to assist distressed communities and regions revitalize, expand, and upgrade their physical infrastructure to attract new industry, encourage business expansion, diversify local economies, and generate or retain long-term private sector jobs and investment. The requirements set forth in these Construction ST&Cs are applicable to construction, design, and engineering Projects funded in whole or in part by EDA. Any necessary modifications of these requirements will be addressed in special award conditions to accommodate individual Projects. In addition, these Construction ST&Cs apply to construction projects of revolving loan funds ("RLFs") awarded between January 1, 1975 and February 10, 1999 under EDA's Title IX Economic Adjustment Assistance Program, as well as to RLFs funded after February 11, 1999 under section 209 of PWEDA (42 U.S.C. § 3149).

2. Authority and Policies.

EDA is a bureau within the U.S. Department of Commerce ("DOC" or "Department") established under PWEDA. *See* 13 CFR § 300.1 ("Overview of eligibility requirements"). As a Federal agency, EDA is obligated to promulgate regulations and establish policies and procedures to:

a. Ensure compliance with applicable Federal requirements;

b. Safeguard the public's interest in the grant assets; and

c. Promote the effective use of grant funds in accomplishing the purposes for which they were awarded.

The Department or EDA may issue changes from time to time to the regulations and other requirements and policies that apply to this Award. Such changes may upon occasion increase administrative or programmatic flexibility in administering this Award in a manner that is mutually beneficial to EDA and to the non-Federal entity. The implementation of any such regulatory, administrative, or programmatic change in administering this Award requires EDA's prior written approval.

EDA's policy is to administer all awards uniformly; however, there may be special circumstances that warrant a variance. To accommodate these circumstances and to encourage innovative and creative ways to address economic development problems, EDA will consider requests for variances to the procedures set out in these Construction ST&Cs if they do not conflict with applicable Federal statutory and regulatory requirements, are consistent with the goals of EDA's programs, and make sound economic and financial sense.

3. **Definitions.**

Whenever used in these Construction ST&Cs, the following words and phrases shall have the following meanings:

a. "Application" means all forms, documentation, and any information submitted to the Government as part and in furtherance of a request for an Award and includes submissions made in response to information requested by the Government after submission of the initial Application;

b. "Assistant Secretary" refers to the Assistant Secretary of Commerce for Economic Development;

c. "Award" refers to the Federal financial assistance that a Recipient receives directly from EDA (*see also* 2 CFR § 200.38);

d. "Closeout" or "Project Closeout" refers to the process by which the Grants Officer determines that all applicable administrative actions and all required work under the Award have been completed by the Recipient and EDA (*see also* 2 CFR § 200.16);

e. "Contract" means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the Project or program under this Award. As defined at 2 CFR § 200.22, the term does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward (*see also* 2 CFR § 200.22);

f. "Contractor" means an entity that receives a contract as defined in this section and at 2 CFR § 200.22 (*see also* 2 CFR § 200.23);

g. "Department" or "DOC" refers to the U.S. Department of Commerce;

h. "Government" or "Federal Government" refers to EDA;

i. "Grants Officer" refers to the official responsible for all business management and administrative aspects of this Award and, under these Construction ST&Cs, is the Regional Director in the appropriate Regional Office;

j. "Non-Federal entity" is a State, local government, Indian tribe, institution of higher education ("IHE"), or nonprofit organization that carries out a Federal award as a recipient or subrecipient (*see also* 2 CFR § 200.69);

k. "Pass-through entity" is a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (*see also* 2 CFR § 200.74);

l. "Project" refers to the activity for which the EDA grant was awarded;

m. "Project Officer" refers to the EDA official responsible for technical or other programmatic aspects of the Award. During the post-approval stage of the Award, EDA generally assigns this role to an EDA Engineer/Construction Manager;

n. "Recipient" is a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term "Recipient" does not include subrecipients (*see also* 2 CFR § 200.86);

o. "Regional Office" refers to an EDA Regional Office;

p. "Subaward" means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity (*see* also 2 CFR § 200.92);

q. "Subrecipient" is a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency (*see also* 2 CFR § 200.92); and

r. "Terms and Conditions of the Award" is defined in the first paragraph of the Preface above.

Capitalized terms used but not otherwise defined in these Construction ST&Cs have the meanings ascribed to them in EDA's regulations at 13 CFR §§ 300.3 ("Definitions"), 302.20 ("Civil rights"), 307.8 ("Definitions"), and 314.1 ("Definitions").

4. Grant Recipient as Trustee.

The Recipient holds grant funds and any EDA-assisted Project property in trust for the purposes for which the Award was made. The Recipient's obligation to the Federal Government continues for the estimated useful life of the Project, as determined by EDA, during which EDA retains an undivided equitable reversionary interest (the "Federal Interest") in property acquired or improved, in whole or in part, with the EDA investment. *See* 13 CFR § 314.2 ("Federal Interest").

If EDA determines that the Recipient fails or has failed to meet this obligation, the Government may exercise any rights or remedies with respect to its Federal Interest in the Project. However, EDA's forbearance in exercising any right or remedy in connection with the Federal Interest does not constitute a waiver thereof.

The Recipient agrees to provide EDA with information and documentation necessary for EDA to conduct due diligence to ensure the financial integrity and responsibility of the Recipient and key individuals associated with the Recipient in the management or administration of this Award.

5. Reaffirmation of Application and Award Acceptance.

The Recipient acknowledges that the Recipient's Application for this Award may have been submitted to the Government and signed by the Recipient, or by an authorized representative of the Recipient, electronically without providing an original "wet" signature. In addition, the Recipient, or an authorized representative of the Recipient, may have accepted the Award electronically, which includes drawing down any funds at any time under this Award. Regardless of who submitted the Application to the Government or the means by which the Recipient submitted the Application or accepted the Award, the Recipient hereby reaffirms and states that:

a. All data in the Application were true and correct when the Application was submitted and remain true and correct as of the date of this Award;

b. The Application was, as of the date of submission and the date of this Award, duly authorized as required by local law by the governing body of the Recipient; and

c. The Recipient has read, understood, and will comply with all terms of this Award, including the assurances and certifications submitted with, or attached to, the Application.

The Recipient agrees to immediately notify the Grants Officer of any material changes to the Application within 30 calendar days of the date the Recipient becomes aware of such changes.

6. **Noncompliance with Award Provisions.**

Failure to comply with the provisions of this Award may be grounds for appropriate enforcement action pursuant to 2 CFR § 200.338 ("Remedies for noncompliance"), including but not limited to:

a. The imposition of additional Award conditions in accordance with 2 CFR § 200.207 ("Specific conditions");

b. Temporarily withholding Award payments pending the correction of the deficiency;

c. The disallowance of Award costs and the establishment of an account receivable;

d. Wholly or partially suspending or terminating this Award;

e. Initiating suspension or debarment proceedings in accordance with 2 CFR parts 180 ("OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)") and 1326 ("Nonprocurement Debarment and Suspension");

f. Withholding further Federal awards for the Project or program; and

g. Such other remedies as may be legally available. *See also* 2 CFR §§ 200.339 ("Termination") through 200.342 ("Effects of suspension and termination").

In addition, failure to comply with the provisions of this Award may adversely impact the availability of funding under other active EDA or Federal awards and may also have a negative impact on the Recipient's eligibility for future EDA or other Federal awards.

B. FINANCIAL REQUIREMENTS.

1. **Financial Reports.**

a. During the period of performance, the Recipient shall submit financial reports as follows or as otherwise specified in the special award conditions.

i. *Reports on Award Reimbursements*. In accordance with 2 CFR § 200.327 ("Financial reporting"), the Recipient shall submit a "Federal Financial Report" (Form SF-425 or any successor form) on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof, unless otherwise specified in a special award condition. Reports are due no later than 30 calendar days following the end of each reporting period, and instructions for completing and submitting Form SF-425 will be discussed during the Project kick-off meeting. Recipients may contact their EDA Project Officer with questions on how to complete or submit the report, if necessary, but they are required to submit reports on time and are encouraged to pose such questions sufficiently before the deadline to allow for complete, accurate, and timely submission of required reports.

ii. *Reports on Award Advances.* While EDA generally does not advance funds, when the agency does so, the Recipient must submit Form SF-425 within 15 business days following the end of each quarter for an award under $1 million, 15 business days following the end of each month for an award totaling $1 million or more, or as otherwise specified in a special award condition.

b. The Recipient must submit a final financial report using Form SF-425 within 90 calendar days of the expiration date of the Award.

c. Noncompliance with the financial reporting requirements will result in appropriate enforcement action under this Award, including but not limited to suspension of Award payments or disallowance of costs.

d. Financial reports should be submitted to the Project Officer in electronic format, unless otherwise specified in the special award conditions.

2. Disbursements.

a. *Method of Payment.* The Grants Officer determines the appropriate method of payment. Unless otherwise specified in a special award condition, the method of payment under this Award will be reimbursement. Payments will be made through electronic funds transfers directly to the Recipient's bank account and in accordance with the requirements of the Debt Collection Improvement Act of 1996 (31 U.S.C. § 3720B *et seq.*). The Award number shall be included on all payment-related correspondence, information, and forms.

i. *State Recipients.* Consistent with 2 CFR § 200.305(a) ("Payment"), for States, payments are governed by Treasury-State Cash Management Improvement Act agreements and default procedures codified at 31 CFR part 205 ("Rules and Procedures for Efficient Federal-State Funds Transfers") and *Treasury Financial Manual Volume I,* 4A-2000 ("Overall Disbursing Rules for All Federal Agencies").

ii. *Recipients Other than States.* Consistent with 2 CFR § 200.305(b), for Recipients other than States, payment methods must minimize the amount of time elapsing between the transfer of funds from the U.S. Treasury or the pass-through entity and the disbursement by the non-Federal entity.

b. *Disbursement Requests.* The Recipient shall use Form SF-271, "Outlay Report and Request for Reimbursement for Construction Programs," to request reimbursement under the Award. Substantiating invoices and/or vouchers also must be provided. Each request for the disbursement of funds shall be made to the Project Officer. Form SF-271 can be downloaded from OMB's website at www.whitehouse.gov/omb/grants/grants_forms.html.

i. *Initial Disbursement Request.* For the initial disbursement only, the Recipient must complete and submit Form SF-3881, "ACH Vendor/Miscellaneous Payment Enrollment Form," along with Form SF-271, to the Project Officer.

ii. *Interim Disbursement Requests.* All requests for interim disbursement shall be submitted using Form SF-271 and include substantiating invoices and/or vouchers.

iii. *Final Disbursement Request. See* section C.19 "Project Closeout Procedures" in these Construction ST&Cs.

3. **Federal and Non-Federal Cost Sharing.**

   a. For purposes of this Award, the Federal share is the amount of EDA funds invested under the Award, while the non-Federal share, or "Matching Share," means non-EDA funds and any in-kind contributions that are approved by EDA and provided by the Recipient or by third parties as a condition of the Award. Awards that include a Federal and non-Federal share incorporate an estimated budget consisting of shared allowable costs. If actual allowable costs are less than the total approved estimated budget, the Federal share and Matching Share shall be calculated by applying the approved Federal and non-Federal cost share ratios to actual allowable costs. *See* 13 CFR §§ 305.10 ("Bid underrun and overrun") and 308.1 ("Use of funds in projects constructed under projected cost"). As noted below in section B.4 "Budget Revisions and Transfers of Funds Among Cost Categories" of these Construction ST&Cs, if actual allowable costs are greater than the total approved estimated budget, the Federal share shall not exceed the total Federal dollar amount authorized by this Award.

   b. The Matching Share, whether cash or in-kind, shall be paid out at the same general rate as the Federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for, or later commitment of, cash or in-kind contributions. In any case, the Recipient must meet its non-Federal cost share commitment over the Award period of performance; failure to do so may result in the assignment of special award conditions or other further action as specified in section A.6 "Noncompliance with Award Provisions" of these Construction ST&Cs.

   c. The Recipient must create and maintain sufficient records justifying the required Matching Share to facilitate questions, audits, and other inquiries necessary to meet EDA's requirements to safeguard Federal funds, and must provide these records if requested by EDA, auditors, or other Federal parties. *See also* section C.17 "Record-Keeping Requirements" of these Construction ST&Cs. EDA may disallow undocumented costs. *See* 2 CFR § 200.306 for additional requirements regarding cost sharing.

   d. The Recipient shall show that the Matching Share is committed to the Project, available as needed, and not conditioned or encumbered in any way that precludes its use consistent with the requirements of EDA Investment Assistance. *See* 13 CFR § 301.5 ("Matching share requirements").

4. **Budget Revisions and Transfers of Funds Among Budget Categories.**

   The EDA-approved budget is the budget plan for the Project. The Recipient must notify EDA of deviations from the budget or program plans in accordance with 2 CFR § 200.308 ("Revision of budget and program plans"), including any change in scope of work or the objective of the Project (even if there is no associated budget revision requiring prior written approval). If prior written approval is not required under 2 CFR § 200.308, the Recipient may request the Grants Officer's review of and guidance on proposed revisions to the budget.

a. Requests for budget revisions to the EDA-approved budget in accordance with the provisions below must be submitted through the Project Officer to the Grants Officer, who shall make the final determination on such requests and notify the Recipient in writing.

b. In accordance with 2 CFR § 200.308(g), EDA's prior written approval and an amendment executed by the Grants Officer and the Recipient using Form CD-451 or any successor form are required for budget revisions when:

   i. The revision results from changes in the scope or the objective of the Project;

   ii. The need arises for additional EDA funds to complete the Project;

   iii. The Federal share exceeds $150,000 and the cumulative amount of transfers among direct cost categories exceeds or is expected to exceed 10 percent of the total budget as last approved by EDA; and

   iv. A revision is desired that involves specific costs for which prior written approval requirements may be imposed consistent with applicable cost principles listed in subpart E of 2 CFR part 200 ("Cost Principles").

c. When an Award supports both construction and non-construction work, the Recipient must obtain prior written approval from the Grants Officer before making any fund or budget transfers from non-construction to construction or vice versa. *See* 2 CFR § 200.308(g)(5).

d. Transfers shall not be permitted if such transfers would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended. This transfer authority does not authorize the Recipient to create new budget categories within an approved budget unless the Grants Officer has provided prior written approval. *See* 2 CFR § 200.308.

e. *Project Underrun Amounts.* Underrun amounts shall be transferred to the contingencies line item. Contingency funds are to be used to address situations resulting from unknown conditions and changes required for the fulfillment of authorized activities under this Award. EDA may approve the use of underrun funds to increase the Federal share of the Project or further improve the Project, as long as EDA determines that the use is consistent with the original purpose of the approved EDA investment. *See* 13 CFR § 308.1 ("Use of funds in projects constructed under projected cost").

f. *Additional EDA Funding in Case of Project Overrun Amounts.* In accepting this Award, the Recipient agrees to fund any overrun amounts from non-Federal sources. Additional EDA assistance for the Project may not be approved.

5. Indirect Costs and Facilities and Administrative Costs.

a. Indirect costs, or facilities and administrative ("F&A") costs for educational institutions, are generally not applicable under this Award. See the definition of indirect costs at 2 CFR § 200.56 ("Indirect (facilities & administrative (F&A)) costs").

b. When indirect costs are applicable, they will not be allowable charges against the Award unless approved under the Award and specifically included as a line item in the Award's approved budget.

c. Excess indirect costs may not be used to offset unallowable direct costs.

d. Under 2 CFR § 200.306(c) ("Cost sharing or matching"), unrecovered indirect costs, including indirect costs on cost sharing or matching, may be included as part of cost sharing or matching only with the prior written approval of EDA.

e. *Cognizant Agency for Indirect (F&A) Costs*. OMB established the cognizant agency concept, under which a single agency represents all others in dealing with Recipients in common areas, including reviewing and approving indirect cost rates applicable to Federal grants.

   i. *Determining the Cognizant Agency for Non-Commercial Organizations*. In accordance with 2 CFR § 200.19 ("Cognizant agency for indirect costs"), the cognizant agency for indirect costs is the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals on behalf of all Federal agencies. Approved rates must be accepted by other agencies, unless a Federal statute or regulation requires use of a different rate or a Federal agency awarding head or delegate approves a different rate in accordance with 2 CFR § 200.414(c) ("Indirect (F&A) costs").

   If indirect costs are permitted, but the Recipient has not previously established an indirect cost rate with a Federal agency, the Recipient may consult Appendices III–VII to 2 CFR part 200 for information on determining the relevant cognizant agency and developing and submitting indirect (F&A) cost rate proposals and cost allocation plans:

   (1) Appendix III to 2 CFR part 200 – Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs);

   (2) Appendix IV to 2 CFR part 200 – Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations;

   (3) Appendix V to 2 CFR part 200 – State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans;

   (4) Appendix VI to 2 CFR part 200 – Public Assistance Cost Allocation Plans; and

   (5) Appendix VII to 2 CFR part 200 – States and Local Government and Indian Tribe Indirect Cost Proposals.

   ii. *General Review Procedures When DOC Is the Cognizant Agency.*

   (1) Within 90 days of the Award start date the Recipient shall submit to the Grants Officer any documentation (indirect cost proposal, cost allocation plan, etc.) necessary to allow the agency to perform the indirect cost rate proposal review.

   (2) The Recipient may use the fixed rate proposed in the indirect cost plan as a provisional rate until DOC provides a response to the submitted plan.

   iii. *When DOC Is Not the Oversight or Cognizant Agency*. When the cognizant Federal agency is not DOC, the non-Federal entity shall provide the Grants Officer with a copy of a negotiated rate agreement or a copy of the transmittal letter submitted to the cognizant or oversight Federal agency requesting a negotiated rate agreement.

f. If the Recipient entity fails to submit required documentation to DOC within 90 days of the Award start date, the Grants Officer may amend the Award to preclude the recovery of any indirect costs under the Award. If the DOC, oversight, or cognizant Federal agency determines there is a finding of good and sufficient cause to excuse the Recipient's delay in submitting the documentation, an extension of the 90-day due date may be approved by the Grants Officer.

g. The maximum dollar amount of allocable indirect costs for which DOC will reimburse the recipient shall be the lesser of:

   i. The line item amount for the Federal share of indirect costs contained in the approved Award budget, including all budget revisions approved in writing by the Grants Officer; or

   ii. The Federal share of the total indirect costs allocable to the Award based on the indirect cost rate approved by the cognizant agency for indirect costs and applicable to the period in which the cost was incurred, provided that the rate is approved on or before the Award end date.

h. In accordance with 2 CFR § 200.414(g) ("Indirect (F&A) costs"), any Recipient that has a negotiated indirect cost rate may apply to the entity's cognizant agency for indirect costs for a one-time extension of a currently negotiated indirect cost rate for a period of up to four years, reducing the frequency of rate calculations and negotiations between an institution and its cognizant agency.

i. Any Recipient that has never received a negotiated indirect cost rate, except for those Recipients described in Paragraph D.1.b of Appendix VII to 2 CFR part 200 (specifically, a governmental department or agency that receives more than $35 million in direct Federal funding), may elect to charge a *de minimis* rate of 10 percent of modified total direct costs. *See* 2 CFR § 200.414(f).

6. Incurring Costs Prior to Award.

Project activities carried out prior to EDA's approval of this Award shall be carried out at the sole risk of the Recipient. Such activity may result in the rejection of the Application, the disallowance of costs, or other adverse consequences as a result of noncompliance with EDA or Federal law, including but not limited to procurement requirements, civil rights requirements, Federal labor standards, or environmental and historic preservation requirements. The Grants Officer must authorize pre-award costs in writing, and such costs must also be allowable under relevant Federal cost principles and the specific Award terms and be included in the EDA approved budget. Pre-award costs not included in the authorized budget are not allowable and may not be reimbursed. *See* 13 CFR § 302.8 ("Pre-approval Investment Assistance costs").

7. Incurring Costs or Obligating Federal Funds Beyond the Project Expiration Date.

a. The Recipient shall not incur costs or obligate funds for any purpose pertaining to the Project, program, or activities beyond the authorized period of performance documented in the Award agreement, unless a written time extension of this Award is granted by the Grants Officer. The only costs that are authorized for a period of up to 90 calendar days following the end date of the period of performance are those strictly associated with Closeout activities. Closeout activities are generally limited to the preparation of final progress, financial, and required Project audit reports unless otherwise approved in writing by the Grants Officer. The Grants Officer may approve extensions of the 90 calendar-day Closeout period upon a request by the Recipient as provided in 2 CFR § 200.343 ("Closeout"), as applicable.

b. The Recipient shall adhere to the development time schedule and time limits set out in the special award conditions if they differ from those provided in these Construction ST&Cs.

c. Neither DOC nor EDA has any obligation to provide any additional prospective funding. Any amendment of the Award to increase funding and to extend the period of performance is at the sole discretion of DOC and/or EDA.

8. Time Extensions.

a. Unless otherwise authorized in 2 CFR § 200.308 ("Revision of budget and program plans"), or a special award condition, any extension of the period of performance can only be authorized by the Grants Officer in writing. A verbal or written assurance of funding from other than the Grants Officer, including Regional Office staff other than the Grants Officer, does not constitute authority to obligate funds for programmatic activities beyond the expiration date of the period of performance.

b. The Recipient is responsible for implementing the Project in accordance with the development time schedule contained in this Award. As soon as the Recipient becomes aware that it will not be possible to meet the development time schedule, the Recipient must notify the Grants Officer. The Recipient's notice to EDA must contain the following:

   i. An explanation of the Recipient's inability to complete work by the specified date (*e.g.*, a lengthy period of unusual weather delayed the contractor's ability to excavate the site, major re-engineering required in order to obtain State or Federal approvals, unplanned environmental mitigation required);

   ii. A statement that no other changes to the Project are contemplated;

   iii. Documentation that demonstrates there is still a bona fide need for the Project; and

   iv. A statement that no further delay is anticipated and that the Project can be completed within the revised time schedule.

   EDA reserves the right to withhold disbursements while the Recipient is not in compliance with the time schedule and to suspend or terminate this Award if the Recipient fails to proceed with reasonable diligence to accomplish the Project as intended.

9. Tax Refunds.

Refunds of Federal Insurance Contributions Act ("FICA") or Federal Unemployment Tax Act ("FUTA") taxes received by the Recipient during or after the period of performance must be refunded or credited to DOC where the benefits were financed with Federal funds under the Award. The Recipient agrees to contact the Grants Officer immediately upon receipt of these refunds. The Recipient further agrees to refund portions of FICA/FUTA taxes determined to belong to the Federal Government, including refunds received after the expiration of the Award period of performance.

10. Program Income.

For Projects that generate rental revenue (*e.g.*, buildings or real property constructed or improved for the purpose of renting or leasing space), the Recipient agrees, for the estimated useful life (as determined by EDA) of the EDA-assisted facility, to use such income generated from the rental or lease of any Project facility in the following order of priority:

a. Administration, operation, maintenance, and repair of Project facilities in a manner consistent with good property management practice and in accordance with established building codes. This includes, where applicable, repayment of indebtedness resulting from any EDA approved encumbrance (*e.g.*, approved mortgage) on the EDA-assisted facility.

b. Economic development activities that are authorized for support by EDA, provided such activities meet the economic development purposes of PWEDA.

c. Any income in excess of paragraphs a. and b. of this section must be deducted from total allowable Project costs in accordance with 2 CFR § 200.307(e).

See 2 CFR § 200.307 ("Program income").

C. PROGRAMMATIC REQUIREMENTS.

1. Project Progress and Performance Reporting.

a. Project progress reports must be submitted in accordance with the procedures set out in 2 CFR § 200.328 ("Monitoring and reporting program performance"), as applicable, and as indicated below. Failure to submit required reports in a timely manner may result in the withholding of payments under this Award; deferral of processing of new awards, amendments, or supplemental funding pending the receipt of the overdue reports; or the establishment of an account receivable for the difference between the total Federal share of outlays last reported and the amount disbursed. *See* 13 CFR § 302.18 ("Post-approval requirements").

b. Unless otherwise specified in this Award, the Project progress report will contain the following information for each Project program, function, or activity:

   i. A comparison of planned and actual accomplishments according to the timetable or list of Project objectives in this Award;

   ii. An explanation of any delays or failures to meet the Project timetable or Project goals; and

   iii. Any other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

   Project progress reports shall be submitted for each calendar quarter to the Project Officer. Each Project progress report must be submitted in accordance with the deadlines outlined in the special award conditions, or, where not otherwise specified, Project progress reports will be due on a quarterly basis not later than January 31, April 30, July 31, and October 31 for the immediate previous quarter. The final Project progress report shall be submitted to EDA no more than 90 calendar days after the Project Closeout date. This reporting requirement begins with the Recipient's acceptance of this Award and ends when EDA approves Project Closeout.

   The Recipient shall submit quarterly Project progress reports to the EDA Project Officer electronically unless otherwise specified in the special award conditions.

2. **Reporting on Real Property.**

   The Recipient must submit reports (using Form SF-429 "Real Property Status Report" or any successor form) at least annually on the status of real property in which EDA retains an interest, unless the Federal interest in the real property extends 15 years or longer. When EDA's interest extends for a period of 15 years or more, EDA, at its option, may require the Recipient to report at various multi-year frequencies (*e.g.*, every two years or every three years, not to exceed a five-year reporting period; or annual reporting for the first three years of the Award and thereafter every five years). *See* 2 CFR § 200.329 ("Reporting on real property") and section L.3.h "EDA's Interest in Award Property" of these Construction ST&Cs.

3. **Interim Reporting of Significant Project Developments.**

   The Recipient must report any event that will or may have a significant impact upon the Project, including delays or adverse conditions that materially may affect the ability of the Recipient to attain Project objectives within established time periods or meet the development time schedule. The Recipient should report such events to the Project Officer in the most time-expedient way possible and then, if the initial report was not in writing, report the event to the Project Officer in writing. Such a report shall include a statement of the event or issue, a statement of the course of action taken or contemplated to resolve the matter, and any Federal assistance needed to resolve the situation. If budget changes are required, the Recipient must submit a written budget revision request. *See* 2 CFR § 200.328(d) ("Monitoring and reporting program performance").

4. **Government Performance and Results Act Reporting.**

   In addition to quarterly Project progress reports, EDA may require the Recipient to report on Project performance beyond the Project Closeout date for Government Performance and Results Act ("GPRA") purposes. In no case shall the Recipient be required to submit any report more than ten years after the Project Closeout date. Data used by the Recipient in preparing reports shall be accurate and, whenever possible, from independent sources. *See* 13 CFR § 302.16 ("Accountability").

5. **Unsatisfactory Performance.**

   Failure to perform the work in accordance with the Terms and Conditions of the Award and maintain at least satisfactory performance may result, at EDA's discretion, in the assignment of additional award conditions pursuant to 2 CFR § 200.207 ("Specific conditions") or other appropriate enforcement actions as specified in 2 CFR § 200.338 ("Remedies for noncompliance"). *See also* section A.6 "Noncompliance with Award Provisions" of these Construction ST&Cs.

6. **Programmatic Changes.**

   a. In accordance with 2 CFR § 200.308 ("Revisions of budget and program plans"), the Recipient shall report programmatic changes, including all changes to the scope of the Award, to the Project Officer. In accordance with section B.4 "Budget Revisions and Transfers of Funds Among Budget Categories" of these Construction ST&Cs, certain budget revisions require the prior written approval of EDA. In these cases, the Project Officer will forward the request to the Grants Officer, who makes the final decision on approving the request. In addition, the Recipient shall request prior written approvals for certain items of cost in accordance with 2 CFR § 200.407 ("Prior written approval (prior approval)").

b. Any changes made to the Project without EDA's approval are made at the Recipient's risk of nonpayment of costs, suspension, termination, or other EDA action with respect to the Award. *See* 13 CFR § 302.7(b) ("Amendments and changes").

c. *Contract Change Orders.* After construction contracts for the Project have been executed, it may become necessary to alter them, which requires a formal contract change order that must be issued by the Recipient and accepted by the contractor. All contract change orders must be reviewed by EDA, even if EDA is not participating in the cost of the change order or the contract price is to be reduced. Work on the Project may continue pending EDA review and approval of the change order, but all such work shall be at the Recipient's risk as to whether the cost of the work is eligible for EDA participation until the Recipient receives EDA's written approval for the change order. *See* 13 CFR § 305.13 ("Contract change orders").

7. Other Federal Awards with Similar Programmatic Activities.

The Recipient shall immediately notify the Project Officer and the Grants Officer in writing if, after receipt of this Award, other financial assistance is received to support or fund any portion of the scope of work incorporated into this Award. EDA will not pay for costs that are funded by other sources.

8. Beneficiary Compliance.

In the event a beneficiary of the Project fails to comply in any manner with certifications, assurances, or agreements that such beneficiary has entered into in accordance with EDA's requirements, the Recipient will reimburse the Government the Award amount or an amount to be determined by the Government pursuant to 13 CFR §§ 314.4 ("Unauthorized use of property") and 314.5 ("Federal share"). Where the Government determines that the failure of a beneficiary to comply with EDA requirements affects a portion of the property benefited by the Award, the Recipient will reimburse the Government proportionately.

9. Prohibition Against Assignment by the Recipient.

The Recipient shall not transfer, pledge, mortgage, or otherwise assign the Award, or any interest therein, or any claim arising thereunder, to any party or parties, banks, trust companies, or other financing or financial institutions without the express prior written approval of the Grants Officer, which approval may be provided in a special award condition.

10. Disclaimer Provisions; Hold Harmless Requirement.

a. The United States expressly disclaims any and all responsibility or liability to the Recipient, subrecipient, or third persons for the actions of the Recipient, subrecipient, or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this Award or any subaward or subcontract under this Award.

b. The acceptance of this Award or any subaward by the Recipient or subrecipient does not in any way constitute an agency relationship between the United States and the Recipient or subrecipient.

c. To the extent permitted by law, the Recipient agrees to indemnify and hold the Government harmless from and against all liabilities that the Government may incur as a result of providing an award to assist, directly or indirectly, in the preparation of the Project site or construction, renovation, or repair of any facility on the Project site, to the extent that such liabilities are incurred because of toxic or hazardous contamination or groundwater, surface water, soil, or other conditions caused by operations of the Recipient or any of its predecessors (other than the Government or its agents) on the property. *See* 13 CFR § 302.19 ("Indemnification").

11. Prohibition on Use of Third Parties to Secure Award.

Unless otherwise specified in the special award conditions to this Award, the Recipient warrants that no person or selling agency has been employed or retained to solicit or secure this Award upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by the Recipient for the purpose of securing business. For breach or violation of this warrant, the Government has the right to annul this Award without liability, or at its discretion, to deduct from the Award sum, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

12. Payment of Attorneys' or Consultants' Fees.

No Award funds shall be used, directly or indirectly, to reimburse attorneys' or consultants' fees incurred in connection with obtaining Investment Assistance under PWEDA, such as, for example, preparing the Application for EDA Investment Assistance. However, ordinary and reasonable attorneys' and consultants' fees incurred for meeting Award requirements (*e.g.*, conducting a title search or preparing plans and specifications) may be eligible Project costs and may be paid out of Award funds, provided such costs are otherwise eligible. *See* 13 CFR § 302.10 ("Attorneys' and consultants' fees, employment of expediters, and post-employment restriction").

13. Recipient's Duty to Refrain from Employing Certain Government Employees.

a. Pursuant to section 606(2) of PWEDA (42 U.S.C. § 3216), for the two-year period beginning on the date EDA executes this Award, any Recipient that is a nonprofit organization, District Organization, or for-profit entity agrees that it will not employ, offer any office or employment to, or retain for professional services any person who:

   i. On the date the Government executes this Award or within the one-year period ending on that date, served as an officer, attorney, agent, or employee of the Department, and

   ii. Occupied a position or engaged in activities that the Assistant Secretary determines involved discretion with respect to the awarding of Investment Assistance under PWEDA.

b. In addition to the types of Recipients noted in paragraph a above, EDA may require another Eligible Applicant to execute an agreement to abide by the above-described post-employment restriction on a case-by-case basis—for example, when an institution of higher education implements activities under or related to the Investment Assistance through a separate nonprofit organization or association.

c. The two-year period and associated restrictions referenced above also shall apply beginning on the date that EDA executes any cost amendment to this Award that provides additional funds to the Recipient.

See also 13 CFR § 302.10 ("Attorneys' and consultants' fees, employment of expediters, and post-employment restriction").

14. Commencement of Construction and Project Sign.

a. *Delayed Construction Starts.* If significant construction (as determined by EDA) is not commenced within two years of the Award date or by the date estimated for start of construction in this Award (or the expiration of any extension granted in writing by EDA), whichever is later, this Award will be automatically suspended and may be terminated if EDA determines, after consultation with the Recipient, that construction to completion cannot reasonably be expected to proceed promptly and expeditiously.

b. *Early Construction Starts.* The Recipient shall make a written request to EDA for early construction start permission (that is, after the date of Award, but before EDA gives formal approval for construction to commence). For Project costs to be eligible for EDA reimbursement, EDA must determine that the award of all contracts necessary for design and construction of the Project facilities is in compliance with the Terms and Conditions of this Award. If construction commences prior to EDA's determination, the Recipient proceeds at its own risk until EDA's review and concurrence. *See* 13 CFR § 305.11 ("Contract awards; early construction start").

c. *Project Sign.* The Recipient is responsible for constructing, erecting, and maintaining in good condition throughout the construction period a sign (or signs) in a conspicuous place at the Project site indicating that the Federal Government is participating in the Project. EDA will provide specifications for the sign and may require more than one sign if site conditions so warrant. If the EDA-recommended sign specifications conflict with State or local law, the Recipient may modify such recommended specifications so as to comply with State or local law. *See* 13 CFR § 305.12 ("Project sign").

15. Efficient Administration of Project.

The Recipient agrees to properly and efficiently administer, operate, and maintain the Project for its estimated useful life, as required by section 504 of PWEDA (42 U.S.C. § 3194). If the Government determines, at any time during the estimated useful life of the facility, that the Project is not being properly and efficiently administered, operated, and maintained, the Government may terminate this Award (if it is still active) and/or may take appropriate enforcement action to protect the Federal Interest in the Project, including requiring the Recipient to repay the Federal Share. *See* 13 CFR §§ 302.12 ("Project administration, operation and maintenance"), 302.18 ("Post-approval requirements"), and 314.2 ("Federal interest") through 314.5 ("Federal share").

16. Conflicts-of-Interest Rules.

a. An "Interested Party" is defined in 13 CFR § 300.3 ("Definitions") as "any officer, employee, or member of the board of directors or other governing board of the Recipient, including any other parties that advise, approve, recommend, or otherwise participate in the business decisions of the Recipient, such as agents, advisors, consultants, attorneys, accountants, or shareholders." An Interested Party includes the Interested Party's "Immediate Family" (defined in 13 CFR § 300.3 as "a person's spouse (or domestic partner or significant other), parents, grandparents, siblings, children and grandchildren, but does not include distant relatives, such as cousins, unless the distant relative lives in the same household as the person") and other persons directly connected to the Interested Party by law or through a business organization.

b. The Recipient must disclose in writing any potential conflicts of interest to EDA or the pass-through entity. In addition, the Recipient must maintain written standards of conduct to establish safeguards to prohibit an Interested Party from using its position for a purpose that constitutes or presents the appearance of personal or organizational conflicts-of-interest or of personal gain in the administration of an award. *See* 13 CFR § 302.17(a) and (b) ("Conflicts of interest"), 2 CFR § 200.112 ("Conflict of interest"), as applicable, and Forms SF-424B ("Assurances – Non-Construction Projects") and SF-424D ("Assurances – Construction Projects").

c. An Interested Party must not receive any direct or indirect financial or personal interests or benefits in connection with this Award or its use for payment or reimbursement of costs by or to the Recipient. A financial interest or benefit may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with the organization selected or to be selected for a subaward. An appearance of impairment of objectivity could result from an organizational conflict where, because of other activities or relationships with other persons or entities, a person is unable or potentially unable to render impartial assistance, services, or advice. It also could result from non-financial gain to the individual, such as benefit to reputation or prestige in a professional field. *See* 13 CFR § 302.17(a) and (b).

d. Procurement-related conflicts of interest. In addition, in accordance with 2 CFR § 200.318(c) ("General procurement standards"), the Recipient must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts. *See* 2 CFR §§ 200.317–200.326 ("Procurement Standards").

17. Record-Keeping Requirements.

a. *Records.* The Recipient must maintain records that document compliance with the Terms and Conditions of this Award. At a minimum, the Recipient's records must fully disclose:

   i. The amount and disposition of EDA investment assistance;

   ii. All Project expenditures and procurement actions;

   iii. The total cost of the Project that the Award funds;

   iv. Copies of all reports and disbursement requests submitted to EDA;

v. The benefits/impacts of the Project, as reported through GPRA and other reports to EDA;

vi. The amount and nature of the portion of Project costs provided by non-EDA sources;

vii. Contractor compliance with applicable Federal requirements; and

viii. Such other records as EDA determines will facilitate an effective audit.

b. *Records Retention.* In general and in accordance with 2 CFR § 200.333 ("Retention requirements for records"), all records pertinent to this Award must be retained for a period of three years from the date of submission of the final Project expenditure report (the final Form SF-271 for disbursement). The only exceptions are the following:

   i. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final actions taken.

   ii. When the Recipient is notified in writing by EDA, the cognizant agency for either audit or indirect costs, the oversight agency for audit, or the relevant pass-through entity to extend the retention period, it must retain the records as directed.

   iii. Records for real property and equipment acquired with Federal funds must be retained for three years after final disposition of the relevant real property or equipment.

   iv. When records are transferred or maintained by EDA, the three-year retention requirement is not applicable to the Recipient.

   v. Records for program income transactions after the period of performance. In some cases Recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the Recipient's fiscal year in which the program income is earned.

   vi. Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

      (1) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the three-year retention period for its supporting records starts from the date of such submission.

      (2) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the three-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

c. *Monitoring and Reporting Obligations.* The Recipient is responsible for monitoring any subrecipients and contractors to ensure their compliance with the records retention requirements. The Recipient must immediately notify the Project Officer if records are lost, destroyed, or are otherwise no longer available, or if the Recipient anticipates that it will not be able to comply with the record retention requirements under the Award for the general retention periods noted above. *See* 13 CFR § 302.14 ("Records"), as applicable.

18. Termination Actions.

a. In accordance with 2 CFR § 200.339 ("Termination"), this Award may be terminated in whole or in part as follows:

   i. *Termination by EDA for the Recipient's Failure to Comply with the Terms and Conditions of the Award.* EDA may terminate this Award, in whole or in part, if the Recipient fails to comply with the Terms and Conditions of the Award, including if:

      (1) Any representation made by the Recipient to the Federal awarding agency in connection with the Application for Federal assistance is incorrect or incomplete in any material respect;

      (2) The Project has changed substantially, without EDA approval, so as to affect significantly the accomplishment of the Project as intended (including an unauthorized use of property as provided in 13 CFR § 314.4 ("Unauthorized use of property"));

      (3) The Recipient has violated commitments it made in its Application and supporting documents or has violated any of the Terms and Conditions of the Award;

      (4) The conflicts-of-interest rules at 13 CFR § 302.17 ("Conflicts of interest") are violated; or

      (5) The Recipient fails to report immediately to the Federal awarding agency any change of authorized representative acting in lieu of or on behalf of the Recipient.

   ii. *Termination by EDA for Cause.* EDA may terminate this Award for cause if required by a circumstance beyond EDA's control, such as a Congressional mandate.

   iii. *Termination by the Recipient.* The Recipient may terminate this Award in whole or in part upon sending the EDA Grants Officer written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if EDA determines in the case of partial termination that the reduced or modified portion of the EDA Award will not accomplish the purposes for which the EDA Award was made, EDA may terminate the Award in its entirety.

   iv. *Termination Upon Mutual Agreement.* EDA and the Recipient may mutually agree to terminate this Award in whole or in part. In such cases, EDA and the Recipient must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

b. If the Award is wholly or partially terminated, the Recipient remains responsible for compliance with the requirements in 2 CFR §§ 200.343 ("Closeout") and 200.344 ("Post-closeout adjustments and continuing responsibilities").

19. Project Closeout Procedures.

As noted above in section C.15 "Efficient Administration of Project" of these Construction ST&Cs, after construction is completed and the Project is closed out financially, the Recipient has an ongoing responsibility to properly administer, operate, and maintain the Project for its estimated useful life (as determined by EDA) in accordance with its original purpose. *See* 13 CFR § 302.12 ("Project administration, operation and maintenance"). The Recipient must comply with all Award requirements and maintain records to document such compliance, which shall be made available for inspection by EDA or other Government officials as required.

a. *Final Disbursement*. When Project construction and final inspection have been completed, or substantially completed as determined by EDA, and the Recipient has accepted the Project from the contractor, the Recipient can begin the Closeout process by submitting the following documentation to EDA:

   i. A request for final disbursement on an executed Form SF-271;

   ii. A written certification that all costs charged against this Award (Federal and non-Federal shares) are for eligible activities and represent allowable costs, for which there is documentation in the Recipient's records;

   iii. An executed certificate of final acceptance signed by the Recipient and the Recipient's architect/engineer;

   iv. The Recipient's certification that its currently valid single or program-specific audit in accordance with subpart F of 2 CFR part 200 ("Audit Requirements"), if applicable, does not contain any material findings (if the Recipient's currently valid audit does contain material findings, the Recipient shall submit the applicable audit preferably via e-mail to the Project Officer, who will review with the Grants Officer);

   v. The Recipient's certification that its currently valid audit (in accordance with subpart F of 2 CFR part 200), if applicable, has been submitted to the Federal Audit Clearinghouse; and

   vi. Other documentation as may be required by EDA.

   EDA shall advise the Recipient of costs determined to be allowable and unallowable. If a balance of this Award is due to the Recipient, the balance will be paid by wire transfer. If the Recipient has received an amount in excess of the amount due the Recipient, the Recipient must refund the excess to EDA. The Recipient shall contact the Project Officer for refund instructions.

   As noted above, if the Recipient's currently valid audit completed pursuant to subpart F of 2 CFR part 200 contains material findings, the Recipient shall submit the audit, preferably via e-mail, to the Project Officer, who will review with the Grants Officer before final disbursement. If e-mail is unavailable, the Recipient may submit a hardcopy version of the audit to the Project Officer.

b. The Recipient shall submit, within 90 calendar days after the Project Closeout date, all financial, performance, and other reports as required by the Terms and Conditions of this Award. The Grants Officer may extend the 90 calendar day Closeout period upon a written request from the Recipient.

c. As required under GPRA and in accordance with a schedule that will be provided by EDA, the Recipient must submit additional Performance Measurement Reports, generally three, six, and nine years after the date of the Award to accurately and completely report the impacts of the Project, especially in terms of job creation and private investment leveraging.

d. Unless EDA authorizes an extension, the Recipient shall liquidate all obligations incurred under this Award no later than 90 calendar days after acceptance of the Project from the contractor or within 90 calendar days of the expiration date of this Award, whichever occurs earlier.

e. In accordance with 2 CFR § 200.344 "Post-closeout adjustments and continuing responsibilities," the Closeout of this Award does not affect any of the following:

   i. The right of EDA to disallow costs and recover funds on the basis of a later audit or other Project review;

   ii. The Recipient's obligation to return any funds due as a result of later corrections or other transactions;

   iii. Audit requirements per subpart F of 2 CFR part 200; and

   iv. Requirements for property management and disposition, records retention, and performance measurement reports. *See* subpart D of 2 CFR part 200 ("Post Federal Award Requirements"), as applicable.

20. Freedom of Information Act.

EDA is responsible for meeting its Freedom of Information Act ("FOIA") (5 U.S.C. § 552) responsibilities for its records. DOC regulations at 15 CFR part 4 set forth the requirements and procedures that EDA must follow in order to make the requested material, information, and records publicly available. Unless prohibited by law and to the extent required under the FOIA, contents of Applications and other information submitted by applicants and Recipients may be released in response to a FOIA request. The Recipient should be aware that EDA may make certain Application and other submitted information publicly available. Accordingly, as set forth in 15 CFR § 4.9, the Recipient should identify in its Application any "business information" it believes to be protected from disclosure pursuant to 5 U.S.C. § 552(b)(4).

D. ADDITIONAL REQUIREMENTS RELATING TO CONSTRUCTION PROJECTS.

The Recipient and any subrecipients must, in addition to other statutory and regulatory requirements detailed in these Construction ST&Cs and the assurances made to EDA in connection with the Award, comply and require each of its contractors and subcontractors employed in the completion of the Project to comply with all applicable Federal, State, territorial, and local laws, and in particular, the following Federal public laws (and the regulations issued thereunder), executive orders, OMB circulars, Uniform Guidance, and local law requirements.

1. **The Davis-Bacon Act, as amended (40 U.S.C. §§ 3141–3144, 3146, 3147; 42 U.S.C. § 3212),** which requires minimum wages for mechanics and laborers employed on Federal Government public works projects to be based on the wages that the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the Project is to be performed, or in the District of Columbia if the Project is to be performed there.

2. **The Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. §§ 3701-3708)**, which provides work hour standards for every laborer and mechanic employed by any contractor or subcontractor in the performance of a Federal public works project.

3. **The National Historic Preservation Act of 1966, as amended (54 U.S.C. § 300101 *et seq.*), and the Advisory Council on Historic Preservation Guidelines (36 CFR part 800)**, which require stewardship of historic properties in projects involving Federal funds.

4. **The Historical and Archeological Data Preservation Act of 1974, as amended (16 U.S.C. § 469a-1 *et seq.*)**, which requires appropriate surveys and preservation efforts if a Federally licensed project may cause irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data.

5. **The Architectural Barriers Act of 1968, as amended (42 U.S.C. § 4151 *et seq.*)**, and the regulations issued thereunder, which prescribe standards for the design and construction of any building or facility intended to be accessible to the public or that may house handicapped employees.

6. **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. § 4601 *et seq.*)**, and implementing regulations issued at 49 CFR part 24 ("Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs"), which establish uniform policies for the fair and equitable treatment of persons, businesses, or farm operations affected by the acquisition, rehabilitation, or demolition of real property acquired for a project financed wholly or in part with Federal financial assistance.

7. **The Energy Conservation and Production Act (42 U.S.C. § 6834 *et seq.*)**, which establishes energy efficiency performance standards for the construction of new residential and commercial structures undertaken with Federal financial assistance.

8. **Compliance with Local Construction Requirements.** The Recipient will comply with current local building codes, standards, and other requirements applicable to the Project.

E. NONDISCRIMINATION REQUIREMENTS.

No person in the United States shall, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. The Recipient agrees to comply with the nondiscrimination requirements below.

1. **Statutory Provisions.**

   a. **Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*)** and DOC implementing regulations published at 15 CFR part 8 ("Nondiscrimination in Federally Assisted Programs of the Department of Commerce—Effectuation of Title VI of the Civil Rights Act of 1964"), which prohibit discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance. *See* the Department's Title VI compliance provisions at 15 CFR §§ 8.7 ("Cooperation, compliance reports and reviews and access to records") through 8.15 ("Effect on other laws; supplementary instructions; coordination").

b. **Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*)**, which prohibits discrimination on the basis of sex under Federally assisted education programs or activities.

c. **Pub. L. No. 92-65, 42 U.S.C. § 3123,** which proscribes discrimination on the basis of sex in EDA assistance provided under PWEDA; Pub. L. No. 94-369, 42 U.S.C. § 6709, which proscribes discrimination on the basis of sex under the Local Public Works Program; and the Department's implementing regulations at 15 CFR §§ 8.7 ("Cooperation, compliance reports and reviews and access to records") -8.15 ("Effect on other laws; supplementary instructions; coordination").

d. **The Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*) (ADA)**, which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by State and local governments or instrumentalities or agencies thereof, as well as public or private entities that provide public transportation.

e. **Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794)**, and DOC implementing regulations published at 15 CFR part 8b ("Prohibition of Discrimination Against the Handicapped in Federally Assisted Programs Operated by the Department of Commerce"), which prohibit discrimination on the basis of handicap under any program or activity receiving or benefiting from Federal assistance.

   For purposes of complying with the accessibility standards set forth in 15 CFR § 8b.18(c) ("New construction"), Recipients must adhere to the regulations, published by the U.S. Department of Justice, implementing Title II of the Americans with Disabilities Act ("ADA") (28 CFR part 35 ("Nondiscrimination on the Basis of Disability in State and Local Government Services"); 75 *Fed. Reg.* 56164, as amended by 76 *Fed. Reg.* 13285) and Title III of the ADA (28 CFR part 36 ("Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities"); 75 *Fed. Reg.* 56236, as amended by 76 *Fed. Reg.* 13286). The revised regulations adopted new enforceable accessibility standards called the "2010 ADA Standards for Accessible Design" (2010 Standards), which replace and supersede the former Uniform Federal Accessibility Standards for new construction and alteration projects.

f. **The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*)** and DOC implementing regulations published at 15 CFR part 20 ("Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance"), which prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance.

g. Other applicable Federal statutes, regulations, and executive orders, and other applicable nondiscrimination laws.

2. Other Provisions.

a. Parts II and III of Executive Order 11246 (30 *Fed. Reg.* 12319, 1965), as amended by Executive Orders 11375 (32 *Fed. Reg.* 14303, 1967) and 12086 (43 *Fed. Reg.* 46501, 1978), requiring Federally assisted construction contracts to include the nondiscrimination provisions of sections 202 and 203 of that Executive Order and Department of Labor regulations implementing Executive Order 11246 (41 CFR § 60-1.4(b) ("Equal Opportunity Clause"), 1991).

b. Executive Order 13166 (August 11, 2000), "Improving Access to Services for Persons With Limited English Proficiency," requiring Federal agencies to examine the services provided, identify any need for services to those with limited English proficiency ("LEP"), and develop and implement a system to provide those services so that LEP persons can have meaningful access to them. The DOC issued policy guidance on March 24, 2003 ("Guidance to Federal Financial Assistance Recipients on the Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons", 68 *Fed. Reg.* 14180) to articulate the Title VI prohibition against national origin discrimination affecting LEP persons and to help ensure that Recipients provide meaningful access to their LEP applicants and beneficiaries.

3. Title VII Exemption for Religious Organizations.

Generally, Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e *et seq.*) provides that it shall be an unlawful employment practice for an employer to discharge any individual or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin. However, Title VII, 42 U.S.C. § 2000e-1(a), expressly exempts from the prohibition against discrimination on the basis of religion, a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

F. AUDITS.

Under the Inspector General Act of 1978, as amended (5 U.S.C. App. 3, § 1 *et seq.*), an audit of the Award may be conducted at any time. The Department's Inspector General, or any of his or her duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the Recipient, whether written, printed, recorded, produced, or reproduced by any electronic, mechanical, magnetic, or other process or medium, in order to make audits, inspections, excerpts, transcripts, or other examinations as authorized by law. This right also includes timely and reasonable access to the Recipient's personnel for the purpose of interview and discussion related to such documents. *See* 2 CFR § 200.336 ("Access to records"). When the Office of the Inspector General ("OIG") requires a program audit on a DOC Award, the OIG will usually make the arrangements to audit the Award, whether the audit is performed by OIG personnel, an independent accountant under contract with DOC, or any other Federal, State, or local audit entity.

1. Organization-Wide, Program-Specific, and Project Audits.

a. Organization-wide or program-specific audits shall be performed in accordance with the Single Audit Act Amendments of 1996, as implemented by subpart F of 2 CFR part 200 ("Audit Requirements"). Recipients that expend $750,000 or more in Federal awards during their fiscal year shall have an audit conducted for that year in accordance with the requirements set forth in subpart F of 2 CFR part 200. Within the earlier of 30 calendar days after receipt of the auditor's report, or nine months after the end of the audit period, a copy of the audit shall be submitted electronically to the Federal Audit Clearinghouse website at http://harvester.census.gov/sac/.

If it is necessary to submit using paper, the address for submission is:

Federal Audit Clearinghouse
Bureau of the Census
1201 E. 10th Street
Jeffersonville, IN 47132

Within 90 days of the end of the fiscal year of a Recipient subject to subpart F of 2 CFR part 200, the entity is responsible for notifying the Grants Officer of the amount of Federal awards, including all DOC and non-DOC awards, the Recipient expended during its fiscal year.

A Recipient that expends less than $750,000 in Federal awards during its fiscal year is exempt from Federal audit requirements for that year, except as noted at 2 CFR § 200.503 ("Relation to other audit requirements"), but records must be available for review and audit by EDA, DOC, or other designated Government officials.

Failure to provide audit reports within the timeframes specified may result in appropriate enforcement action, up to and including termination of the Award, and may jeopardize eligibility for receiving future DOC awards.

b. Unless otherwise specified in the Terms and Conditions of this Award, for-profit hospitals, commercials entities, and other organizations that are not subject to subpart F of 2 CFR part 200 ("Audit Requirements") shall have a program specific audit performed by an independent auditor when the Federal share amount awarded is $750,000 or more over the duration of the period of performance. An audit is required at least once every two years using the following schedule for audit report submission:

   i. For Awards where the period of performance is less than two years, an audit is required within 90 calendar days of the end of the period of performance to cover the entire Project (the Project Closeout period is included in the 90 days);

   ii. For Awards with a two- or three-year period of performance, an audit is required within 90 calendar days after the end of the first year to cover Year 1, which is the period of time when Federal funding is available for obligation by the Recipient, and within 90 calendar days of the end of the period of performance to cover Year 2 and Year 3 (if applicable) (the Project Closeout period is included in the 90 days); or

   iii. For Awards with a four- to five-year period of performance, an audit is required within 90 calendar days after the end of the first year to cover Year 1, within 90 calendar days after the end of the third year to cover Year 2 and Year 3, and within 90 calendar days of the end of the period of performance to cover Year 4 and Year 5 (if applicable) (the Project Closeout period is included in the 90 days).

c. EDA's Public Works and Economic Adjustment Assistance programs generally have specific audit guidelines that will be incorporated into the Award and may be found in the annual Compliance Supplement, which is Appendix XI to 2 CFR part 200 and is available on OMB's website (https://www.whitehouse.gov/omb/circulars_default). When DOC does not have a program-specific audit guide available for the program, the auditor will follow the requirements for a program-specific audit as described in 2 CFR § 200.507

("Program-specific audits"). The Recipient may include a line item in the budget for the cost of the audit for approval. A copy of the program-specific audit shall be submitted to the Grants Officer.

d. Recipients are responsible for compliance with the above audit requirements and for informing the Grants Officer of the status of their audit, including when the relevant audit has been completed and submitted in accordance with the requirements of this section. In accordance with 2 CFR § 200.331(d)(3) ("Requirements for pass-through entities"), pass-through entities are responsible for issuing a management decision for any audit findings pertaining to the Federal Award provided to a subrecipient.

2. Requirement to Submit a Copy of the Audit to EDA.

If the Recipient's currently valid audit required under subpart F of 2 CFR part 200 ("Audit Requirements") contains material findings, the Recipient must submit a copy of the audit to the Project Officer, who will review it with the Grants Officer. *See also* section C.19.a.iv "Project Closeout Procedures" of these Construction ST&Cs.

3. Audit Resolution Process.

a. An audit of the Award may result in the disallowance of costs incurred by the Recipient and the establishment of a debt (account receivable) due to EDA. For this reason, the Recipient should take seriously its responsibility to respond to all audit findings and recommendations with adequate explanations and supporting evidence whenever audit results are disputed.

b. In accordance with the *Federal Register* notice dated January 27, 1989 (54 *Fed. Reg.* 4053), a Recipient has the following opportunities to dispute the proposed disallowance of costs and the establishment of a debt after an audit:

i. The Recipient has 30 business days from the date of the transmittal of the "Draft Audit Report" to submit written comments and documentary evidence.

ii. The Recipient has 30 business days from the date of the transmittal of the "Final Audit Report" to submit written comments and documentary evidence. There will be no extension of this deadline.

iii. EDA shall review the documentary evidence submitted by the Recipient and shall notify the Recipient of the results in an "Audit Resolution Determination Letter." The Recipient has 30 business days from the date of receipt of the Audit Resolution Determination Letter to submit a written appeal. There will be no extension of this deadline. The appeal is the last opportunity for the Recipient to submit written comments and documentary evidence that dispute the validity of the Audit Resolution Determination Letter.

iv. An appeal of the Audit Resolution Determination Letter does not prevent the establishment of the audit-related debt nor does it prevent the accrual of interest on such debt. If the Audit Resolution Determination Letter is overruled or modified on appeal, appropriate corrective action will be taken retroactively. An appeal will stay the offset of funds owed by the auditee against funds due to the auditee.

v. The EDA or DOC, as applicable, shall review the Recipient's appeal. EDA shall notify the Recipient of the results in an Appeal Determination Letter. After the opportunity to appeal has expired or after the appeal determination has been rendered, EDA or DOC will not accept any further documentary evidence from the Recipient. No other EDA or DOC administrative appeals are available.

G. DEBTS.

1. Payment of Debts Owed the Federal Government.

a. The Recipient must promptly pay any debts determined by the Federal Government to be owed by the Recipient. Any funds paid to the Recipient in excess of the amount to which the Recipient is finally determined to be entitled under the terms of the Award constitute a debt to the Federal Government. In accordance with 2 CFR § 200.345 ("Collection of amounts due"), if not paid within 90 calendar days after demand, DOC may reduce a debt owed to the Federal Government by:

   i. Making an administrative offset against other request for reimbursement;

   ii. Withholding advance payments otherwise due to the Recipient; or

   iii. Taking any other action permitted by Federal statute.

b. DOC debt collection procedures are set out in 15 CFR part 19. In accordance with 2 CFR § 200.345 ("Collection of amounts due"), failure to pay a debt owed to the Federal Government shall result in the assessment of interest, penalties and administrative costs under 31 U.S.C. § 3717 and 31 CFR § 901.9. DOC entities will transfer any DOC debt that is more than 180 calendar days delinquent to the U.S. Department of the Treasury's Financial Management Service for debt collection services, a process known as "cross-servicing," pursuant to 31 U.S.C. § 3711(g), 31 CFR § 285.12, and 15 CFR § 19.9, and may take further action as specified in section A.6 "Noncompliance with Award Provisions" of these Construction ST&Cs. Funds for payment of a debt must not come from other Federally sponsored programs, and DOC may conduct on-site visits, audits and other reviews to verify that other Federal funds have not been used to pay a debt.

2. Late Payment Charges.

a. Interest shall be charged on the delinquent debt in accordance with section 3717(a) of the Debt Collection Act, as amended (31 U.S.C. § 3701 *et seq*.). The minimum annual interest rate to be assessed is the U.S. Department of the Treasury's Current Value of Funds Rate ("CVFR"). The CVFR is available online at http://www.fms.treas.gov/cvfr/index.html and also published by the Department of the Treasury in the *Federal Register* (http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR) and in the *Treasury Financial Manual Bulletin*. The assessed rate shall remain fixed for the duration of the indebtedness.

b. Penalties shall accrue at a rate of not more than six percent per year or such other higher rate as authorized by law.

c. Administrative charges (*i.e.*, the costs of processing and handling a delinquent debt) shall be determined by the DOC entity collecting the debt, as directed by the Office of the Chief Financial Officer and Assistant Secretary for Administration.

3. **Barring Delinquent Federal Debtors from Obtaining Federal Loans or Loan Insurance Guarantees.**

   Pursuant to 31 U.S.C. § 3720B and 31 CFR § 901.6, unless waived, DOC is not permitted to extend financial assistance in the form of a loan, loan guaranty, or loan insurance to any person delinquent on a non-tax debt owed to a Federal agency. This prohibition does not apply to disaster loans.

4. **Effect of Judgment Lien on Eligibility for Federal Grants, Loans, or Programs.**

   Pursuant to 28 U.S.C. § 3201(e), unless waived by DOC, a debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant or loan that is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

H. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT).

The Recipient shall comply with the provisions of 2 CFR part 1326 ("Nonprocurement Debarment and Suspension") (published in the *Federal Register* on December 21, 2006, 71 *Fed. Reg.* 76573), which generally prohibit entities that have been debarred, suspended, or voluntarily excluded from participating in Federal nonprocurement transactions through either primary or lower-tier covered transactions, and which set forth the responsibilities of Recipients of Federal financial assistance regarding transactions with other persons, including subrecipients and contractors. In addition, as provided in section K.4.b "Applicability of Provisions to Subawards, Contracts, and Subcontracts" of these Construction ST&Cs, in accordance with subpart C of 2 CFR part 1326, the Recipient must include a term or condition in lower tier transactions (subawards, contracts, and subcontracts) requiring lower tier participants to comply with subpart C (entitled "Responsibilities of Participants Regarding Transactions Doing Business With Other Persons") of the OMB guidance in 2 CFR part 180 "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)."

I. DRUG-FREE WORKPLACE.

The Recipient shall comply with the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8102), and DOC's implementing regulations found at 15 CFR part 29 ("Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)") which require that the Recipient take steps to provide a drug-free workplace.

J. LOBBYING RESTRICTIONS.

1. *Statutory and Regulatory Provisions.* The Recipient shall comply with 2 CFR § 200.450 ("Lobbying"), which incorporates the provisions of 31 U.S.C. § 1352; the "New Restrictions on Lobbying" published at 55 *Fed. Reg.* 6736 (February 26, 1990); and OMB guidance and notices on lobbying and restrictions. In addition, the Recipient must comply with the DOC's regulations published at 15 CFR part 28, which implement the "New Restrictions on Lobbying." These provisions prohibit the use of Federal funds for lobbying the executive or legislative branches of the Federal government in connection with an award, and require disclosure of the use of

non-Federal funds for lobbying. Lobbying includes attempting to improperly influence, meaning any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter, either directly or indirectly. Costs incurred to improperly influence are unallowable. *See* 2 CFR § 200.450(b) and (c).

2. *Disclosure of Lobbying Activities.* Any Recipient that receives more than $100,000 in Federal funding shall submit a completed Form SF-LLL, "Disclosure of Lobbying Activities," regarding the use of non-Federal funds for lobbying. The Form SF-LLL shall be submitted within 30 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The Recipient must submit any required Forms SF-LLL, including those received from subrecipients, contractors, and subcontractors, to the Project Officer.

3. *Special Provisions Relating to Indian Tribes.* As set out in 31 U.S.C. § 1352, special provisions are applicable to Indian tribes, tribal organizations, and other Indian organizations eligible to receive Federal contracts, grants, loans, or cooperative agreements. In accordance with DOC policy, EDA recognizes Tribal Employment Rights Ordinances ("TEROs"), which may provide for preferences in contracting and employment, in connection with its financial assistance awards. Federal awards granted to American Indian and Alaska Native tribal governments generally may provide for preference in contracting, hiring, firing, and the payment of a TERO fee. The payment of the TERO fee, which supports the tribal employment rights office to administer the preferences, should generally be allowable as an expense that is "necessary and reasonable for the performance of the Federal award," as provided under 2 CFR § 200.403 ("Factors affecting allowability of costs").

K. CODES OF CONDUCT AND SUBAWARD, CONTRACT, AND SUBCONTRACT PROVISIONS.

1. Code of Conduct for Recipients.

a. *General conflicts-of-interest requirements.* The Recipient must comply with EDA's regulation at 13 CFR § 302.17 ("Conflicts of interest"), which articulates EDA's requirements to prevent conflicts of interest, which generally exist when an Interested Party participates in a matter that has a direct and predictable effected on the Interested Party's personal or financial interests or there is an appearance that an Interested Party's objectivity in performing his or her responsibilities under the Project is impaired. In addition, in accordance with 2 CFR § 200.112 ("Conflict of interest"), the Recipient must disclose to EDA in writing any potential conflict of interest. In addition, pursuant to the certification in Form SF-424D, paragraph 7, the Recipient must maintain written standards of conduct to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflicts of interest or personal gain in the administration of this Award.

b. *Procurement-related conflicts of interest.* In addition, in accordance with 2 CFR § 200.318 ("General procurement standards"), the Recipient must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts.

2. Applicability of Award Provisions to Subrecipients.

a. The Recipient or pass-through entity shall require all subrecipients, including lower tier subrecipients, under the Award to comply with the provisions of this Award, including applicable provisions of the Uniform Guidance (2 CFR part 200), and all associated terms and conditions. *See* 2 CFR §§ 200.330 ("Subrecipient and contractor determinations") through 200.332 ("Fixed amount subawards") and 2 CFR § 200.101(b)(1) ("Applicability"), which describes the applicability of 2 CFR part 200 to various types of Federal awards.

b. In accordance with 2 CFR § 200.331 ("Requirements for pass-through entities"), all pass-through entities must:

i. *Subaward Identification.* Clearly identify every subaward to the subrecipient at the time of the subaward, including subsequent subaward modification. In accordance with 2 CFR § 200.331(a), required information includes:

(1) All Award information data elements set out at 2 CFR § 200.331(a)(1);

(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal Award is used in accordance with Federal statutes, regulations and the Terms and Conditions of the Award;

(3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency, including identification of required financial and performance reports;

(4) Indirect cost rate information in accordance with 2 CFR § 200.331(a)(4);

(5) Access requirements for the subrecipient's records and financial statements in accordance with 2 CFR § 200.331(a)(5); and

(6) Appropriate terms and conditions concerning closeout of the subaward.

ii. *Risk-Based Subrecipient Evaluation.* Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring in accordance with 2 CFR § 200.331(b).

iii. *Subaward Conditions.* Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in 2 CFR § 200.207 ("Specific conditions").

iv. *Subrecipient Monitoring.* In accordance with 2 CFR § 200.331(d), monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal requirements, and that the subaward performance goals are achieved. Subrecipient monitoring must include:

(1) Reviewing financial and programmatic reports required by the pass-through entity;

(2) Following up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means; and

(3) Issuing a management decision for audit findings pertaining to the Award provided to the subrecipient from the pass-through entity as required by 2 CFR § 200.521 ("Management decision").

v. *Utilizing Risk-Based Monitoring Tools*. In accordance with 2 CFR § 200.331(e), depending on the Recipient's evaluation of each subrecipient's risk, utilize appropriate monitoring tools, including training and technical assistance, performing on-site reviews, and arranging agreed-upon-procedures engagements as described in 2 CFR § 200.425 ("Audit services").

vi. *Subrecipient Audits*. Verify that every subrecipient is audited as required by subpart F of 2 CFR part 200 ("Audit Requirements") when it is expected that the subrecipient's Federal awards expended during the fiscal year equaled or exceeded the threshold set forth in 2 CFR § 200.501 ("Audit requirements").

vii. *Necessary Adjustments to the Pass-Through Entity's Records*. Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

viii. *Enforcement Action*. Consider taking enforcement action against noncompliant subrecipients as described in 2 CFR § 200.338 ("Remedies for noncompliance") and in applicable program regulations.

See also 2 CFR § 200.331 for the full text of requirements for pass-through entities.

3. **Competition and Codes of Conduct for Subawards.**

a. The Recipient must be alert to organizational conflicts of interest as well as other practices among subrecipients that may restrict or eliminate competition.

b. The Recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of subawards. No employee, officer, or agent shall participate in the selection, award, or administration of a subaward supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization in which he or she serves as an officer or which employs or is about to employ any of the parties mentioned in this section, has a financial interest or other interest in the organization selected or to be selected for a subaward. The officers, employees, and agents of the Recipient shall neither solicit nor accept anything of monetary value from subrecipients. However, the Recipient may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Recipient.

c. A financial interest may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with the organization selected or to be selected for a subaward. An appearance of impairment of objectivity could result from an organizational conflict where, because of other activities or relationships with other persons or entities, a person is unable or potentially unable to render impartial assistance or advice. It could also result from non-financial gain to the individual, such as benefit to reputation or prestige in a professional field.

4. **Applicability of Provisions to Subawards, Contracts, and Subcontracts.**
   a. The Recipient shall include the following notice in each request for applications or bids for a subaward, contract, or subcontract, as applicable:

      Applicants/bidders for a lower tier covered transaction (except procurement contracts for goods and services under $25,000 not requiring the consent of a DOC official) are subject to subpart C of 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)." In addition, applicants/bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than $100,000 of Federal funds at any tier are subject to 15 CFR part 28, "New Restrictions on Lobbying."

      Applicants/bidders should familiarize themselves with these provisions, including the certification requirement. Therefore, Applications for a lower tier covered transaction must include a Form CD-512, "Certification Regarding Lobbying–Lower Tier Covered Transactions," completed without modification.

   b. The Recipient shall include a term or condition in all lower tier covered transactions (subawards, contracts, and subcontracts) requiring lower tier participants to comply with subpart C of 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)."

   c. Required subaward and contractual provisions:

      i. The Recipient shall include a statement in all lower tier covered transactions (subawards, contracts, and subcontracts) exceeding $100,000 in Federal funds that the subaward, contract, or subcontract is subject to 31 U.S.C. § 1352, as implemented at 15 CFR part 28 ("New Restrictions on Lobbying"). The Recipient shall further require the subrecipient, contractor, or subcontractor to submit a completed "Disclosure of Lobbying Activities" (Form SF-LLL) regarding the use of non-Federal funds for lobbying. The Form SF-LLL shall be submitted within 15 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The Form SF-LLL shall be submitted from tier to tier until received by the Recipient. The Recipient must submit all disclosure forms received, including those that report lobbying activity on its own behalf, to the Project Officer within 30 days following the end of the calendar quarter.

      ii. In addition to other provisions required by the Federal agency or Recipient, in accordance with 2 CFR § 200.326 ("Contract provisions"), all contracts made by the Recipient under this Award must contain the applicable provisions set out in Appendix II to 2 CFR part 200 ("Contract Provisions for Non-Federal Entity Contracts Under Federal Awards"), which address various contractual requirements including remedies, termination for cause and convenience, Equal Employment Opportunity, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, rights to inventions, environmental quality, energy efficiency, debarment and suspension, the Byrd Anti-Lobbying Amendment, and procurement of recovered materials. *See* Appendix II to 2 CFR part 200 for a full explanation of these requirements.

5. **Pilot Program for Enhancement of Employee Whistleblower Protections.**

The National Defense Authorization Act ("NDAA") for Fiscal Year 2013 (Pub. L. No. 112-239, enacted January 2, 2013 and codified at 41 U.S.C. § 4712) includes a pilot program for whistleblower protection. It applies to all DOC awards, subawards, and contracts under awards issued beginning July 1, 2013 through January 1, 2017. This term implements that law.

In accordance with 41 U.S.C. § 4712, an employee of a Recipient or contractor under a Federal award or subaward may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal award or subaward or contract under a Federal award or subaward, a gross waste of Federal funds, an abuse of authority related to a Federal award or subaward or contract under a Federal award or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal award or subaward or contract under a Federal award or subaward. These persons or bodies include:

a. A Member of Congress or a representative of a committee of Congress.

b. An Inspector General.

c. The Government Accountability Office.

d. A Federal employee responsible for contract or grant oversight or management at the relevant agency.

e. An authorized official of the Department of Justice or other law enforcement agency.

f. A court or grand jury.

g. A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

Recipients and contractors under Federal awards and subawards shall inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.

6. **Small Businesses, Minority Business Enterprises, and Women's Business Enterprises.**

In accordance with 2 CFR § 200.321 ("Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms"), the Recipient must take all necessary affirmative steps to ensure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. DOC encourages Recipients to utilize small businesses, minority business enterprises, and women's business enterprises in contracts under financial assistance awards. The Minority Business Development Agency ("MBDA") within DOC will assist Recipients in matching qualified minority business enterprises with contract opportunities. For further information, the Recipient may visit MBDA's website at http://www.mbda.gov or contact MBDA via telephone or mail:

U.S. Department of Commerce
Minority Business Development Agency
Herbert C. Hoover Building
14th Street and Constitution Avenue, N.W.

Washington, D.C. 20230
(202) 482-0101

7. **Subaward to or Contract with a Federal Agency.**

   a. The Recipient, contractor and/or subcontractor shall not subgrant or subcontract any part of the approved Project to any agency or employee of DOC or any other Federal department, agency, or instrumentality without the prior written approval of the Grants Officer.

   b. The Recipient must submit requests for approval of such action to the Project Officer, who shall review and make a recommendation to the Grants Officer. The Grants Officer must forward all requests to the Federal Assistance Law Division in the Office of the Department of Commerce Assistant General Counsel for Administration and Transactions for review prior to making the final determination. The Grants Officer will notify the Recipient in writing of the final determination.

8. **EDA Contracting Provisions for Construction Projects.**

   The Recipient shall use the "*EDA Contracting Provisions for Construction Projects*" as guidance in developing all construction contracts. The "*EDA Contracting Provisions for Construction Projects*" lists applicable EDA and other Federal requirements for construction contracts.

L. PROPERTY.

1. **Standards.**

   With respect to any property acquired or improved in whole or in part with EDA investment assistance under this Award, the Recipient shall comply with the Property Standards set forth at 2 CFR §§ 200.310 ("Insurance coverage") through 200.316 ("Property trust relationship"), and EDA's regulations at 13 CFR part 314. Property acquired or improved in whole or in part by the Recipient under this Award may consist of real property; personal property, including equipment and supplies; and intangible property, such as money, notes, and security interests. Any property reports required under 2 CFR §§ 200.310 through 200.316, such as periodic inventories and requests for disposition instructions, must be submitted to the Grants Officer through the Project Officer on Form SF-428 and/or SF-429, as applicable. *See also* section C.2 "Reporting on Real Property" of these Construction ST&Cs.

2. **Title.**

   a. Title to equipment, supplies, and intangible property acquired in whole or in part under this Award generally vests upon acquisition in the Recipient. The use, management and disposition of equipment, supplies, and intangible property acquired in whole or in part under this Award shall be in accordance with 2 CFR §§ 200.313 ("Equipment"), 200.314 ("Supplies"), and 200.315 ("Intangible property"), as applicable, and EDA regulations at 13 CFR part 314. *See also* section O.4 "Intellectual Property Rights" of these Construction ST&Cs.

   b. Title to real property acquired in whole or in part under this Award generally vests upon acquisition in the Recipient, subject to the condition that the Recipient uses the real property for the authorized purpose of the Project. *See* 2 CFR § 200.311 ("Real property") and EDA regulations at 13 CFR part 314.

3. **EDA's Interest in Award Property.**

   a. *General - Evidence of Title*. As stated in section A.4 "Grant Recipient as Trustee" of these Construction ST&Cs, real property, equipment, and intangible property acquired or improved under this Award must be held in trust by the Recipient as trustee for the beneficiaries of the Project for which the property was acquired or improved. This trust relationship exists throughout the duration of the property's estimated useful life, as determined by the Grants Officer in consultation with the Project Officer, during which time the Federal Government retains an undivided, equitable reversionary interest in the property (Federal Interest).

      Before advertising for construction bids or at such other time as EDA requires, the Recipient must furnish evidence, satisfactory in form and substance to the Government, that title to real property required for the Project (other than property of the United States and as provided in 13 CFR § 314.7(c) ("Title")) is vested in the Recipient and that such easements, rights-of-way, State or local government permits, long-term leases, or other items required for the Project have been or will be obtained by the Recipient within an acceptable time, as determined by the Government. All liens, mortgages, other encumbrances, reservations, reversionary interests, or other restrictions on title or the Recipient's interest in the property must be disclosed to EDA. With limited exceptions set forth at 13 CFR § 314.6(b) ("Encumbrances") or as otherwise authorized by EDA, Recipient-owned property acquired or improved in whole or in part with EDA investment assistance must not be used to secure a mortgage or deed of trust or in any way otherwise encumbered. *See* 13 CFR § 314.6.

   b. *Recording EDA's Interest in Real Property*.

      i. For all Projects involving the acquisition, construction, or improvement of a building, as determined by EDA, the Recipient shall execute and furnish to the Government, prior to initial Award disbursement, a lien, covenant, or other statement, satisfactory to EDA in form and substance, of EDA's interest in the property acquired or improved in whole or in part with the funds made available under this Award. EDA may require such statement after initial Award disbursement in the event that grant funds are being used to acquire such property. The statement must specify the estimated useful life of the Project and shall include but not be limited to the disposition, encumbrance, and the Federal Share compensation requirements. *See* 13 CFR §§ 314.1 ("Definitions") and 314.8(a) ("Recorded statement for real property"). *See also* 2 CFR § 200.316 ("Property trust relationship").

      ii. This lien, covenant, or other statement of the Government's interest must be perfected and placed of record in the real property records of the jurisdiction in which the property is located, all in accordance with applicable law. EDA may require an opinion of counsel for the Recipient to substantiate that the document was validly executed and properly recorded. *See* 13 CFR § 314.8(b).

      iii. Facilities in which the EDA investment is only a small part of a larger project, as determined by EDA, may be exempted from the requirements listed in paragraphs L.3.b.i and ii above. *See* 13 CFR § 314.8(c).

iv. In extraordinary circumstances and at EDA's sole discretion, EDA may choose to accept another instrument to protect EDA's interest in the Project property, such as an escrow agreement or letter of credit, provided that EDA determines such instrument is adequate and a recorded statement in accord with section L.3.b.i above is not reasonably available. The terms and provisions of the relevant instrument shall be satisfactory to EDA in EDA's sole judgment. The costs and fees for escrow services or letters of credit shall be paid by the Recipient. *See* 13 CFR § 314.8(d).

c. *Recording EDA's Interest in Personal Property.* For all Projects involving the acquisition or improvement of significant items of personal property, including but not limited to ships, machinery, equipment, removable fixtures, or structural components of buildings, the Recipient shall execute a security interest, covenant, or other statement of EDA's reversionary interest in the personal property acceptable in form and substance to EDA, which statement must be perfected and placed of record in accordance with applicable law (usually accomplished by filing a Uniform Commercial Code Financing Statement (Form UCC-1), as provided by State law), with continuances re-filed as appropriate. EDA may require an opinion of counsel for the Recipient to substantiate that the Form UCC-1 or other filing was validly executed and properly recorded. *See* 13 CFR § 314.9 ("Recorded statement for personal property").

d. The Recipient acknowledges that the Government retains an undivided equitable reversionary interest in property acquired or improved in whole or in part with grant funds made available through this Award throughout the estimated useful life (as determined by EDA) of the Project, except in applicable instances set forth at 13 CFR § 314.7(c) ("Title"). *See* 13 CFR § 314.2(a) ("Federal interest").

e. The Recipient agrees that if any interest in property acquired or improved in whole or in part with EDA investment assistance is disposed of, encumbered or alienated in any manner, or no longer used for the authorized purposes of the Award during the Project's estimated useful life without EDA's written approval, the Government will be entitled to recover the Federal Share, as defined at 13 CFR § 314.5 ("Federal share"). If, during the Project's estimated useful life, the property is no longer needed for the purposes of the Award, as determined by EDA, EDA may permit its use for other acceptable purposes consistent with those authorized by PWEDA and 13 CFR Chapter III. *See* 13 CFR § 314.3(b) ("Authorized use of property").

f. For purposes of any lien or security interest, the amount of the Federal Share shall be the portion of the current fair market value of any property (after deducting any actual and reasonable selling and repair expenses incurred to put the property into marketable condition) attributable to EDA's participation in the Project. *See* 13 CFR § 314.5 ("Federal share").

g. The alienation of Award property includes sale or other conveyance of the Recipient's interest, leasing or mortgaging the property, or granting an option for any of the foregoing.

h. In accordance with 2 CFR § 200.329 ("Reporting on real property"), the Federal awarding agency or pass through entity must require a non-Federal entity to submit reports (using Form SF-429 "Real Property Status Report" or any successor form) at least annually on the status of real property in which the Federal Government retains an interest, unless the Federal Interest in the real property extends 15 years or longer. In those instances where the Federal Interest attached is for a period of 15 years or more, the Federal awarding agency or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (*e.g.*, every two years or every three years, not to exceed a five-year reporting period; or annual reporting for the first three years and thereafter every five years). The Federal awarding agency or pass-through entity may also require a non-Federal entity to periodically submit reports (using Form SF-428 "Tangible Personal Property Report" or any successor form) concerning tangible personal property in which the Federal Government retains an interest. In addition, the Federal awarding agency or pass-through entity may require a non-Federal entity to submit Form SF-429 and/or Form SF-428 in connection with a non-Federal entity's request to acquire, encumber, dispose of, or take any other action pertaining to real property or tangible personal property acquired or improved, in whole or in part, under this Award or pertaining to Federally owned property under this Award. *See also* section C.2 "Reporting on Real Property" of these Construction ST&Cs.

4. **Insurance and Bonding.**

   a. *Insurance*. The Recipient shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided for property owned by the Recipient. Federally owned property need not be otherwise insured unless required by the Terms and Conditions of the Award. *See* 2 CFR § 200.310 ("Insurance coverage").

   b. *Bonding*. If the Award exceeds the simplified acquisition threshold as defined at 2 CFR § 200.88, EDA may accept the Recipient's or subrecipient's bonding policy and requirements if EDA or the pass-through entity determines that the Federal Interest is adequately protected. If not, the following minimum requirements shall apply:

      i. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

      ii. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

      iii. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to ensure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. *See* 2 CFR § 200.325 ("Bonding requirements").

5. **Leasing Restrictions.**

   Leasing or renting of facilities or property is prohibited unless specifically authorized by EDA. The Recipient agrees that any leasing or renting of any facilities or property involved in this Project will be subject to the following:

   a. That said lease arrangement is consistent with the authorized general and special purpose of the Award;

   b. That said lease arrangement is for adequate consideration; and

c. That said lease arrangement is consistent with applicable EDA requirements concerning but not limited to nondiscrimination and environmental compliance.

6. Eminent Domain.

The Recipient will use funds solely for the authorized purpose of the Project. Pursuant to Executive Order 13406, "Protecting the Property Rights of the American People," the Recipient agrees:

a. Not to exercise any power of eminent domain available to the Recipient (including the commencement of eminent domain proceedings) for use in connection with the Project for the purpose of advancing the economic interests of private parties; and

b. Not to accept title to land, easements, or other interests in land acquired by the exercise of any power of eminent domain for use in connection with the Project for such purposes.

The Recipient agrees that any use of the power of eminent domain to acquire land, easements, or interests in land, whether by the Recipient or any other entity that has the power of eminent domain, in connection with the Project without the prior written consent of EDA is an unauthorized use of the Project. If the Recipient puts the Project to an unauthorized use, the Recipient shall compensate EDA for its fair share in accordance with 13 CFR §§ 314.4 ("Unauthorized use of property") and 314.5 ("Federal share"), as the same may be amended from time to time.

7. Disposal of Real Property.

a. During the estimated useful life of the Project, if EDA and the Recipient determine that property acquired or improved in whole or in part with EDA investment assistance is no longer needed for the original purposes of this Award, EDA may, in its sole discretion, approve use of the property in other Federal grant programs or in programs that have purposes consistent with those authorized by PWEDA and 13 CFR Chapter III. *See* 13 CFR § 314.3(b) ("Authorized use of property").

b. When property is not disposed of as provided in section L.7.a above, the Government shall determine final disposition and must be compensated by the Recipient for the Federal Share of the value of the property, plus costs and interest, as provided in 13 CFR § 314.4 ("Unauthorized use of property").

M. FEDERAL ENVIRONMENTAL REQUIREMENTS.

Environmental impacts must be considered by Federal decision-makers in their decisions whether or not to approve: (i) a proposal for Federal assistance; (ii) the proposal with mitigation; or (iii) a different proposal/grant having less adverse environmental impacts. Federal environmental laws require that the funding agency initiate an early planning process that considers potential impacts of the projects funded with Federal assistance on the environment. Each Recipient must comply with all environmental standards, to include those prescribed under the following statutes and executive orders, and shall identify to the awarding agency any impact a proposed project may have on the environment. In some cases, Award funds can be withheld by the Grants Officer under a special award condition requiring the Recipient to submit additional environmental compliance information sufficient to enable the DOC to make an assessment on any impacts that a project may have on the environment.

1. **The National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*).**

   The National Environmental Policy Act ("NEPA") and the Council on Environmental Quality ("CEQ") implementing regulations (40 CFR parts 1500–1508) require that an environmental analysis be completed for all major Federal actions significantly affecting the environment. NEPA applies to the actions of Federal agencies and may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements when the Award activities remain subject to Federal authority and control. Recipients are required to identify to the awarding agency any impact an award will have on the quality of the human environment, and assist the agency in complying with NEPA. Recipients may also be requested to assist EDA in drafting an environmental assessment if EDA determines an assessment is required. Until the appropriate NEPA documentation is complete, and if any additional information is required during the period of performance to assess Project environmental impacts, funds can be withheld by the Grants Officer under a special award condition requiring the Recipient to submit the appropriate NEPA documentation sufficient to enable EDA to make an assessment on any environmental impacts of a Project.

2. **National Historic Preservation Act (54 U.S.C. § 300101 *et seq.*).**

   Section 106 of the National Historic Preservation Act ("NHPA") (54 U.S.C. § 300101 *et seq.* (formerly codified at 16 U.S.C. § 470f)) and the Advisory Council on Historic Preservation implementing regulations (36 CFR part 800) require that Federal agencies take into account the effects of their undertakings on historic properties. Recipients are required to identify to the awarding agency any effects the Award may have on properties included on or eligible for inclusion on the National Register of Historic Places. Recipients may also be requested to assist EDA in consulting with State or Tribal Historic Preservation Officers or other applicable interested parties necessary to identify, assess and resolve adverse effects on historic properties. Until the appropriate NHPA consultations and documentation are complete and if any additional information is required during the period of performance in order to assess Project impacts on historic properties, funds can be withheld by the Grants Officer under a special award condition requiring the Recipient to submit any information sufficient to enable EDA to make the requisite assessment under the NHPA.

3. **Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. §§ 4371–4375).**

   Federally supported public works facilities and activities that affect the environment shall be implemented in compliance with policies established under existing law.

4. **Clean Air Act (42 U.S.C. § 7401 *et seq.)*, Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.)* (Clean Water Act), and Executive Order 11738 ("Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants or Loans").**

   The Recipient must comply with the provisions of the Clean Air Act (42 U.S.C. § 7401 *et seq.*), Clean Water Act (33 U.S.C. § 1251 *et seq.*), and Executive Order 11738 (38 *Fed. Reg.* 25161, 1973), and shall not use a facility on the Environmental Protection Agency's ("EPA's") *List of*

Violating Facilities (this list is incorporated into the Excluded Parties List System located at https://www.sam.gov/portal/public/SAM/) in undertaking work that is nonexempt under 2 CFR § 1532, and shall notify the Project Officer in writing if it intends to use a facility that is on the EPA's *List of Violating Facilities* or knows that the facility has been recommended to be placed on the list.

5. **The Safe Drinking Water Act of 1974, as amended (42 U.S.C. § 300f *et seq.*).**

   This Act precludes Federal assistance for any project that the EPA determines may contaminate a sole source aquifer so as to threaten public health.

6. **Executive Order 11988 ("Floodplain Management") and Executive Order 11990 ("Protection of Wetlands").**

   Recipients must identify proposed actions in Federally defined floodplains and wetlands to enable the agency to make a determination whether there is an alternative to minimize any potential harm.

7. **The Flood Disaster Protection Act (42 U.S.C. § 4002 *et seq.*), and regulations and guidelines issued thereunder by the U.S. Federal Emergency Management Administration ("FEMA") or by EDA.**

   Flood insurance, when available, is required for Federally assisted construction or acquisition in flood-prone areas.

8. **The Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*).**

   Funded projects must be consistent with a coastal State's approved management plan for the coastal zone.

9. **The Coastal Barrier Resources Act (16 U.S.C. § 3501 *et seq.*).**

   Only in certain circumstances can Federal funding be provided for actions within a Coastal Barrier System.

10. **The Wild and Scenic Rivers Act (16 U.S.C. § 1271 *et seq.*).**

    This Act applies to awards that may affect existing or proposed components of the National Wild and Scenic Rivers system.

11. **The Fish and Wildlife Coordination Act (16 U.S.C. § 661 *et seq.*).**

    This Act requires the evaluation of impacts to fish and wildlife from Federally assisted proposed water resource development projects.

12. **The Endangered Species Act (16 U.S.C. § 1531 *et seq.*).**

    The Recipient must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions with Federal financial assistance and to conduct the required reviews under the Endangered Species Act, as applicable.

13. **The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, more commonly known as Superfund) (42 U.S.C. § 9601 *et seq.*), and the Community Environmental Response Facilitation Act (Pub. L. No. 102-426, 42 U.S.C. §§ 9601 note *et seq.* and 9620(h)(4).).**

    These requirements address responsibilities related to hazardous substance releases, threatened releases, and environmental cleanup. They also impose reporting and community involvement requirements to ensure disclosure of the release or disposal of regulated substances and cleanup of hazards to State and local emergency responders.

14. **The Resource Conservation and Recovery Act (42 U.S.C. § 6901 *et seq.*).**

    This Act regulates the generation, transportation, treatment, and disposal of hazardous wastes, and also provides that Recipients give preference in their procurement programs to the purchase of recycled products pursuant to EPA guidelines.

15. **Executive Order 12898 ("Environmental Justice in Minority Populations and Low-Income Populations").**

    Federal agencies are required to identify and address any disproportionately high adverse human health or environmental effects of Federal programs, policies, and activities on low-income and minority populations.

16. **The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4821 *et seq.*).**

    Use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance is prohibited.

17. **The Farmland Protection Policy Act (7 U.S.C. §§ 4201–4209).**

    Projects are subject to review under this Act if they may irreversibly directly or indirectly convert farmland, including forest land, pastureland, cropland, or other land, to nonagricultural use.

18. **The Noise Control Act of 1972 (42 U.S.C. § 4901 *et seq.*).**

    Federally supported facilities and activities shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements.

19. **The Native American Graves Protection and Repatriation Act (25 U.S.C. § 3001 *et seq.*).**

    This Act provides a process for returning certain Native American cultural items to lineal descendants, culturally affiliated Indian tribes, and Native Hawaiian organizations.

N. NOTICE AND EVIDENCE OF COMPLIANCE WITH ALL APPLICABLE ENVIRONMENTAL REQUIREMENTS.

The Recipient agrees to promptly notify the Grants Officer in writing of any environmental requirement or restriction, regulatory or otherwise, with which it must comply. Before Project Closeout and final disbursement of Award funds, the Recipient further agrees to provide evidence satisfactory to the Grants Officer that any required environmental remediation has been completed: (1) in compliance with all applicable Federal, State and local regulations; and (2) as set forth in the applicable lease, finding of suitability to lease ("FOSL"), lease in furtherance of conveyance, quitclaim deed, or other conveyance instrument and any amendments, supplements, or succeeding documents. Compliance with said laws or restrictions shall be included in any contract documents for Project construction. The Recipient must certify compliance before final disbursement of grant funds.

O. MISCELLANEOUS REQUIREMENTS.

1. Criminal and Prohibited Activities.

a. The Program Fraud Civil Remedies Act (31 U.S.C. § 3801 *et seq.*) provides for the imposition of civil penalties against persons who make false, fictitious, or fraudulent claims to the Federal Government for money (including money representing grants, loans, or other benefits).

b. The False Claims Amendment Act of 1986 and the False Statements Accountability Act of 1996 (18 U.S.C. §§ 287 and 1001, respectively) provide that whoever makes or presents any false, fictitious, or fraudulent statement, representation, or claim against the United States shall be subject to imprisonment of not more than five years and shall be subject to a fine in the amount provided by 18 U.S.C. § 287.

c. The Civil False Claims Act (31 U.S.C. §§ 3729–3733) provides that suits can be brought by the Government, or a person on behalf of the Government, for false claims under Federal assistance programs.

d. The Copeland "Anti-Kickback" Act (18 U.S.C. § 874) prohibits a person or organization engaged in a Federally supported Project from enticing an employee working on the Project from giving up a part of his or her compensation under an employment contract. The Copeland "Anti-Kickback" Act also applies to contractors and subcontractors pursuant to 40 U.S.C. § 3145.

2. Foreign Travel.

a. The Recipient shall comply with the provisions of the Fly America Act (49 U.S.C. § 40118). The implementing regulations of the Fly America Act are found at 41 CFR §§ 301-10.131 through 301-10.143.

b. The Fly America Act requires Federal travelers and others performing U.S. Government financed air travel to use U.S. flag air carriers, to the extent that service by such carriers is available. Foreign air carriers may be used only in specific instances, such as when a U.S. flag air carrier is unavailable or when use of U.S. flag air carrier service will not accomplish the agency's mission.

c. One exception to the requirement to fly U.S. flag carriers is transportation provided under a bilateral or multilateral air transport agreement, to which the United States Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act pursuant to 49 U.S.C. § 40118(b). The United States Government has entered into bilateral and multilateral "Open Skies Agreements" (U.S. Government Procured Transportation) that allow Federally funded transportation services for travel and cargo movements to use foreign air carriers under certain circumstances. There are multiple Open Skies Agreements currently in effect. For more information about the current bilateral and multilateral agreements, visit the General Services Administration ("GSA") website at http://www.gsa.gov/portal/content/103191. Information on the Open Skies Agreements (U.S. Government Procured Transportation) and other specific country agreements may be accessed via the Department of State's website at http://www.state.gov/e/eeb/tra/.

d. If a foreign air carrier is anticipated to be used for any portion of travel under this Award, the Recipient must receive prior approval from the Grants Officer. When requesting such approval, the Recipient must provide a justification in accordance with the guidance provided by 41 CFR § 301-10.142, which requires the Recipient to provide the Grants Officer with the following: (i) his or her name; (ii) dates of travel; (iii) the origin and destination of travel; (iv) a detailed itinerary of travel; (v) the name of the air carrier and flight number for each leg of the trip; and (vi) a statement explaining why the Recipient meets one of the exceptions to the regulations. If the use of a foreign air carrier is pursuant to a bilateral agreement, the Recipient must provide the Grants Officer with a copy of the agreement or a citation to the official agreement available on the GSA website. The Grants Officer shall make the final determination and notify the Recipient in writing. Failure to adhere to the provisions of the Fly America Act will result in disallowance of any transportation costs for which any Recipient improperly used a foreign air carrier.

3. **American-Made Equipment and Products.**

Recipients are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this Award.

4. **Intellectual Property Rights.**

a. **General.** The rights to any work produced or purchased under this Award are determined by 2 CFR § 200.315 ("Intangible property"). The Recipient owns any work produced or purchased under a Federal award subject to the DOC's royalty-free, nonexclusive, and irrevocable right to obtain, reproduce, publish, or use the work or authorize others to receive, reproduce, publish, or otherwise use the work for Government purposes. In accordance with 2 CFR § 200.315(d), the Federal Government has the right to obtain, reproduce, publish, or otherwise use the data produced under a Federal award and authorize others to receive, reproduce, publish or otherwise use such data for Federal purposes.

b. **Inventions.** Unless otherwise provided by law, the rights to any invention made by a Recipient under this Award are determined by the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and as codified at 35 U.S.C. § 200 *et seq.*, except as otherwise required by law. The specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from Federal awards are described in more detail at 37 CFR part 401 and, in particular, in the standard patent rights clause at 37 CFR § 401.14, which is hereby incorporated by reference into this Award.

i. Ownership.

(1) *Recipient.* The Recipient has the right to elect to retain title to any invention it makes (conceived or first actually reduced to practice) or that is made by its employees. A Recipient that is a nonprofit organization, which includes a university or other institution of higher learning, may not assign to a third party its rights to such an

invention without the permission of DOC unless that assignment is to a patent management organization (*e.g.*, a university's Research Foundation). The Recipient's ownership rights are subject to the Government's nonexclusive, nontransferrable, irrevocable, paid-up license and other rights.

(2) *Department.* If the Recipient elects not to retain title, fails to disclose the invention to the agency within the required time limits, or does not file a patent application within the time limits set forth in the standard patent rights clause, DOC may request an assignment of all rights, which is normally subject to a limited royalty-free, nonexclusive, revocable license for the Recipient. DOC owns any invention made solely by its employees, but may license to the Recipient in accordance with the procedures in 37 CFR part 404.

(3) *Inventor/Employee.* If neither the Recipient nor DOC is interested in owning an invention by a Recipient employee, the Recipient, with the written concurrence of the DOC, may allow the inventor/employee to retain ownership of the invention subject to certain restrictions as described at 37 CFR § 401.9.

(4) *Joint Inventions.* Inventions made jointly by a Recipient and a DOC employee will be owned jointly by the Recipient and DOC. However, DOC may transfer or license its rights to the Recipient as authorized by 35 U.S.C. § 202(e) and 37 CFR § 401.10 if the Recipient is willing to patent and license the invention, usually in exchange for a share of "net" royalties based on the number of inventors (*e.g.*, 50-50 if there is one Recipient inventor and one DOC employee inventor). The agreement will be prepared by DOC and may include other provisions, such as a royalty-free license to the Government and certain other entities. The provision at 35 U.S.C. § 202(e) also authorizes the Recipient to transfer its rights to the Government, which can agree to share royalties similarly as described above.

ii. *Responsibilities – iEdison.* The Recipient has responsibilities and duties set forth in the standard patent rights clause, which are described below. The Recipient is expected to comply with all requirements of the standard patent rights clause and 37 CFR part 401 and is required to submit its disclosures, elections, and requests for waivers from any requirement for substantial U.S. manufacture electronically using the Interagency Edison extramural invention reporting system (iEdison) at www.iedison.gov. The Recipient may obtain a waiver of this electronic submission requirement by providing DOC compelling reasons for allowing the submission of paper copies of reports related to inventions.

c. **Patent Notification Procedures**. Pursuant to Executive Order 12889 (58 *Fed. Reg.* 69681, 1993), DOC is required to notify the owner of any valid patent covering technology whenever DOC or a Recipient, without making a patent search, knows (or has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. To ensure proper notification, if the Recipient uses or has used patented technology under this Award without a license or permission from the owner, the Recipient must notify the Grants Officer. This notice does not constitute authorization or consent by the Government to any copyright or patent infringement occurring under the Award.

d. **Copyright**. A Recipient may copyright any work produced under this Award subject to DOC's royalty-free, nonexclusive, and irrevocable right to obtain, reproduce, publish or otherwise use the work or authorize others to do so for Government purposes. Works jointly authored by DOC and Recipient employees may be copyrighted, but only the part of such works authored by the Recipient is protectable in the United States because, under 17 U.S.C. § 105, works produced by Government employees are not copyrightable in the United States. On occasion and as permitted under 17 U.S.C. § 105, DOC may require the Recipient to transfer to DOC a copyright in a particular work for Government purposes or when DOC is undertaking the primary dissemination of the work.

5. Increasing Seat Belt Use in the United States.

Pursuant to Executive Order 13043, Recipients should encourage employees and contractors to enforce on-the-job seat belt policies and programs when operating company-owned, rented, or personally-owned vehicles.

6. Research Involving Human Subjects.

a. All proposed research involving human subjects must be conducted in accordance with 15 CFR part 27 ("Protection of Human Subjects"). No research involving human subjects is permitted under this Award unless expressly authorized by special award condition or otherwise authorized in writing by the Grants Officer.

b. Federal policy defines a human subject as a living individual about whom an investigator conducting research obtains (i) data through intervention or interaction with the individual, or (ii) identifiable private information. Research means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

c. DOC regulations at 15 CFR part 27 require that the Recipient maintain appropriate policies and procedures for the protection of human subjects. In the event it becomes evident that human subjects may be involved in this Project, the Recipient shall submit appropriate documentation to the Project Officer for approval. This documentation may include:

   i. Documentation establishing approval of the Project by an institutional review board ("IRB") approved for Federal-wide use under Department of Health and Human Services guidelines (*see* 15 CFR § 27.103);

   ii. Documentation to support an exemption for the Project under 15 CFR § 27.101(b); or

   iii. Documentation of IRB approval of any modification to a prior approved protocol or to an informed consent form.

d. No work involving human subjects may be undertaken, conducted, or costs incurred and/or charged for human subjects research until the appropriate documentation is approved in writing by the Grants Officer. In accordance with 15 CFR § 27.118, if research involving human subjects is proposed after an award is made, the Recipient must contact the Grants Officer and provide required documentation. Notwithstanding this prohibition, work may be initiated or costs incurred and/or charged to the Project for protocol or instrument development related to human subjects research.

7. **Federal Employee Expenses.**

Federal agencies are generally barred from accepting funds from a Recipient to pay transportation, travel, or other expenses for any Federal employee. Use of Award funds (Federal or non-Federal) or the Recipient's provision of in-kind goods or services for the purposes of transportation, travel, or any other expenses for any Federal employee may raise appropriation augmentation issues. In addition, DOC policy prohibits the acceptance of gifts, including travel payments for Federal employees, from Recipients or applicants regardless of the source.

8. **Minority Serving Institutions Initiative.**

Pursuant to Executive Orders 13555 ("White House Initiative on Educational Excellence for Hispanics") (75 *Fed. Reg.* 65417, 2010), 13592 ("Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities") (76 *Fed. Reg.* 76603, 2011), and 13532 ("Promoting Excellence, Innovation, and Sustainability at Historically Black Colleges and Universities") (75 *Fed. Reg.* 9749, 2010), DOC is strongly committed to broadening the participation of minority serving institutions ("MSIs") in its financial assistance programs.

DOC's goals include achieving full participation of MSIs in order to advance the development of human potential, strengthen the nation's capacity to provide high-quality education, and increase opportunities for MSIs to participate in and benefit from Federal financial assistance programs. DOC encourages all applicants and recipients to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed on the Department of Education website at https://www2.ed.gov/about/offices/list/ocr/edlite-minorityinst.html.

9. **Research Misconduct.**

The DOC adopts, and applies to financial assistance for research, the Federal Policy on Research Misconduct ("Federal Policy") issued by the Executive Office of the President's Office of Science and Technology Policy on December 6, 2000 (65 *Fed. Reg.* 76260). As provided for in the Federal Policy, research misconduct refers to the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest errors or differences of opinion. Recipient organizations that conduct extramural research funded by the DOC must foster an atmosphere conducive to the responsible conduct of sponsored research by safeguarding against and resolving allegations of research misconduct. Recipient organizations also have the primary responsibility to prevent, detect, and investigate allegations of research misconduct and, for this purpose, may rely on their internal policies and procedures, as appropriate, to do so. Recipients must notify the Grants Officer of any allegation that meets the definition of research misconduct and detail the entity's inquiry to determine whether there is sufficient evidence to proceed with an investigation, as well as the result of any investigation. DOC may take appropriate administrative or enforcement action at any time under the Award, up to and including Award termination and possible suspension or debarment, and referral to the DOC Office of the Inspector General ("OIG"), the U.S. Department of Justice, or other appropriate investigative body.

10. Publications, Videos, and Acknowledgment of Sponsorship.

a. Publication of results or findings in appropriate professional journals and production of video or other media are encouraged as important methods of recording and reporting results of Federally funded projects, such as scientific research, and expanding access to Federally funded projects.

b. Recipients must submit a copy of any publication materials, including but not limited to print, recorded or Internet materials, to their EDA Project Officer.

c. When releasing information related to a funded Project, Recipients must include a statement that the Project or effort undertaken was or is sponsored by DOC.

d. Recipients are responsible for ensuring that every publication of material based on, developed under, or produced under this Award, except scientific articles or papers appearing in scientific, technical or professional journals, contains the following disclaimer:

This [report/video] was prepared by [Recipient name] using Federal funds under award [number] from the Economic Development Administration, U.S. Department of Commerce.

The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the Economic Development Administration or the U.S. Department of Commerce.

11. Care and Use of Live Vertebrate Animals.

Recipients must comply with the Laboratory Animal Welfare Act of 1966 (Pub. L. No. 89-544), as amended (7 U.S.C. § 2131 *et seq.*) ("Animal acquisition, transport, care, handling, and use in projects"), and the implementing regulations at 9 CFR parts 1, 2, and 3; the Endangered Species Act (16 U.S.C. § 1531 *et seq.*); the Marine Mammal Protection Act (16 U.S.C. § 1361 *et seq.*) ("Taking possession, transport, purchase, sale, export or import of wildlife and plants"); the Non-indigenous Aquatic Nuisance Prevention and Control Act (16 U.S.C. § 4701 *et seq.*) ("Ensure preventive measures are taken or that probable harm of using species is minimal if there is an escape or release"); and all other applicable statutes pertaining to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by Federal financial assistance. No research involving vertebrate animals is permitted under any DOC award unless authorized by the Grants Officer.

12. Homeland Security Presidential Directive 12.

If performance under the Award requires Recipient personnel to have routine access to Federally controlled facilities and/or Federally controlled information systems (for purposes of this condition, "routine access" is defined as more than 180 business days), such personnel must undergo the personal identity verification credential process. In the case of foreign nationals, the DOC will conduct a check with the U.S. Citizenship and Immigration Services ("USCIS") Verification Division, a component of the Department of Homeland Security ("DHS"), to ensure that the individual is in a lawful immigration status and that he or she is eligible for employment within the U.S. Any items or services delivered under this Award shall comply with DOC personal identity verification procedures that implement Homeland Security Presidential Directive 12, "Policy for a Common Identification Standard for Federal Employees and

Contractors," Federal Information Processing Standards Publication ("FIPS PUB") Number 201, and OMB Memorandum M-05-24. The Recipient shall ensure that its subrecipients and contractors (at all tiers) performing work under this Award comply with the requirements contained in this term. The Grants Officer may delay final payment under this Award if a subrecipient or contractor fails to comply with the requirements listed below. The Recipient shall insert the following term in all subawards and contracts when the subrecipient or contractor is required to have routine physical access to a Federally controlled facility or routine access to a Federally controlled information system:

> *The subrecipient or contractor shall comply with DOC personal identity verification procedures identified in the subaward or contract that implement Homeland Security Presidential Directive 12 (HSPD-12), Office of Management and Budget (OMB) Guidance M-05-24, as amended, and Federal Information Processing Standards Publication (FIPS PUB) Number 201, as amended, for all employees under this subaward or contract who require routine physical access to a Federally controlled facility or routine access to a Federally controlled information system.*
>
> *The subrecipient or contractor shall account for all forms of Government-provided identification issued to the subrecipient or contractor employees in connection with performance under this subaward or contract. The subrecipient or contractor shall return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by DOC: (1) When no longer needed for subaward or contract performance; (2) Upon completion of the subrecipient or contractor employee's employment; (3) Upon subaward or contract completion or termination.*

13. Compliance with Department of Commerce Bureau of Industry and Security Export Administration Regulations.

a. This term applies to the extent that this Award involves access to export-controlled items.

b. In performing under this Award, the Recipient may gain access to export-controlled information or technology. The Recipient is responsible for compliance with all applicable laws and regulations regarding export-controlled information and technology, including the deemed exports and reexports provisions of the Export Administration Regulations ("EAR"). The Recipient shall establish and maintain throughout performance of this Award effective export compliance procedures at non-DOC facilities. At a minimum, these export compliance procedures must include adequate controls of physical, verbal, visual, and electronic access to export-controlled information and technology.

c. Definitions.

   i. *Export-controlled items.* Items (commodities, software, or technology) that are subject to the EAR (15 CFR §§ 730–774), implemented by the DOC's Bureau of Industry and Security. These are generally known as "dual-use" items—that is, items with a military and commercial application.

   ii. *Deemed export/reexport.* The EAR defines a deemed export as a release of export-controlled items (specifically, technology or source code) to a foreign national in the U.S. Such release is "deemed" to be an export to the home country of the foreign national. 15 CFR § 734.2(b)(2)(ii). A release may take the form of visual inspection, oral exchange of information, or the application abroad of knowledge or technical experience acquired in the U.S. If such a release occurs abroad, it is considered a deemed reexport to the foreign national's home country. Licenses from DOC may be required for deemed exports or reexports.

d. The Recipient shall control access to all export-controlled information and technology that it possesses or that comes into its possession in performance of this Award, to ensure that access is restricted, or licensed, as required by applicable Federal laws, executive orders, or regulations, including the EAR.

e. As applicable, Recipient personnel and associates at DOC sites will be informed of any procedures to identify and protect export-controlled items.

f. Nothing in the Terms and Conditions of this Award is intended to change, supersede or waive the requirements of applicable Federal laws, executive orders, or regulations.

g. The Recipient shall include this subsection entitled "Compliance with Department of Commerce Bureau of Industry and Security Export Administration Regulations," including this subparagraph g, in all lower-tier transactions (subawards, contracts, and subcontracts) under this Award that may involve access to export-controlled information technology.

14. The Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7104(g)), as Amended, and the Implementing Regulations at 2 CFR part 175.

The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the Federal Government, if the Recipient engages in certain activities related to trafficking in persons. The Department hereby incorporates the following Award term required by 2 CFR § 175.15(b). *See* http://www.gpo.gov/fdsys/pkg/CFR-2012-title2-vol1/pdf/CFR-2012-title2-vol1-sec175-15.pdf

a. *Provisions applicable to a Recipient that is a private entity.*

   i. The Recipient, its employees, subrecipients under this Award, and subrecipients' employees may not:

      (1) Engage in severe forms of trafficking in persons during the period of time that the Award is in effect;

      (2) Procure a commercial sex act during the period of time that the Award is in effect; or

      (3) Use forced labor in the performance of the Award or subawards under the Award.

   ii. EDA, as the Federal awarding agency, may unilaterally terminate this Award, without penalty, if the Recipient or a subrecipient that is a private entity:

      (1) Is determined to have violated a prohibition in paragraph a.i of this Award term; or

      (2) Has an employee who is determined by the Grants Officer to have violated a prohibition in paragraph a.i of this Award term through conduct that is either: (A) associated with performance under this Award; or (B) imputed to the Recipient or a subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided at 2 CFR part 180 ("OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)") as

implemented by DOC at 2 CFR part 1326 ("Nonprocurement Debarment and Suspension").

b. *Provision applicable to a Recipient other than a private entity.* EDA, as the Federal awarding agency, may unilaterally terminate this Award, without penalty, if a subrecipient that is a private entity:

   i. Is determined to have violated an applicable prohibition in paragraph a.i of this Award term; or

   ii. Has an employee who is determined by the Grants Officer to have violated an applicable prohibition in paragraph a.i of this Award term through conduct that is either:

      (1) Associated with performance under this Award; or

      (2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided at 2 CFR part 180 ("OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)"), as implemented by DOC at 2 CFR part 1326 ("Nonprocurement Debarment and Suspension").

c. *Provisions applicable to any Recipient.*

   i. The Recipient must inform EDA immediately of any information it receives from any source alleging a violation of a prohibition in paragraph a.i of this Award term.

   ii. EDA's right to terminate this Award unilaterally, as described in paragraph a.ii or b of this section:

      (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 ("TVPA"), as amended (22 U.S.C. § 7104(g)), and

      (2) Is in addition to all other remedies for noncompliance that are available to EDA under this Award.

   iii. The Recipient must include the requirements of paragraph a.i of this Award term in any subaward made to a private entity.

d. *Definitions.* For purposes of this Award term:

   i. "Employee" means either:

      (1) An individual employed by the Recipient or a subrecipient who is engaged in the performance of the Project under this Award; or

      (2) Another person engaged in the performance of the Project under this Award and not compensated by the Recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward Matching Share requirements.

   ii. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

   iii. "Private entity":

(1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined at 2 CFR § 175.25;

(2) Includes: (A) a nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of "Indian tribe" at 2 CFR § 175.25(b); and (B) a for-profit organization.

iv. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given in section 103 of the TVPA, as amended (22 U.S.C. § 7102).

15. The Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282, 31 U.S.C. § 6101 Note), as Amended by the Government Funding Transparency Act of 2008 (Pub. L. No. 110-252).

a. **Searchable Website Requirements**. The Federal Funding Accountability and Transparency Act of 2006 ("FFATA" or "Transparency Act") requires that information on Federal awards (Federal financial assistance and expenditures) be made available to the public via a single, searchable website. This information is available at www.USASpending.gov. To meet these requirements, Recipients and subrecipients must include the following data elements in their Application:

i. Name of entity receiving Award;

ii. Award amount;

iii. Transaction type, funding agency, Catalog of Federal Domestic Assistance Number, and descriptive Award title;

iv. Location of entity and primary location of performance (city, State, Congressional District, and country); and

v. Unique identifier of entity.

See also 2 CFR § 200.211 ("Public access to Federal award information").

b. **Subaward and Executive Compensation Data Reporting Requirements**. A Recipient awarded a new Federal grant greater than or equal to $25,000 on or after October 1, 2010, other than those funded by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) ("Recovery Act"), are subject to FFATA subaward reporting requirements as outlined in the OMB guidance issued August 27, 2010. The Recipient is required to file a FFATA subaward report by the end of the month following the month in which the Recipient awards any subgrant greater than or equal to $25,000. *See* Pub. L. No. 109-282, as amended by section 6202(a) of Pub. L. No. 110-252 (*see* 31 U.S.C. § 6101 note). The reporting requirements are located in Appendix A of 2 CFR part 170 and are available at https://www.gpo.gov/fdsys/pkg/CFR-2015-title2-vol1/pdf/CFR-2015-title2-vol1-part170.pdf.

i. Reporting of first-tier subawards.

(1) Applicability. Unless exempt as provided in paragraph b.iv of this Award term, the Recipient must report each action that obligates $25,000 or more in Federal funds that does not include Recovery Act funds (as defined in section 1512(a)(2) of the

Recovery Act, Pub. L. No. 111-5) for a subaward to an entity (*see* definitions in paragraph b.v of this Award term).

(2) Where and when to report.

(a) The Recipient must report each obligating action described in paragraph b.i(1) of this Award term to http://www.fsrs.gov.

(b) For subaward information, the Recipient must report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2015, the obligation must be reported by no later than December 31, 2015.)

(3) What to report. The Recipient must report information about each obligating action that the submission instructions posted at http://www.fsrs.gov specify.

ii. Reporting total compensation of Recipient executives.

(1) Applicability and what to report. The Recipient must report total compensation for each of its five most highly compensated executives for the preceding completed fiscal year, if:

(a) The total Federal funding authorized to date under this Award is $25,000 or more;

(b) In the preceding fiscal year, the Recipient received:

(i) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and

(ii) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and

(c) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, *see* the U.S. Securities and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

(2) Where and when to report. The Recipient must report executive total compensation described in paragraph b.ii of this Award term:

(a) As part of its registration profile at http://www.ccr.gov.

(b) By the end of the month following the month in which this Award is made, and annually thereafter.

iii. Reporting total compensation of subrecipient executives.

(1) Applicability and what to report. Unless the subrecipient is exempt as provided in paragraph b.iv of this Award term, each first-tier subrecipient under this Award shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if:

(a) In the subrecipient's preceding fiscal year, the subrecipient received:

(i) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and

(ii) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

(b) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, *see* the U.S. Securities and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

See also 2 CFR § 200.300(b) ("Statutory and national policy requirements").

(2) Where and when to report. The subrecipient must report its executive total compensation described in paragraph b.iii of this Award term:

(a) To the Recipient.

(b) By the end of the month following the month during which the subaward is made. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), the required compensation information of the subrecipient must be reported by November 30 of that year.

iv. Exemptions. If, in the previous tax year, the Recipient had gross income, from all sources, under $300,000, it is exempt from the requirements to report:

(1) Subawards, and

(2) The total compensation of the five most highly compensated executives of any subrecipient.

v. Definitions. For purposes of this Award term:

(1) "Entity" means all of the following, as defined at 2 CFR part 25:

(a) A Governmental organization, which is a State, local government, or Indian tribe;

(b) A foreign public entity;

(c) A domestic or foreign nonprofit organization;

(d) A domestic or foreign for-profit organization; and

(e) A Federal agency, but only as a subrecipient under an award or subaward to a Recipient.

(2) "Executive" means officers, managing partners, or any other employees in management positions.

(3) "Subaward":

(a) This term means a legal instrument to provide support for the performance of any portion of the substantive Project or program for which the Recipient received this Award and that the Recipient awards to an eligible subrecipient.

(b) The term does not include the Recipient's procurement of property and services needed to carry out the Project or program (for further explanation, *see* 2 CFR § 200.330).

(c) A subaward may be provided through any legal agreement, including an agreement that the Recipient or a subrecipient considers a contract.

(4) "Subrecipient" means an entity that:

(a) Receives a subaward from the Recipient under this Award; and

(b) Is accountable to the Recipient for the use of the Federal funds provided by the subaward.

(5) "Total compensation" means the cash and noncash dollar value earned by the executive during the Recipient's or subrecipient's preceding fiscal year and includes the following (for more information, *see* 17 CFR § 229.402(c)(2)):

(a) Salary and bonus.

(b) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Share Based Payments.

(c) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.

(d) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

(e) Above-market earnings on deferred compensation which is not tax-qualified.

(f) Other compensation, if the aggregate value of all such other compensation (*e.g.*, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

c. **Central Contractor Registration ("CCR") and Universal Identifier Requirements.** In accordance with 2 CFR part 25, the Recipient must obtain a Data Universal Numbering System ("DUNS") number and maintain an active registration in the CCR database. In addition, the Recipient must notify potential first-tier subrecipients that no entity may receive a first-tier subaward unless the entity has provided its DUNS number to the Recipient. The requirements are located in Appendix A of 2 CFR part 25 and are available at http://www.gpo.gov/fdsys/pkg/CFR-2015-title2-vol1/pdf/CFR-2015-title2-vol1-part25.pdf.

i. Requirement for CCR. Unless exempted from this requirement under 2 CFR § 25.110, the Recipient must maintain the currency of its information in the

CCR until it submits the final financial report required under this Award or receives the final payment, whichever is later. This requires that the Recipient review and update the information at least annually after the initial registration, and more frequently if required by changes in its information or another Award term.

ii. Requirement for DUNS Numbers. If authorized to make subawards under this Award, the Recipient:

(1) Must notify potential subrecipients that no entity (*see* definition in paragraph b.v of this Award term) may receive a subaward from the Recipient unless the entity has provided its DUNS number to the Recipient.

(2) May not make a subaward to an entity unless the entity has provided its DUNS number to the Recipient.

iii. Definitions for purposes of this Award term:

(1) "Central Contractor Registration ("CCR")" means the Federal repository into which an entity must provide information required for the conduct of business as a Recipient. Additional information about registration procedures may be found at the System for Award Management website (currently at https://www.sam.gov/portal/public/SAM/).

(2) "Data Universal Numbering System ("DUNS")" number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at http://fedgov.dnb.com/webform).

(3) "Entity," as it is used in this Award term, means all of the following, as defined at 2 CFR part 25, subpart C:

(a) A Governmental organization, which is a State, local government, or Indian Tribe;

(b) A foreign public entity;

(c) A domestic or foreign nonprofit organization;

(d) A domestic or foreign for-profit organization; and

(e) A Federal agency, but only as a subrecipient under an award or subaward to a Recipient.

(4) "Subaward":

(a) This term means a legal instrument to provide support for the performance of any portion of the substantive Project or program for which the Recipient received this Award and that the Recipient awards to an eligible subrecipient.

(b) The term does not include the Recipient's procurement of property and services needed to carry out the Project or program (for further explanation, *see* 2 CFR § 200.330).

(c) A subaward may be provided through any legal agreement, including an agreement that the Recipient considers a contract.

(5) "Subrecipient" means an entity that:

(a) Receives a subaward from the Recipient under this Award; and

(b) Is accountable to the Recipient for the use of the Federal funds provided by the subaward.

See also 2 CFR § 200.300(b) ("Statutory and national policy requirements").

16. Federal Financial Assistance Planning During a Funding Hiatus or Government Shutdown.

This term sets forth initial guidance that will be implemented for Federal financial assistance awards in the event of a lapse in appropriations, or a Government shutdown. The Grants Officer may issue further guidance prior to an anticipated shutdown.

a. Unless there is an actual rescission of funds for specific grant obligations, Recipients under Federal financial assistance awards for which funds have been obligated generally will be able to continue to perform and incur allowable expenses under the Award during a funding hiatus. Recipients are advised that ongoing activities by Federal employees involved in grant administration (including payment processing) or similar operational and administrative work cannot continue when there is a funding lapse. Therefore, there may be delays, including payment processing delays, in the event of a shutdown.

b. All Award actions will be delayed during a Government shutdown; if it appears that a Recipient's performance under a grant or cooperative agreement will require agency involvement, direction, or clearance during the period of a possible Government shutdown, the Project Officer or Grants Officer, as appropriate, may attempt to provide such involvement, direction, or clearance prior to the shutdown or advise the Recipient that such involvement, direction, or clearance will not be forthcoming during the shutdown. Accordingly, Recipients whose ability to withdraw funds is subject to prior agency approval, which in general are Recipients that have been designated high risk, Recipients under construction awards, and other Recipients limited to reimbursements or subject to agency review, will be able draw funds down from the relevant Automatic Standard Application for Payment ("ASAP") account only if agency approval is given and coded into ASAP prior to any Government shutdown or closure. This limitation may not be lifted during a Government shutdown. Recipients should plan to work with the Grants Officer to request prior approvals in advance of a shutdown wherever possible. Recipients whose authority to draw down award funds is restricted may decide to suspend work until the Government reopens.

c. The ASAP system should remain operational during a Government shutdown. Recipients that do not require any Grants Officer or agency approval to draw down advance funds from their ASAP accounts should be able to do so during a shutdown. The 30-day limitation on the drawdown of advance funds will still apply notwithstanding a Government shutdown and advanced funds held for more than 30 days will have to be returned with interest.

APPENDIX

The following reference materials and forms are available online:

1. 2 CFR part 200, *"Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"*
2. 2 CFR part 1326, "*Nonprocurement Debarment and Suspension*"
3. 13 CFR Chapter III (EDA's regulations)
4. 15 CFR part 4, "*Disclosure of Government Information*"
5. 15 CFR part 27, "*Protection of Human Subjects*"
6. 15 CFR part 28, "*New Restrictions on Lobbying*"
7. 15 CFR part 29, "*Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)*"
8. 48 CFR part 31, "*Contract Cost Principles and Procedures*"
9. Code of Federal Regulations (CFR): Government Printing Office's Federal Digital System (FDSYS) at https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR
10. EDA's regulations: http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR); search for Title 13, Chapter III after selecting the relevant year
11. OMB Circulars: www.whitehouse.gov/omb/circulars/index.html
12. Davis-Bacon wage rate determinations: http://www.wdol.gov/dba.aspx

Governmentwide and DOC-Specific Forms:

1. Form CD-281, "Report of Government Property in Possession of Contractor"
2. Form CD-450, "Financial Assistance Award"
3. Form CD-451, "Amendment to Financial Assistance Award"
4. Form SF-425, "Federal Financial Report"
5. Form SF-428, "Tangible Personal Property"
6. Form SF-429, "Real Property Status Report"
7. Form SF-271, "Outlay Report and Request for Reimbursement for Construction Programs"
8. Form SF-272, "Federal Cash Transaction Report"
9. Form SF-LLL, "Disclosure of Lobbying Activities"

Commerce Department ("CD") forms: http://ocio.os.doc.gov/ITPolicyandPrograms/Electronic_Forms/index.htm

Governmentwide Standard Forms ("SF"): https://www.whitehouse.gov/omb/grants_forms

City of Hattiesburg, MS

200 Forrest St.
P.O. Box 1898
Hattiesburg, MS 39401

Master

File Number: 2019-483

File ID:	2019-483	**Type:**	Regular Agenda Item	**Status:**	Draft
Version:	1	**Reference:**		**In Control:**	City Council
Requester:				**File Created:**	07/02/2019
Brief Title:	Proposed Animal Control Ordinance			**Final Action:**	
				Minute Book Number:	

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Notes:

		Agenda Date:	07/01/2019
Indexes:		**Agenda Number:**	1.
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Attachments:	DRAFT of Proposed Animal Control Ordinance, Animal Control Ordinance Presentation	**Enactment Number:**	
Contact:		**Meeting Date:**	07/01/2019
Drafter:		**Effective Date:**	

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council - Public Hearing, Unsafe Properties	07/01/2019					

Text of Legislative File 2019-483

City of Hattiesburg
Animal Control Ordinance
Proposed Updates // Working Draft
JULY 1, 2019

Improvement Objectives

- To further assure the healthy and humane treatment and care of domestic pets in Hattiesburg
- To further enhance the safety of citizens and pets in the City of Hattiesburg against the threats of nuisance, potentially dangerous, dangerous or vicious domestic animals.

Text in red bold is either updated content or new content.

Under Section 2, Definitions: added

Potentially Dangerous Dog: Any dog that has, without provocation, been found to menace, chase, or display threatening or aggressive behavior so as to potentially endanger the safety of any person or domesticated animal.

Under Section 4-1 Enforcement

PENALTIES, DIRECTIVE ACTIONS, CITATIONS FOR POTENTIALLY DANGEROUS, DANGEROUS OR VICIOUS DOMESTICATED ANIMLAS:

A. Potentially dangerous or dangerous animals:

1. **The animal may be impounded for observation. If, upon observation, the animal is** found to be irrevocably vicious, the animal may be humanely put to rest.
2. **If it is determined that a potentially dangerous dog may be returned to its owner and neighborhood, the owner may be required to meet further restriction and directives including but not limited to keeping the animal inside unless attended by owner, tethering even inside a fence, additional warning signs on owner's property, or other reasonable restrictions as ordered by Animal Control.**
3. **Citations for any violations stated herein under the animal control ordinance.**
4. **Other violations of the municipal code.**

B. Vicious animals:
As defined in Section 2, any animal that has shown vicious propensities by virtue of attacking a person or other animal with such intensity as to cause significant physical or property harm, made unprovoked attacks on animals or humans, or intentionally attacking physical property in an attempt to attack humans or other animals will not be allowed in the City limits.

Owners of vicious animals will be subject to the following actions, penalties or citations:

1. **The animal will be immediately impounded**
2. **If, upon observation, the animal is found to be irrevocably vicious, the animal will be humanely put to rest.**
3. **If #2 above is not enacted, the owner may be mandated not to return the animal to its prior residence, or elsewhere within the City limits**
4. **Fine in the amount of $100**
5. **Given appropriate due process, the Municipal Court may order the owner to make restitution for medical expenses, property damage or other losses incurred by victims of the vicious dog.**
6. **Other violations as may be cited by the Municipal Court**

Under Section 4-2

A. The animal control section shall be a unit of the **Hattiesburg Police Department…**

C. All moneys collected by any affiliate authorized by the city under the terms of this article shall be used at the **City's designated animal shelter** for the care and feeding of impounded animals.

D. The City will contract annually with a licensed Hattiesburg animal shelter for the impoundment and care of animals seized by Hattiesburg Animal Control.

Under Section 4-5

Kennels, breeding farms, animal training businesses and boarding services may only operate in properly zoned areas; and may not operate in areas zoned as residential.

Under Section 5-2. Impoundment.

7. **Any animal who has attacked or done harm to a person, animal or property.**

Under Section 5-2-B

Increased fine for second or subsequent impoundments within the preceding twelve months from $20 to $50.

Added provision 4: Any other fees assessed by the City's contracted animal shelter for reimbursement of actual costs to the shelter for medical or other forms of care beyond the norm.

Under Section 6-1. Animal Care.

E. No owner shall confine a pet alone in an unattended vehicle for such an amount of time as to threaten the health and safety of the animal.

Section 6-3. Keeping more than six pets.

The keeping on any premises in the city of any pets in any number exceeding six (6) in aggregate is prohibited, except licensed kennels or licensed breeding farms, and the pens, stalls or other enclosure facilities for keeping the same shall be so located that the pets cannot come within one hundred **and twenty (120')** feet of any food service establishment or food processing establishment, regardless of the ownership or occupancy of such establishments. **Kennels, breeding farms, training businesses and boarding operations may only operate in areas zoned for these types of business.**

Further, persons who keep more than three (3) dogs must not have neighbors (residences or businesses), within 120 feet in all directions of the residence where the dogs reside. Dog owners who reside within less than 120 feet of other residences or businesses may have no more than 3 dogs. The 120 feet will be measured from the property line of the dog owner to the neighboring primary structures (home or business). Exception to 6-3 may be granted with regard to new born puppies under 3 months of age.

New Section: 6-4 Adequate space for dogs kept primarily outside

Dogs kept out of doors for continuous periods of time exceeding 30 minutes that are tethered and sheltered (see definition) or in a secured fenced in yard (see fence definition) must have adequate space in the yard for the pet's health and safety; specifically not less out door space where the dog is enclosed than 2 (two) square feet for every pound of the dog or dogs' weight.

New Section: 6-7 Habitual animal offender

Residents who are cited and found to be in violation of three (3) or more animal care or animal nuisance provisions over any 24 month period of time will be cited as a habitual offender. If found to be a habitual animal offender through the Municipal Court process, the person may be ordered to limit, restrict or be prohibited from animal ownership for a period of time of not more than one (1) year.

CITY OF HATTIESBURG

ANIMAL CONTROL ORDINANCE
IMPROVEMENT OBJECTIVES

ANIMAL CONTROL IMPROVEMENT OBJECTIVES

- To further assure the healthy and humane treatment and care of domestic pets in Hattiesburg
- To further enhance the safety of citizens and pets in the City of Hattiesburg against the threats of nuisance, potentially dangerous, dangerous or vicious domestic animals.

UNDER SECTION 2, DEFINITIONS ADDED

- Potentially Dangerous Dog: Any dog that has, without provocation, been found to menace, chase, or display threatening or aggressive behavior so as to potentially endanger the safety of any person or domesticated animal

UNDER SECTION 4-1 ENFORCEMENT

- PENALTIES, DIRECTIVE ACTIONS, CITATIONS FOR POTENTIALLY DANGEROUS, DANGEROUS OR VICIOUS DOMESTICATED ANIMALS:

A. Potentially dangerous or dangerous animals:

1. The animal may be impounded for observation. If, upon observation, the animal is found to be irrevocably vicious, the animal may be humanely put to rest.
2. If it is determined that a potentially dangerous dog may be returned to its owner and neighborhood, the owner may be required to meet further restrictions and directives including but not limited to keeping the animal inside unless attended by owner, tethering even inside a fence, additional warning signs on owner’s property, or other reasonable restrictions as ordered by Animal Control.
3. Citations for any violations stated herein under the animal control ordinance.
4. Other violations of the municipal code.

CONTINUING UNDER SECTION 4-1 ENFORCEMENT

B. Vicious animals:
As defined in Section 2, any animal that has shown vicious propensities by virtue of attacking a person or other animal with such intensity as to cause significant physical or property harm, made unprovoked attacks on animals or humans, or intentionally attacking physical property in an attempt to attack humans or other animals will not be allowed in the City limits.

Owners of vicious animals will be subject to the following actions, penalties or citations:

1. The animal will be immediately impounded
2. If, upon observation, the animal is found to be irrevocably vicious, the animal will be humanely put to rest.
3. If item 2 (above) is not enacted, the owner may be mandated not to return the animal to its prior residence, or elsewhere within the City limits
4. Fine in the amount of $100
5. Given appropriate due process, the Municipal Court may order the owner to make restitution for medical expenses, property damage or other losses incurred by victims of the vicious dog.
6. Other violations as may be cited by the Municipal Court.

UNDER SECTION 4-2

A. The animal control section shall be a unit of the **Hattiesburg Police Department…**

C. All moneys collected by any affiliate authorized by the city under the terms of this article shall be used at the **City's designated animal shelter** for the care and feeding of impounded animals.

D. The City will contract annually with a licensed Hattiesburg animal shelter for the impoundment and care of animals seized by Hattiesburg Animal Control.

UNDER SECTION 4-5

- Kennels, breeding farms, animal training businesses and boarding services may only operate in properly zoned areas; and may not operate in areas zoned as residential.

UNDER 5-2. IMPOUNDMENT

- 7. Any animal who has attacked or done harm to a person, animal or property.

UNDER SECTION 5-2 B

- Increased fine for second or subsequent impoundments within the preceding twelve months from $20 to $50.
- Added provision 4:Any other fees assessed by the City’s contracted animal shelter for reimbursement of actual costs to the shelter for medical or other forms of care beyond the norm.

UNDER SECTION 6-1. ANIMAL CARE

E. No owner shall confine a pet alone in an unattended vehicle for such an amount of time as to threaten the health and safety of the animal.

SECTION 6-3.
KEEPING MORE THAN SIX PETS

- The keeping on any premises in the city of any pets in any number exceeding six (6) in aggregate is prohibited, except licensed kennels or licensed breeding farms, and the pens, stalls or other enclosure facilities for keeping the same shall be so located that the pets cannot come within **one hundred and twenty (120')** feet of any food service establishment or food processing establishment, regardless of the ownership or occupancy of such establishments. **Kennels, breeding farms, training businesses and boarding operations may only operate in areas zoned for these types of business.**

  Further, persons who keep more than three (3) dogs must not have neighbors (residences or businesses), within 120 feet in all directions of the residence where the dogs reside. Dog owners who reside within less than 120 feet of other residences or businesses may have no more than 3 dogs. The 120 feet will be measured from the property line of the dog owner to the neighboring primary structures (home or business). Exception to 6-3 may be granted with regard to new born puppies under 3 months of age.

NEW SECTION: 6-4.
ADEQUATE SPACE FOR DOGS KEPT PRIMARILY OUTSIDE

- Dogs kept out of doors for continuous periods of time exceeding 30 minutes that are tethered and sheltered (see definition) or in a secured fenced in yard (see fence definition) must have adequate space in the yard for the pet's health and safety; specifically not less out door space where the dog is enclosed than 2 (two) square feet for every pound of the dog or dogs' weight.

CITY OF HATTIESBURG 1884 MISSISSIPPI

NEW SECTION: 6-7
HABITUAL ANIMAL OFFENDER

- Residents who are cited and found to be in violation of three (3) or more animal care or animal nuisance provisions over any 24 month period of time will be cited as a habitual offender. If found to be a habitual animal offender through the Municipal Court process, the person may be ordered to limit, restrict or be prohibited from animal ownership for a period of time of not more than one (1) year.

City of Hattiesburg, MS

200 Forrest St.
P.O. Box 1898
Hattiesburg, MS 39401

Master

File Number: 2019-484

File ID:	2019-484	**Type:**	Regular Agenda Item	**Status:**	Draft
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		Agenda Date:	07/01/2019
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Text of Legislative File 2019-484

Prepared by: City of Hattiesburg
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Return to: City of Hattiesburg
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Hattiesburg, MS 39403
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INDEXING INSTRUCTIONS:

ORDINANCE NO. DRAFT
OF THE CITY OF HATTIESBURG

AN ORDINANCE ESTABLISHING A POLICY FOR REGISTRATION AND SAFETY ASSESSMENT OF CERTAIN RENTAL DWELLINGS

SECTION 1.100. Purpose, Intent and Findings.

The purpose of this Section is to protect the health, safety and welfare of city residents and citizens; to prevent blight and property deterioration in neighborhoods; and to promote and maintain health and sanitary conditions in all single- and two-family rental dwellings located in the City, recognizing the importance of such to the persons who do or may reside in or are located in the vicinity of such dwellings. The City also recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe single- and two-family rental dwellings within the City which will provide for the maintenance of property values of nearby properties; and the reduction and elimination of blight and other negative factors affecting neighborhoods and the quality of life within the City.

The City finds that the nature of single-family, and two-family rental dwellings versus multiple family and non-residential rental buildings is unique because, in the City's experience:

A. The maintenance of single- and two-family rental dwellings is typically the obligation of a non-owning tenant or a non-occupying, off-site owner rather than an on-site manager or management company;

B. Unlike non-residential rental buildings and apartment units, single- and two-family rental dwellings are typically located in neighborhoods consisting of owner-occupied single-family dwelling units where the deterioration and non-maintenance of homes has a much more significant and direct negative impact on the quality of life, character, vitality, appearance and value of properties in the surrounding neighborhood affecting residents on a broad and large scale basis within the City;

C. Single- and two-family rental dwellings are more often located in proximity to other single-family residential structures and, therefore, have a greater effect on the general health, safety and welfare of the City's residents; and

D. Accordingly, regulating single- and two-family rental dwellings is the most effective way to reduce neighborhood and city blight with the resources available to the City. Thus, to address this unique situation and help to protect residents of neighborhoods surrounding single- and two-family dwellings, the City finds that a single- and two-family rental dwelling registration with a limited safety assessment program is warranted and necessary.

SECTION 1.101. Scope.

The provisions of this Code shall apply to single- and two-family rental dwellings, including any accessory buildings or structures, and the land upon which such rental dwelling is located, including any standalone accessory structures used as single- or two-family rental dwellings located on otherwise non-residential property.

SECTION 1.102. Definitions.

For purposes of this chapter, the following terms, words, phrases, and their derivatives shall have the meanings as given herein and below, unless the context clearly indicates otherwise. Terms, words, and phrases not defined herein and/or not defined in the Hattiesburg, Mississippi Land Development Code shall have their customary dictionary meaning.

Agent is a person authorized by the owner of a rental housing unit to make or order repairs or service to the unit and authorized to receive notices on behalf of the owner.

Building official is that official designated by the City and charged with the responsibility of enforcing the Building Code and issuing building permits, and any such representative appointed by such official.

Certificate of rental compliance is a certificate issued by the City pursuant to this Code which certifies compliance with the provisions of this Code and with other applicable codes and ordinances of the City.

Change of occupant/tenant is when a rental unit is vacated and occupied by a new tenant.

City is the City of Hattiesburg, Mississippi.

Department is the Department of Urban Development or any successor department or division hereafter established.

Deterioration is a lowering in quality of the condition or appearance of a building, structure or premises characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, damage or lack of maintenance.

Dwelling is one or more rooms providing complete living facilities for one family, including kitchen facilities or equipment for cooking or provisions for same, and including a room or multiple rooms for living, sleeping, sanitation, and eating. Also known as “dwelling unit.”

Exterior opening is an open or closed window, door or passage between interior and exterior spaces.

Family is one or more persons, occupying a dwelling and living together as a separate housekeeping unit, but not more than four (4) unrelated persons living together.

Fee schedule is the schedule of fees established by resolution or ordinance of the City Council from time to time and as may be listed specifically herein.

Habitable room is a room or enclosed floor space within a dwelling unit used, intended to be used or designed to be used for living, sleeping, eating or cooking and excludes bathrooms, laundry rooms, halls, closets and storage places. As defined in the International Residential Code (IRC) adopted by the City, to be habitable, such space shall be no less than 70 square feet and subject to other measurement requirements based on the IRC.

IPMC is the International Property Maintenance Code adopted by the City.

Infestation is the presence or apparent presence of insects, rodents, vermin or noxious pests of a kind or in a quantity that endangers health within or around a dwelling or may cause structural damage to the dwelling.

Landscaping is the combination of elements such as trees, shrubs, ground covers, vines and other organic and inorganic material for the express purpose of creating an attractive and pleasing environment.

Lessee is a person or entity who receives the use and possession of leased property (e.g., real estate) from a lessor in exchange for a payment of funds. The person to whom a lease is made.

Legal entity is an association, corporation, partnership or individual that has legal standing in the eyes of the law. A legal entity has legal capacity to enter into agreements or contracts, assume obligations, incur and pay debts, sue and be sued in its own right, and be held responsible for its actions.

Manager is any person who has charge, care or control of a rental dwelling unit.

Occupant is a tenant, lessee, renter and/or any person residing in or occupying a dwelling unit.

Owner is the record owner of property as established by a written document that has been fully and properly recorded at the office of the Chancery Clerk. For the purposes of this Code, owner does not include a person with a possessory interest pursuant to a lease with an option to purchase, lease to purchase nor any similar possessory interests.

Parking area is any area which was designed for or is used for the purpose of parking vehicles. This does not include landscaped, unpaved or yard areas.

Proof of ownership is a title or deed to a piece of property signed before a notary public.

Rent or rented means a lease or other contractual arrangement whereby a person is to pay or provide monetary or other consideration to another person for the right or privilege to use and occupy a residential dwelling for any period of time. Such arrangements may or may not be in writing, and for the purpose of this ordinance, may or may not be identified by typical monetary or other considerations for use.

Rental dwelling is a residential dwelling, or any portion thereof, that is not occupied as a primary residence by the owner and is rented or available to be rented; provided, however, said rental dwelling shall exclude any structure or building the principal use of which is licensed and inspected by the State of Mississippi and preempted from regulation by the City pursuant to federal or state law.

Short-term rental is the occupancy of all or part of a residential dwelling unit for less than a 30-day term.

Storage is the placing or leaving of personal property in a location for the purpose of preservation, seasonal or future use or disposal.

Vehicle is an automobile, truck, trailer, camper, recreational vehicle, boat or motorcycle.

SECTION 1.103. Registry of Owners and Premises.

Annually, owners of rental dwellings shall register such dwelling units with the Department as provided in this Code before they are rented. An owner shall register the rental dwelling with the Department in order to be entitled to collect rent from tenants and occupants residing or located in the rental dwelling. After the initial registration, an annual registration shall be filed with the Department.

A. Registration shall be on a form provided by the Department. Required information shall include the following:

   1. The name, address, telephone, and email (if any) of the owner and, if any, the management agent or entity;

   2. For each individual owner or agent, a driver's license number or other appropriate identification number approved by the State of Mississippi or included upon any other state's issued identification;

   3. Proof of ownership of the dwelling and property;

   4. The location and PPIN number of the property on which the rental dwelling is located; and

   5. An answer as to whether the unit has been listed, offered, or rented in the previous twelve (12) months as a Short-term rental or will be listed, offered, or rented at any point in the coming twelve (12) months as a Short-term rental.

   6. Such other information as may be requested by the Department to enable it to determine if the proposed rental dwelling will comply with this code.

   This registration form shall be signed by owners or his/her authorized agent. If there is an agent, then owner must furnish written proof of this agency.

B. A registration fee, as listed in Section 1.112 and/or the Fee Schedule shall be paid at the time of submitting the application for registration. Failure to register and/or failure to renew registration within the time frames set out herein will result in a late registration fee as listed in Section 1.112 and/or the Fee Schedule until the rental dwelling is registered and all fees are paid.

C. Any changes, at any time, in the information provided by an owner on a registration form must be submitted to the Department in writing within thirty (30) days of the change. Failure on the part of the owner to notify the City in sufficient time of a change in information shall not waive the owner's responsibility for response and/or action should the City attempt to make contact.

D. If the owner is an entity, other than an individual, the names, addresses and telephone numbers of corporate officers, partners, members or managers as applicable to the form of the organization shall be listed. If such entity is controlled in whole or in part or by one or more other entities, then the names, addresses, drivers' license numbers or other proper identification numbers, and telephone numbers of those entities and their officers, partners, members and/or managers shall be listed.

E. All rental dwellings existing at the effective date of this Code shall be registered in accordance with the implementation process set out in Section 1.104 herein. Registration shall remain effective for a one-year period or until a change of ownership, whichever may occur first.

F. Any existing non-rental dwelling that is converted to a rental dwelling after the effective date of this Code shall be registered prior to the date on which the property is first occupied for rental purposes.

G. All other rental dwellings shall be registered prior to any use or occupancy as a rental dwelling.

H. Except as otherwise expressly provided for in this Code, occupancy of and dwelling by any person other than an owner-occupant and within the definition of family, shall be considered renting and shall require registration and a safety assessment of the dwelling pursuant to this Code.

I. A new owner shall register a rental dwelling which has been sold, transferred or conveyed to such new owner within sixty (60) days after the date of the sale, transfer or conveyance.

J. After the registration of each rental dwelling, the City may, at the Department's discretion, place such rental dwelling on a schedule of safety assessments for a certificate of rental compliance that allows the administrative burden of the Department to be evenly distributed from year to year. Following the implementation period (See Section 1.104), safety assessments may be scheduled up to six (6) months following registration, providing a Certificate of Registration until such time that the safety assessment is scheduled.

K. The Department shall mail or email a reminder for registration renewal not later than forty-five (45) days prior to the anniversary.

SECTION 1.104. Implementation.

In order to encourage expedient compliance with this ordinance, and recognizing the potentially cumbersome demands on City resources should this Code be implemented immediately, the City shall phase implementation in the manner herein described.

A. **<u>Through December 31, 2019:</u>** Property owners or agents that register property(ies) before December 31, 2019 shall NOT be required to remit a registration fee for initial registration. Late fees as described in this ordinance shall not apply for properties registered within this date range. These properties will be issued a Certificate of Registration, will be required to renew the Certificate of Registration on the first anniversary, but will not be subject to a safety assessment pursuant to rental registration until renewal at the second anniversary.

1. The above referenced safety assessment waiver applies only to the initial safety assessment that this ordinance describes as a part of the registration process and does not preclude other inspections for cause or inspections based upon complaint or the awareness of an enforcing officer with proper jurisdiction, regardless of the agency.

2. The two-year period referenced above is an approximation. For the purpose of properly managing safety assessment workload, City staff may, at its discretion, schedule safety assessments up to sixty (60) days in advance of the two-year renewal without affecting the registration/renewal terms.

B. **<u>January 1, 2020 through March 31, 2020:</u>** Property owners or agents that register their property(ies) between January 1, 2020 and March 31, 2020 SHALL be required to remit a registration fee. Late fees as described in this ordinance shall not apply for properties registered within this date range. These properties will be issued a Certificate of Registration, will be required to renew the Certificate of Registration on the first anniversary, but will not be subject to a safety assessment pursuant to rental registration until renewal at the second anniversary.

C. **<u>Post-Implementation (April 1, 2020 and beyond)</u>:**Following the period through March 31, 2020,described above, all properties, regardless of their original registration date, shall be subject to the entirety of this ordinance, including all fees, safety assessments, schedules, etc.

SECTION 1.105. Certificate of Rental Compliance Required.

No person shall occupy, and no owner shall rent, or allow occupancy of rental dwellings unless a certificate of rental compliance has been applied for and issued by the Department as provided in this Code, except rental dwellings existing on the effective date of the Code may continue to be rented and occupied after such effective date without a certificate of rental compliance provided the owner complies with the registration requirement under Section 1.103, pays all applicable fees under Section 1.112, complies with the requirements of Sections 1.108 and 1.109 for the scheduling and performance of any safety assessments necessary for the issuance of a certificate of rental compliance, and undertakes all actions necessary to meet the requirements for and obtains a certificate of rental compliance under the provisions of the Code.

SECTION 1.106. Issuance of Certificate of Rental Compliance.

A. The application to register a rental unit pursuant to this ordinance shall constitute an application for a Certificate of Rental Compliance. Such application shall be made at the time the owner initially registers the dwelling as a rental dwelling, and subsequent thereto, shall apply for renewal at each anniversary of successful registration or Certificate of Rental Compliance.

Prior to processing each application for registration or renewal, staff shall ensure the following:

1. All registration, safety assessment and other fees have been paid and the dwelling has been registered and all registration information is current and correct as provided in Section 1.103; and

2. All water and sewer bills and any other City assessments or charges for which the property owner is responsible and are associated with the dwelling, are current.

B. Following application to register a rental unit, the following may occur depending upon the results of a safety assessment:

1. If all conditions are found to be satisfactory, the Department shall issue a Certificate of Rental Compliance.

2. If the safety assessment identifies conditions that present immediate threats to life, health, or safety of potential occupants or the public, the staff person performing the assessment shall notify the owner of the requirement to correct such violations and to schedule a re-assessment so that the corrections can be confirmed. Until the owner corrects such violations, a Certificate of Rental Compliance will be withheld.

3. If the safety assessment identifies conditions that are violations to the

IPMC or present other visibly apparent violations of any code or safety concern, but those concerns and violations are not immediate threats to life, health, or safety of potential occupants, the staff person performing the assessment may issue a Certificate of Rental Compliance with Conditions. Conditions that are also code violations shall be the responsibility of the owner to correct.

C. In the event, upon any safety assessment or inspection, the rental dwelling is determined not to comply with the requirements of this Code, the owner shall be sent a written notice of the violations noted. The owner shall correct such violations within the period stated within the written notice. When a certificate of rental compliance is withheld pending compliance and correction of violations, no rental dwelling that has not been occupied shall be so occupied, and a rental dwelling that has been or is occupied may be ordered vacated by the Building Official when conditions warrant, until re-inspection by the Department and a Certificate of Rental Compliance has been issued.

D. A Certificate of Rental Compliance is issued conditioned upon the requirement that the rental dwelling remains in a safe, habitable and fit condition for occupancy thereof.

SECTION 1.107. Term and Revocation of Certificate of Rental Compliance.

A. Unless revoked in accordance with the provisions of this Code, a certificate of rental compliance shall be valid for a period of two (2) years from the date it is issued. The Department may revoke a certificate of rental compliance if an inspection reveals violations of this Code or upon a determination that the owner is not otherwise in compliance with any provision of this Code. Though the Certificate of Compliance covers a period of up to two (2) years, it is still incumbent upon the owner to register the property annually. Certificates of Registration shall be provided upon renewal registration in the years between safety assessments.

B. The owner shall schedule a safety assessment for an existing certificate of rental compliance not later than thirty (30) days following the anniversary date thereof. Failure to schedule the safety assessment within such thirty (30) day period following the anniversary date shall result in the immediate suspension of the existing certificate of compliance, the imposition of an additional late fee as listed in Section 1.112 and/or the Fee Schedule until the new certificate of rental compliance is issued, and the imposition of the penalties as set forth in Section 1.114 hereof.

SECTION 1.108. Safety Assessment Frequency.

A. The frequency of regular safety assessments of rental dwellings under this Code shall be one (1) such safety assessment every two (2) years, except that units that have had no cause for code enforcement action, police department complaint, citation, or arrest, or other such instances may be extended for an additional two (2) years before a safety assessment is required..

B. Rental dwellings shall be subject to inspection at any time there is a credible complaint or other indication of a violation of the City's Code of Ordinances.

C. Under no circumstances shall a registered rental dwelling go without a safety assessment more than four (4) consecutive years.

D. Other public agencies owning and operating housing that would be subject to this ordinance may be administratively waived from the safety assessment requirements of this ordinance upon demonstration that the agency's dwellings are subjected to no less than annual inspections or safety assessments that are at least as thorough as the safety assessment prescribed in this ordinance.

E. Owners/agents of dwelling units receiving Section 8 vouchers, which are subjected to no less than annual inspections or safety assessments that are at least as thorough as the safety assessment prescribed in this ordinance may provide documentation of such successful inspections having been completed within the preceding 12 months in lieu of a required safety assessment.

SECTION 1.109. Safety Assessment Procedures.

The owner or agent shall schedule with the Department the date and time of the safety assessment; and the Department shall notify the owner of the fees that must be paid before the safety assessment. The owner or agent shall be responsible for notifying each tenant or occupant of the rental dwelling of the date and time of the safety assessment. The owner or agent is required to provide the Department's designated staff person with access to the rental dwelling and accompany the staff person during the performance of all safety assessments, and in the event that the tenant or occupant is not present, the owner or agent must provide access to the staff person by unlocking the door of the tenant or occupant's dwelling unit, verifying that no occupant is present and securing the dwelling unit after the safety assessment is completed. During these safety assessments, the owner or agent must ensure that all pets within the premises are restrained.

SECTION 1.110. Safety Assessment and Maintenance Guidelines.

A. Attachment 1, made a part of this code, is the basis for safety assessment guidelines to be used in performing safety assessments related to the administration of this ordinance. The safety assessment guidelines shall be based on this ordinance and other applicable code and ordinance requirements, and shall set forth the requirements and conditions and scope of repairs necessary for obtaining a certificate of rental compliance.

B. In all events, rental dwellings and the premises upon which they are located shall be maintained in a manner consistent with the criteria set forth in the IPMC, as may be amended from time to time.

C. The interior of the rental dwelling and the premises shall be subject to inspection during the two (2) year certificate of rental compliance period if one or more of the following conditions have been reported to the City or have been identified by an exterior inspection of the dwelling as possibly existing:

1. The rental dwelling is, or is in or part of, a structure that is unsafe, unfit for human occupancy, unlawful, dangerous or that includes unsafe equipment as defined and regulated under the IPMC, as amended from time to time;

2. A violation of any maintenance standard in the IPMC that may allow rain, moisture, surface or roof drainage or animals to enter the exterior walls, structure or living space of the rental dwelling; or

3. Any other code violation is reported or believed to exist, which is in any way under the purview of the City to inspect and/or enforce and is believed to present a clear and immediate threat to the safety of occupants or the public at large.

SECTION 1.111. Transfer and Termination of Certificates of Rental Compliance.

Upon receipt of a written notice that the owner will begin to occupy a unit, or upon written notice and documentation of a sale, transfer or conveyance of a rental dwelling to a new owner who will occupy the premises with no portions rented, the Department shall terminate any certificate of rental compliance and remove the dwelling unit from the City's registry of rental dwellings.

SECTION 1.112. Fees.

A. Fees relative to the administration of this ordinance are set forth herein, which may be amended from time-to-time by the City Council by amendment of the same or by inclusion in other codified Fee Schedules that may hereafter incorporate and/or amend fees for this purpose.

B. Except as may otherwise be expressly provided in Section 1.113 hereof, the owner of the rental dwelling shall be responsible for payment of registration, safety assessment, certificate of rental compliance and other fees involved in the administration and enforcement of this ordinance, which fees shall be set for in the Fee Schedule.

C. A safety assessment fee shall include the initial safety assessment plus one follow-up safety assessment, if needed, to determine whether the violations noted in the initial safety assessment have been corrected. Additional re-assessments necessitated for correction of violations or based upon complaints shall be assessed additional re-assessment fees set forth in the Fee Schedule.

D. Fees:

Registration Fee:	$25 per dwelling unit (includes biennial safety assessment in the years required and one follow-up, if needed, per Section 1.112 (C))
Re-Assessment Fee:	$25 per re-assessment per unit (necessitated for correction of violations or based on validated complaints)
Registration Late Fee:	$10 per dwelling unit per month
Late Fee (Other):	$10 per dwelling unit, per month
Fee Waiver:	Fees shall be waived for the registration of dwelling units owned and operated by public agencies when said agencies also qualify for the waiver of safety assessments by the City (Section 1.108 (D)).

SECTION 1.113. Collection of Fees.

A. All required fees shall be paid at the time of submitting application materials and before commencement of scheduled safety assessments, unless otherwise authorized by the Director or designee.

B. In the event of complaints regarding conditions affecting a rental dwelling that present threats to life and safety, which have not been addressed by the owner, the Department shall have the right to require an inspection of the rental dwelling between regular safety assessment periods, provided that the owner shall be responsible for payment of a re-assessment fee in accordance with the fee schedule if the alleged conditions are confirmed to exist.

C. If for any reason, fees that are due and payable under this ordinance are not paid, a statement of the fees shall be mailed to the owner and shall be paid within fifteen (15) days. In addition to other remedies as the law may allow, amounts not paid within fifteen (15) days will accrue a late fee for each month the amount goes unpaid. Statements will be mailed quarterly. An owner may not renew a registration unless/until all past due amounts are paid.

SECTION 1.114. Violation and Penalty.

A. A violation of any provision of this ordinance shall constitute a municipal civil infraction, and shall be subject to the relief provided for municipal civil infractions under Section 1-10 of the Code of Ordinances for the City.

B. In addition, any use or activity in violation of the terms and provisions of this Code is hereby declared to be nuisance per se and may be abated by order of any court of competent jurisdiction. The City, in addition to other remedies, may cause to be instituted any appropriate action or proceeding to vacate the premises and/or prevent, abate or restrain the nuisance violation.

SECTION 1.115. Validity.

Should any section, clause or paragraph of this Code be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Code as a whole or part thereof other than the part declared to be invalid.

SECTION 1.116. Conflict.

Should a provision of this Code be found in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the City, existing at the effective date of this Code, the provision which established the higher standard for the promotion and protection of the health, safety and welfare of the community at large shall prevail.

SECTION 1.117. Repealer.

All ordinances or parts of ordinances in conflict with this Code are hereby repealed only to the extent necessary to give this Code full force and effect.

SECTION 2. Effective Date.

That this Ordinance take effect and be in force thirty (30) days from and after passage as provided by law.

The foregoing Ordinance having been reduced to writing, the same was introduced by Council member______________, seconded by Council member _______________, and was adopted by the following vote, to-wit:

YEAS: NAYS: ABSENT:

The President thereby declared the motion carried and the Ordinance adopted, this the __ day of _________,A.D., 2019.

(SEAL)

ATTEST: ADOPTED:

____________________ ________________
CLERK OF COUNCIL PRESIDENT

The above and foregoing Ordinance, having been submitted to and approved by the Mayor, this the __ day of_______, A.D., 2019.

ATTEST: APPROVED:

___________________ __________________
CITY CLERK MAYOR

Attachment 1
Safety Assessment Guidelines

The features, elements, and condition descriptions below are intended to be incorporated with the ordinance to which it is attached and is intended to become the basis for conducting safety assessments as described in the ordinance. This list serves to provide a reasonable expectation to property owners of what specific conditions will be reviewed by city staff at the time of a safety assessment.

1. Exterior:
    a. Roof is intact and free from holes and/or large areas of missing shingles. Sub-roof decking is not exposed. If present, a tarp or "Blue roof" is not in place more than 180 days after any significant weather event if the subject property is occupied.
    b. Fascia board and appropriate exterior wall coverings are present. Property is not subject to taking on water.
    c. The main power ground is in place.
    d. Exterior electrical panels/fuse boxes have appropriate covers.

2. Flooring:
    a. Floor is finished with a floor covering designed for the purpose. Finished concrete is acceptable and requires no additional covering. Plywood or particle board is not acceptable for finished living space.
    b. Floor is free of holes.

3. Interior (in plain sight):
    a. Walls are finished with appropriate covering and studs are not exposed except where projects are ongoing and permitted where required.
    b. Switches and outlets have appropriate covers.
    c. There are no hanging or exposed electric wires.
    d. There is no obvious mold/moisture damage as a result of leaking or inadequate roofing, wall systems, and/or plumbing or HVAC system.
    e. Plumbing fixtures are intact and there are no water lines exposed except where they are connected.
    f. Smoke detectors are in place and operable in all bedrooms, hallways in the vicinity of bedrooms, kitchens, and at least one on each floor.

4. Doors and Windows:
    a. Windows are in place with no broken or missing panes. Minor cracks where there are no holes in the glass will only be noted for the property owner's benefit in the course of a safety assessment and will not by itself delay approval.
    b. Exterior doors function properly (open, close, and lock) and are unobstructed for safe ingress/egress by occupant. Where occupants have placed furniture in a way that obstructs doorway function of an otherwise operable door, the condition will only be noted for the property owner's benefit in the course of a safety assessment and will not by itself delay approval.

5. Steps, Ramps, and Railing:
    a. Structure(s) attached to the property for access are sturdy, reasonably safe, and free from missing boards/rails/steps.
    b. Railing around raised surface deck or porch is sturdy and reasonably safe with spacing sufficient to prevent harm to a child.

RENTAL ORDINANCE DRAFT PRESENTATION

July 1, 2019

PURPOSE AND INTENT

- Protect health, safety, welfare
- Prevent blight and deterioration
- Promote quality of life
- Maintenance of property values

- Recognizes the unique nature of single- and two-family rental as compared to:
  - Similar, owner-occupied dwellings
  - Multi-family properties
  - Commercial properties

WHAT IS THE RENTAL ORDINANCE?

- Annual registration process for certain rental properties
- Biennial safety assessment process
- Improved method to identify owners and/or responsible agents in order to more quickly communicate any issues that may arise from a code enforcement standpoint
- A means to identify and correct conditions that may be threats to life/safety of occupants or neighbors
- A means to systematically review for typical code enforcement violations and to address them more proactively

WHAT THE RENTAL ORDINANCE IS NOT…

- The ordinance does NOT create a "help-line" for tenants with property or landlord issues.
  - Though the ordinance intends, in part, to support quality of life and health and safety, it is NOT the intent to become direct tenant (or landlord) advocates in the administration of the ordinance.
  - However, we will take seriously and respond to calls reporting uncorrected violations that are threats to health and/or life safety.
- Likewise, the ordinance does NOT create a mechanism for landlords to seek remedies against a tenant.
- The ordinance does NOT seek to insert the City as a mediator between tenants and their landlords.
  - The city will not be involved or concerned in what are determined to be civil issues between landlord and tenant, which includes repair and maintenance matters that are not health/life threatening.

WHAT PROPERTIES/CIRCUMSTANCES TRIGGER REGISTRATION REQUIREMENTS?

- Registration every year; safety assessment every other year.
- Generally, single-family homes and duplexes to be rented.
- Applies to accessory dwelling units (garage apartments, mother-in-law suites, etc.) on otherwise single- or two-family property.
  - (even if the primary structure is owner-occupied)
- If the owner of record does not personally occupy the dwelling.
  - (even if it is occupied by a family member)
- Applies regardless of whether rent is charged or not.
- Applies regardless of whether a formal lease agreement is used or not.

STAGED IMPLEMENTATION PLAN

Effective date thru Dec. 31, 2019

- Registration begins
- No registration fee
- No late fee
- Safety Assessments deferred until 2nd anniversary of initial registration (2021)
- Certificate of Registration

January 1 thru March 31, 2020

- Registration fee is $25
- No late fee
- Safety Assessments deferred until 2nd anniversary of initial registration (2022)
- Certificate of Registration

April 1, 2020 & beyond

- Full implementation
- Registration fee is $25
- Late fees as appropriate
- Safety Assessments to be scheduled immediately
- Certificate of Compliance (or Compliance with Conditions)

LOGISTICS DETAILS

- There are approximately 11,880 properties WITH STRUCTURES in Hattiesburg zoned A-1, A-2, R-1, or R-2 (15,014 total).
- There are approximately 6,100 properties filed with homestead exemption.
- This leaves a reasonable assumption that there are 5,800 properties with rented units. This does not account for duplex units, non-conforming zones, and other possible errors. Suffice it to say that there are easily 6,000 rented units.

MORE LOGISTICS

- 6: Number of safety assessments per day it is estimated that a single person can reasonably and consistently complete.
- 235: Number of working days after accounting for holidays, sick time, vacation, etc.

- 6,000 units / 6 assessments per day / 235 working days / 2 years between assessments = **2.13 FTE's needed**
- Alternatively, it could be concluded that it would take 2 people 2.13 years to complete the safety assessments.

STAFFING LOGISTICS

- Staffing need will be largely driven by these variables:
  - How many property owners take advantage of the benefits of early registration/compliance
  - How many compliant properties we have overall in the immediate term (first year)
- First and second staff persons will be hired to perform safety assessments, but will likely spend an initial period of time (weeks/months) also administering the clerical side of the program.
- At some point in full implementation, a third staff person will be needed – also cross trained between safety assessments and the clerical side of the program.
  - Turnover & continuity
  - Re-assessment demand
  - Training / cross training

KEY EDITS FROM APRIL 2018 DRAFT

- Increased the window for registration of transferred/sold properties to 60 days
- Codifies that the city will send out 45-day reminders for renewal
- Removed certain owner to tenant notification requirements (flood zone and violation conditions)
- Creates avenue for safety assessments to be deferred two (2) additional years if/when there is no record of concerns/complaints
- Creates a waiver for publicly owned housing and Section 8 assisted housing with documentation of more stringent inspections
- Incorporates the items/issues that safety assessments will review
- Various other minor clarifications and corrections

QUESTIONS ???