

**SUB-GRANT AGREEMENT**  
**City or County Name**  
**Sub-Grant #S-10-CN-MSBPDHRBG-1**

**SECTION 1.0: Parties to the Agreement**

This agreement is by and between the Mississippi Department of Marine Resources, hereinafter referred to as DMR, and the **CN**, hereinafter referred to as Sub-Grantee.

**SECTION 2.0: Purpose**

This agreement is established for the purpose of defining the rights and duties of the parties regarding the grant known as Mississippi British Petroleum Deepwater Horizon Response Block Grant (MSBPDHRBG). This Sub-Grant establishes a scope of work for the Sub-Grantee to receive reimbursements based on the attached proposal.

**SECTION 3.0: Responsibilities of DMR and Sub-Grantee**

3.1 DMR Responsibilities:

- 3.1.1 Review and approval of invoices and periodic reports.
- 3.1.2 Review of progress reports on the ongoing activities.
- 3.1.3 Determination of necessary revisions to Sub-Grantee’s proposed plans.
- 3.1.4 Oversight of work and services provided by Sub-Grantee.

3.2 Sub-Grantee Responsibilities:

- 3.2.1 The Sub-Grantee is responsible for implementing the work and services as set forth in their proposal, attached as **Exhibit \_\_\_\_**, and outlined below in Section 4.0.

- 3.2.2 The Sub-Grantee will coordinate all communication regarding their proposal any approved work and services with the DMR through **TBD, DMR, ? Office.**

**SECTION 4.0: Scope of Work**

This Agreement will provide for all of the following tasks:

- 4.1 The Sub-Grantee:
  - 4.1.1 Agrees to communicate and work in good faith with [**DMR \_\_\_\_\_**] to implement the proposed and/or revised Sub-Grantee plan per DMR's direction.
  - 4.1.2 Shall implement the proposed Sub-Grantee plan as approved and/or revised by [DMR].
  - 4.1.3 Shall complete the proposed Sub-Grantee plan as approved and/or revised by [DMR].
  - 4.1.4 Shall purchase equipment and materials that are necessary to implement and complete the proposed and/or revised Sub-Grantee plan.
  - 4.1.5** Submit an application for cost reimbursable expenses incurred as a result of the British Petroleum Deepwater Horizon Response activities along the MS Gulf Coast.

**SECTION 5.0: Consideration and Payment**

- 5.1 Consideration. As consideration for the performance of this agreement, the DMR agrees to pay the Sub-Grantee the amount incurred in the performance of this agreement not to exceed **TBD based on Application** Under no circumstances will payment be made after expiration of this Sub-Grant.
- 5.2 Payment. The DMR agrees to make payments within 30 days of receipt of a correct or approved invoice/request for reimbursement and the supporting documentation. *Invoices/requests for reimbursement must be submitted within thirty (30) days after the end of the quarter in which the work occurred.* Under no circumstances will payment exceed **TBD based on Application**
- 5.3 Invoices/requests for reimbursement submitted by the Sub-Grantee shall include:
  - 5.3.1 The Sub-Grant number.

- 5.3.2 The time period for services incurred.
- 5.3.3 Category breakdown for expenses.
- 5.4 Invoices/requests for reimbursement will be reviewed to determine (1) that the indicated costs are allowable under appropriate guidelines, and (2) that the work performed contributes directly to the accomplishment of established objectives.
- 5.5 Failure to meet these conditions will result in disallowed costs that will be deducted from the authorized appropriated amount.

**SECTION 6.0: Period of Performance**

- 6.1 The duties and responsibilities as set forth in this agreement shall be performed between the period beginning **TBD** and ending December 31, 2010. If deemed necessary, this Sub-Grant can be at no cost extended on an as-needed basis.

**SECTION 7.0: Standard Terms and Conditions**

**The Sub-Grantee certifies that it:**

- 7.1. Has the legal authority to apply for the program and has the institutional, managerial, and financial capability (including where applicable, funds sufficient or in-kind match to pay the applicant's share of the project cost) to ensure proper planning, management, and completion of the project described in this proposal.
- 7.2. Will give the Grantee and any other authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives and maintain separate accountability for the funds.
- 7.3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- 7.4. Will initiate and complete the work within the applicable time frame after receipt of approval from the Grantee.
- 7.5. Will comply with all Federal statutes relating to non-discrimination. These include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the

Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 *et seq.*), as amended, relating to nondiscrimination in the sale, rental, or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the proposal.

- 7.6. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interest in real property acquired for project purposes regardless of Federal participation in purchases.
- 7.7. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- 7.8. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a- 7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C §§ 327-333), regarding labor standards for federally assisted construction subagreements.
- 7.9. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-924) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- 7.10. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in flood plains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 *et seq.*); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 *et seq.*); (g) protection of

underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

- 7.11. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 *et seq.*) related to protecting components or potential components of the national wild and scenic rivers system.
- 7.12. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 *et seq.*).
- 7.13. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- 7.14. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 *et seq.*) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
- 7.15. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 *et seq.*) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
- 7.16. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.
- 7.17. **Applicable Laws.** This Sub-Grant Agreement shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflict of law provisions, and any litigation with respect thereto shall be brought in the courts of the state. The Sub-Grantee shall comply with applicable federal, state and local laws and regulations.
- 7.18. **Representation Regarding Gratuities.** The bidder, offeror, or Sub-Grantee represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 7-204 (Gratuities) of the Mississippi Personal Service Contract Procurement Regulations.
- 7.19. **Representation Regarding Contingent Fees.** The Sub-Grantee represents that it has not retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the Sub-Grantee 's bid or proposal.

- 7.20. **Compliance with Laws.** The Sub-Grantee understands that the State is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other consideration made unlawful by federal, State, or local laws. All such discrimination is unlawful and the Sub-Grantee agrees during the term of the agreement that the Sub-Grantee will strictly adhere to this policy in its employment practices and provision of services. The Sub-Grantee shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now exist and as may be amended or modified.
- 7.21. **Availability of Funds.** It is expressly understood and agreed that the obligation of the Grantee to proceed under this agreement is conditioned upon the availability of funds from the responsible party and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at anytime, not forthcoming or insufficient, the state shall have the right upon ten (10) working days written notice to the Sub-Grantee, to terminate this agreement without damage, penalty, cost or expenses to the state of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
- 7.22. **Changes.** This agreement shall not be modified, altered, or changed except by the mutual agreement by an authorized representative of each party to this agreement and must be confirmed in writing through the Grantee sub-grant modification procedures.
- 7.23. **Oral Statements.** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this agreement. All modifications to this agreement must be made in writing by the Grantee.
- 7.24. **Termination Provisions.** If the Sub-Grantee fails to fulfill its obligations under this Agreement, or if the Sub-Grantee violates any of the conditions and stipulations contained in this Agreement, the Grantee shall have the right to terminate this Agreement by giving written notice to the Sub-Grantee of such termination, and specifying the effective date thereof. Any such notice of termination will be made in no less than seven (7) calendar days. In this event, the Sub-Grantee shall be entitled to receive just and equitable compensation for any work performed through the effective date of such termination, provided that the Grantee Director determines that the cost incurred were done so in compliance with the provisions stated in this document.
- 7.25. **Stop Work Order**
- 7.25.1 **Order to Stop Work**  
The Grantee, may, by written order to the Sub-Grantee at any time, and without notice to any surety, require the Sub-Grantee to stop all work or

any part of the work called for by this sub-grant. This order shall be for a specified period not exceeding 90 days after the order is delivered to the Sub-Grantee, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause.

Upon receipt of such an order, the Sub-Grantee shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties have agreed, the Grantee shall either:

- (a) cancel the stop work order; or
- (b) terminate the work covered by such order as provided in the “Termination for Default Clause” or the “Termination for Convenience Clause” of this sub-grant.

#### **7.25.2 Cancellation or Expiration of the Order**

If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the Sub-Grantee shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Sub-Grantee price, or both, and the sub-grant shall be modified in writing accordingly, if:

- (a) the stop work order results in an increase in the time required for, or in the Sub-Grantee’s cost properly allocable to, the performance of any part of this sub-grant; and
- (b) the Sub-Grantee asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Grantee decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this sub-grant.

#### **7.25.3 Termination of Stopped Work**

If a stop work order is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

#### **7.25.4 Adjustments of Price**

Any adjustment in sub-grant price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this sub-grant.

7.26. **Price Adjustment Clause**

*“Price Adjustment”*

7.26.1 **Price Adjustment Methods.** Any adjustment in sub-grant price pursuant to a clause in this sub-grant shall be made in one or more of the following ways:

- (a) by agreement on a fixed price adjustment before commencement of the additional performance;
- (b) by unit prices specified in the sub-grant;
- (c) by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the sub-grant;
- (d) in such other manner as the parties may mutually agree; or
- (e) in the absence of agreement between the parties, by a unilateral determination by the Grantee of the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as computed by the Grantee.

7.26.2 **Submission of Cost or Pricing Data.** The Sub-Grantee shall provide cost or pricing data for any price adjustments subject to the provisions of Section 3-403 (Cost or Pricing Data) of the Mississippi Personal Service Contract Procurement Regulations.

7.27. **Independent Contractor/Sub-Grantee Status.** The Sub-Grantee shall, at all times, be regarded as an independent Sub-Grantee and shall at no time act as an agent for the Grantee. Nothing herein shall be deemed or construed by the Grantee, the Sub-Grantee, or any third party as creating the relationship of principal and agent, partners, joint ventures, or any similar such relationship between the Grantee and the Sub-Grantee. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the Grantee or the Sub-Grantee hereunder, creates or shall be deemed to create a relationship other than the independent relationship of the Grantee and the Sub-Grantee. Sub-Grantee’s personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the Grantee.

7.28. **Access to Records.** The Sub-Grantee agrees that the Grantee, or any of its duly authorized representatives, at any time during the term of this agreement, shall have access to, and the right to audit/examine any pertinent documents, paper, and records, related to charge and performance under this agreement. Such records shall be kept for a period of three years after final payment under this agreement, unless, the Grantee authorizes earlier disposition. The Sub-Grantee agrees to refund to the Grantee any overpayments disclosed by any such audit. However, if any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the three-year period, the records shall be

retained until completion of the action and resolution of all issues which arise from it.

**7.29. Termination for Convenience Clause**

7.29.1 *Termination.* The Grantee may, when the interests of the State so require, terminate this sub-grant in whole or in part, for the convenience of the State.

7.29.2 *Sub-Grantee's Obligations.* The Sub-Grantee shall incur no further obligations in connection with the terminated work on the date of termination to the extent specified. The Sub-Grantee shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Sub-Grantee shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Grantee may direct the Sub-Grantee to assign the Sub-Grantee's right, title, and interest under terminated orders or subcontracts to the State. The Sub-Grantee must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

**7.30. Termination for Default Clause**

7.30.1 *Default.* If the Sub-Grantee refuses or fails to perform any of the provisions of this sub-grant with such diligence as will ensure its completion within the time specified in this sub-grant, or any extension thereof otherwise fails to timely satisfy the sub-grant provisions, or commits any other substantial breach of this sub-grant, the Grantee may notify the Sub-Grantee in writing of the delay or nonperformance and if not cured in ten days or any longer time specified in writing by the Grantee, such officer may terminate the Sub-Grantee's right to proceed with the sub-grant or such part of the sub-grant as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Grantee may procure similar supplies in a manner and upon terms deemed appropriate by the Grantee. The Sub-Grantee shall continue performance of the sub-grant to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

7.30.2 *Sub-Grantee's Duties.* Notwithstanding termination of the sub-grant and subject to any directions from the Grantee, the Sub-Grantee shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the Sub-Grantee in which the State has an interest.

7.30.3 *Compensation.* Payment for completed services delivered and accepted by the State shall be at the contract price. The State may withhold from amounts due the Sub-Grantee such sums as the Grantee deems to be necessary to protect the State against loss because of outstanding liens or

claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.

- 7.30.4 *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults of subcontractors, the Sub-Grantee shall not be in default by reason of any failure in performance of this sub-grant in accordance with its terms (including any failure by the Sub-Grantee to make progress in the prosecution of the work hereunder which endangers such performance) if the Sub-Grantee has notified the Grantee within 15 days after the cause of the delay and the failure arises out of causes such as: acts of god; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the Sub-Grantee shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the Sub-Grantee to meet the sub-grant requirements.

Upon request of the Sub-Grantee, the Grantee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the Sub-Grantee's progress and performance would have met the terms of the sub-grant, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled (in fixed-price contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination"). (As used in this paragraph of this clause, the term "subcontractor" means subcontractor at any tier).

- 7.30.5 *Erroneous Termination for Default.* If, after notice of termination of the Sub-Grantee's right to proceed under the provisions of this clause, it is determined for any reason that the sub-grant was not in default under the provisions of this clause, or that the delay was excusable under the provisions of paragraph (8.33.4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the sub-grant contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause.

- 7.30.6 *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law under this sub-grant.

- 7.31 **Ownership of Documents and Work Papers.** The Grantee shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the Project which is the subject of this

Agreement, except for the Sub-Grantee's internal administrative and quality assurance files and internal Project correspondence. The Sub-Grantee shall deliver such documents and working papers to Grantee upon termination or completion of the Agreement. The foregoing notwithstanding, the Sub-Grantee shall be entitled to retain a set of such work papers for its files. Sub-Grantee shall be entitled to use such work papers only after receiving written permission from the Grantee and subject to any copyright protections.

- 7.32. **Public Records Clause.** As outlined in Section 3.0 Subsection (3.2.1), Grantee has the responsibility to oversee and monitor all phases of this project. Therefore, Grantee shall be responsible for responding to any public records requests pursuant to the Mississippi Public Records Act, Section 25-61-1 *et seq.*, Miss. Code Ann. Grantee shall respond to requests addressed to either of the parties herein. The Sub-Grantee shall notify and provide a copy of any public information request addressed to the Sub-Grantee within one working day. Upon receipt of said request, the Grantee shall respond to the request for public information as required by the Mississippi Public Records Act. No party to this agreement shall be liable to the other party for disclosure of information required by court order or required by law.
- 7.33. **Release of Information.** The Grantee, as the State management, regulatory, and enforcement agency, shall have the exclusive right to release data and information acquired from this project to the press and public. The Sub-Grantee may release information obtained from this project only after obtaining written permission from Grantee. Sub-Grantee shall not be entitled to release information for publications or exchange any information developed by this project with other researchers in the scientific community without first obtaining written permission from the Grantee.
- 7.34. **Authority to Contract.** The Sub-Grantee certifies (a) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind, and (b) notwithstanding and other provision of this agreement to the contrary, that there are no existing legal proceedings, either voluntary or otherwise, which may adversely effect its ability to perform its obligations under this agreement.
- 7.35. **Copyright Provisions.** The Grantee grants to the Sub-Grantee the right to copyright materials and articles that may result from research carried out under this agreement. The Grantee shall have an unlimited royalty free licenses to use, reproduce, translate, or publish the product (s) produced under this agreement and to grant this license to any sub-licensee.  
The Sub-Grantee shall in no way limit the dissemination and/or utilization of such material and data as shall arise from the work performed under the agreement. Any publications or presentations resulting from this project shall give appropriate credit to grantor and DMR.

The undersigned hereby execute this agreement and assure that the authority to execute this agreement has been granted by the appropriate governing bodies.

**MS DEPARTMENT OF MARINE RESOURCES**

**CITY OR COUNTY NAME**

\_\_\_\_\_  
William W. Walker, Ph.D., Executive Director

\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_