

INDIANA OFFICE OF COMMUNITY AND RURAL AFFAIRS

STANDARD SUB-RECIPIENT AGREEMENT FOR CDBG-FUNDED PROJECTS

(MODIFICATIONS TO THIS STANDARD AGREEMENT MUST BE APPROVED BY THE OFFICE OF COMMUNITY AND RURAL AFFAIRS PRIOR TO FULL EXECUTION)

THIS AGREEMENT is entered into this _____ day of _____, _____ by and between the City/Town/County of _____, State of Indiana (hereinafter referred to as the "Recipient"), by and through its _____, _____, and _____,

(hereinafter referred to as the "Subrecipient"), and approved by the Indiana Office of Community and Rural Affairs.

WHEREAS, the Recipient has received a grant under Title I of the Housing and Community Development Act of 1974, (P.L. 93-383), as amended, from the Indiana Office of Community and Rural Affairs ("IOCRA") using federal Community Development Block Grant ("CDBG") funds allocated by the United States Department of Housing and Urban Development, ("HUD") bearing the grant-identifier number assigned by the IOCRA of _____; and,

WHEREAS, pursuant to this CDBG grant the Recipient is undertaking certain activities; and,

WHEREAS, the Recipient desires to engage the Subrecipient to give certain assistance in connection with such undertakings; and,

NOW, THEREFORE, the Recipient and the Subrecipient do mutually agree as follows:

- 1. **DEFINITIONS:** As used in this Contract:
 - A. "Subrecipient" means the entity, whether public, not-for-profit or private, which has the responsibility for administering the subject CDBG-assisted project or activity.
 - B. "Area" means the corporate boundaries of the Recipient, those being _____, Indiana, or one or more sections of the _____ as specifically delineated in the Statement of Work, Appendix I of this Agreement.
 - C. "CDBG" means Community Development Block Grant.
 - D. "Contractor" means an entity other than the Subrecipient (except as noted in the Labor Standards Provisions), that furnishes to the Recipient and Subrecipient services or supplies (other than standard commercial supplies, office space or printing services).
 - E. "IOCRA" means Indiana Office of Community and Rural Affairs.
 - F. "HUD" means the Secretary of Housing and Urban Development or a person authorized to act on his behalf.
 - G. "Program" means the Community Development Program approved by IOCRA as the same may be amended from time to time.

2. SCOPE OF SERVICES: The Subrecipient shall perform all services according to the Program Description and Statement of Work attached as Appendix I and made part of this Agreement.
3. TERM OF AGREEMENT: This Agreement shall commence on the ____ day of _____, 20____, and end on the ____ day of _____, _____. The term of this Agreement may be extended by mutual consent of the Recipient and Subrecipient, subject to termination provisions set forth herein and the expiration date of the Recipient's CDBG grant from the IOCRA. The Subrecipient agrees to comply with the minimum five-year real property usage requirements set forth under 24 CFR 570.503 (a)(8)(i) as well as usage requirements for CDBG-assisted facilities and other assets as set forth under 24 CFR 570.505.
4. AMENDMENTS: Any revision to this Agreement, including Appendices, shall only be made by written amendment to this Agreement.
5. COMPLIANCE WITH APPROVED PROGRAM: All activities authorized by this Agreement shall be performed in accordance with the approved Program Description, the approved Budget, the Grant Conditions, and the relevant Department of Housing and Urban Development regulations, as set forth in the initial grant agreement between the IOCRA and the Recipient. The Subrecipient may not use the CDBG-assisted facilities in any manner which does not meet the intent and requirements of such initial CDBG grant agreement and such CDBG-facilities must be used to meet the prescribed CDBG national objective under which the IOCRA awarded said CDBG grant to the Recipient.
6. SUBCONTRACTING: The performance covered by this Contract shall not be subcontracted, assigned or delegated without the prior written consent of the Recipient, and the prior written consent of the IOCRA.
7. LIMITATION ON FUNDING: It is expressly understood and agreed that in no event will the Recipient pay the Subrecipient more than \$_____ for full and complete satisfactory performance of this Agreement. The Recipient shall compensate the Subrecipient for fulfilling this Agreement as provided in accordance with the terms and conditions contained herein.
8. CDBG PROGRAM INCOME: Any gross income directly generated from the use of the CDBG grant funds shall be used only for those activities delineated in the Statement of Work and all relevant provisions of this Agreement shall apply to such activities. Disposition of CDBG Program Income received by the Subrecipient shall be governed by the requirements outlined in the Statement of Work, Appendix I, and in compliance with 24 CFR 570.504 (b) and (c).
9. FISCAL AND ADMINISTRATIVE RESPONSIBILITIES: The Subrecipient agrees to comply with the provisions of 24 CFR 570.502 (a) or (b), as applicable, and all requirements and standards which include but are not limited to the following:
 - A. Allowable and Allocable Costs. Costs must be necessary, reasonable and directly related to the scope of services of this Contract. In addition, costs must be legal and proper. The budget included in Appendix I shall control amounts of allowable expenditures within budget categories.
 - B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers or other official documentation evidencing in proper detail the nature and propriety of charges. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.
 - C. Restriction on Disbursements. No money under this Agreement shall be disbursed by the Subrecipient to any contractor except pursuant to a written contract which incorporates the applicable requirements of this Contract and IOCRA/HUD regulations and unless the contractor is in compliance with IOCRA/HUD requirements for applicable accounting and fiscal matters.

D. Records and Reports:

(1) Establishment and Maintenance of Records:

Records shall be maintained in accordance with requirements prescribed by IOCRA or the Recipient with respect to all matters covered by this Contract. Except as otherwise authorized by IOCRA, such records shall be maintained for a period of five (5) years after final close-out of the grant by the Indiana Office of Community and Rural Affairs.

(2) Reports:

(a) At such times and in such forms as IOCRA or the Recipient may require, there shall be furnished to IOCRA or the Recipient such statements, records, data and information as IOCRA or the Recipient may request pertaining to matters covered by this Contract.

(b) The Subrecipient shall, at a minimum, submit the following reports to the Recipient:

(i) Quarterly progress reports due by the 15th day following the end of each calendar quarter, such reports outlining activities undertaken during such calendar quarter toward completion of the subject Program and the progress in meeting the prescribed CDBG national objective under the Recipient's grant agreement with the IOCRA;

(ii) Quarterly financial statements due by the 15th day following the end of each calendar quarter, such reports detailing all revenues and expenses applicable to the CDBG-assisted facilities and activities undertaken during such calendar quarter;

(iii) The reports required in Section 9D(2)(b)(i) and Section 9D(2)(b)(ii) above shall be submitted by Subrecipient to Recipient for a period of five (5) years following Administrative Closeout for the subject Program by the IOCRA to the Recipient, or until _____, 20____, whichever period is longer.

(iv) A report at the conclusion of the project for which funds are provided under this agreement which summarizes the successes or failures of the assisted activity, and the level of attainment respective to the CDBG national objective prescribed under the CDBG grant agreement between the IOCRA and the Recipient.

(3) Real and Non-expendable Property:

(a) Inventory: The Subrecipient shall keep inventory records, acceptable to the Recipient, on all real and non-expendable property purchased under this Agreement. The Subrecipient shall submit an inventory record of all items at the end of the program year and resubmit it each program year with revisions as necessary.

(b) Insurance and Maintenance: For all real and non-expendable property occupied, operated and/or purchased under this Agreement, the Subrecipient shall maintain sufficient insurance to cover the cost of replacement due to loss by fire, theft, or accidental damage. The Recipient shall be named as loss payee under such policies of insurance. The Subrecipient shall also be responsible for the maintenance and upkeep of all such property.

(4) Cooperation with Subrecipient: The Recipient shall provide all available maps, reports, and other data requested by the Subrecipient to accomplish the services which are the subject of this Contract. The Subrecipient shall pay for all articles so supplied.

10. ASSIGNMENT OR LIENS AGAINST CDBG-ASSISTED FACILITIES AND ASSETS:

The Subrecipient shall complete the form entitled "CDBG Lien and Restrictive Covenant Agreement", found in Appendix II, for all real property improved with CDBG funds awarded under this agreement. Appendix II must be duly recorded with the County Recorder in the county in which the improved property is located.

The Subrecipient shall not assign, pledge, or otherwise encumber the Subrecipient's or Recipient's interest in the CDBG-assisted facilities or assets without the prior written consent of the Recipient and the IOCRA. The Subrecipient shall not pledge or mortgage the CDBG-assisted facilities or assets as collateral for loans without the prior written consent of the Recipient and the IOCRA. The Subrecipient shall cure and otherwise perfect all liens placed against the CDBG-assisted facilities or assets.

11. ACCESS TO RECORDS: At any time during normal business hours and as often as the Recipient, IOCRA and/or the Comptroller General of the United States may deem necessary, Subrecipient shall make available to the Recipient, IOCRA and/or representatives of the Comptroller General for examination all of its records with respect to all matters covered by this Agreement. Further, the Subrecipient shall permit the Recipient, IOCRA, and/or representatives of the Comptroller General to audit, examine and make excerpts of transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

12. MONITORING AND AUDITS OF SUBRECIPIENT:

A. Subrecipient Monitoring:

The recipient is required by federal Office of Management and Budget (OMB) Circular A-133 to ensure that federal CDBG program requirements are met, that the funds are used for the purpose of the program, and that the Subrecipient complies with reporting and auditing requirements. If the Subrecipient is required to have an A-133 audit (as discussed below), the Recipient must review the A-133 audit report and follow up on any audit findings that relate to the CDBG project. If there are findings relative to the CDBG project, the Recipient must issue a management decision within six months of receipt of the audit report and ensure that the Subrecipient takes appropriate and timely corrective action. The management decision shall clearly state whether or not the audit findings are sustained, the reasons for the decision, and the expected subrecipient action to repay disallowed costs, make financial adjustments, or take other action.

Recipient procedures to ensure that the Subrecipient is meeting program requirements may also include:

- (1) Perform an analysis of financial status reports.
- (2) Determine appropriateness of disbursements through review of supporting documentation.
- (3) On-site visits by the Recipient to the Subrecipient's CDBG-assisted facilities. At regular intervals during the term of this Agreement, the Recipient may conduct reviews of the content and progress of the Subrecipient services. If, as a result of such reviews, it is the opinion of the Recipient that revisions to the Scope of Services (paragraph 2) is necessary or the methods employed by the Subrecipient are inappropriate, the Recipient may require such revisions by notifying the Subrecipient in writing. Upon receipt of such notification of revision, the Subrecipient shall, within ten (10) days, propose the manner in which the Subrecipient will comply with the revisions.
- (4) Review limited scope audit reports. If the Subrecipient expended less than \$500,000 in federal awards the Recipient may require an agreed-upon procedures engagement. These engagements may address only one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching level of effort, earmarking; and reporting.
- (5) Review any financial statement audits when other type audits are not required.

The Recipient will also review the Subrecipient's fidelity bonding and fiscal and accounting procedures to determine if they meet the requirements of the Agreement.

B. Grant Information: The Recipient will provide the Subrecipient with the following information in compliance with OMB Circular A-133:

- (1) Catalog of Federal Domestic Assistance (CDFA) Number for CDBG: 14.228
- (2) CDFA Title for CDBG Project: "State Administered CDBG Program"
- (3) Name of the Federal grantor agency: U.S. Department of Housing and Urban Development
- (4) IOCRA's Grant Number assigned to the Recipient's CDBG Project
- (5) Amount of any State or Local matching funds
- (6) Advise the Subrecipient of requirements imposed upon the Subrecipient pursuant to applicable federal regulations and IOCRA policies.

C. Subrecipient Audit Requirements

(1) A Subrecipient that expends \$500,000 or more in federal funds is required to have an audit in compliance with OMB Circular A-133. The Subrecipient is responsible for submitting a data collection form and reporting package to the federal clearinghouse within nine months of the end of the audit period. The reporting package must also be submitted to the Recipient. Per Section .505 of the OMB Circular A-133, the reporting package consists of:

- (a) Financial Statements;
- (b) Schedule of Expenditures of Federal Awards;
- (c) Summary Schedule of Prior Audit Findings;
- (d) Corrective Action Plan for current year audit findings; and,
- (e) An Auditor's Opinion

(2) Subrecipients that receive any public funds (federal, state, or local government funds) are also subject to the audit requirements of Indiana Code 5-11-1-9 and the Indiana State Board of Accounts' Guidelines For Examination of Entities Receiving Financial Assistance From Governmental Sources. A Subrecipient that is not a governmental entity must annually file an Entity Annual Report (form E-1) with the State Board of Accounts. If the Subrecipient's disbursements are less than fifty-percent (50%) from public funds they must request and receive a waiver from these audit requirements. If the Subrecipient is a not for profit corporation, and their disbursements are less than \$100,000, they may also request a waiver. Contact the Indiana State Board of Accounts at 317-232-2525 for a copy of their Guidelines for Examination of Entities Receiving Financial Assistance From Governmental Sources and information on obtaining a waiver.

An audit in compliance with OMB Circular A-133 will meet the audit requirements of IC 5-11-1-9. However, a waiver from the State Board of Accounts from the audit requirements of IC 5-11-1-9 does not exempt the Subrecipient from audits required by OMB Circular A-133 or other audits provisions within this Agreement.

(3) All Subrecipient audits shall be completed within 180 days after the ending date of the Subrecipient's fiscal year. Two (2) copies of each audit report shall be delivered by the Subrecipient to the Recipient. One (1) copy will be retained and reviewed by the Recipient, with the remaining copy to be submitted by the Recipient to IOCRA.

(4) If the Subrecipient is unable or unwilling to have an audit conducted in accordance with OMB Circular A-133, the Recipient shall take one or more of the following actions:

- (a) Withhold a percentage of federal CDBG funds until the applicable audit is completed satisfactorily;
- (b) Suspend further disbursements of federal CDBG funds until the audit is conducted; or
- (c) Terminate this Agreement in accordance with Section 13 of this Agreement.

13. TERMINATION OF AGREEMENT:

A. By giving thirty (30) days written notice specifying the effective date, the Recipient may terminate this Contract in whole or in part for cause, which shall include:

- (1) Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement, including compliance with the approved program and Agreements conditions, and such statutes, executive orders, and HUD directives as may become applicable at any time;
- (2) Submission by the Subrecipient to the Recipient of reports that are incorrect or incomplete in any material respect;
- (3) Ineffective or improper use of funds provided under this Agreement;
- (4) Failure of the Subrecipient to supply the Recipient with quarterly reports and annual audits as required by the Recipient herein;
- (5) Failure of the Subrecipient to comply with the Recipient's corrective action plan respective to annual independent audits required by the Recipient herein;
- (6) Suspension or termination by IOCRA of the grant to the Recipient under which this Contract is made, or the portion of it delegated by this Agreement; provided, however, that if the grant is merely reduced and in the absence of any contrary IOCRA directive, the Subrecipient may adjust its budget and recommend Contract amendments to the Recipient.
- (7) The Recipient may also terminate, assign or transfer this Agreement when required by IOCRA direction.

B. The Subrecipient may propose to terminate this Agreement in whole or in part, for good cause only by giving at least thirty (30) days written notice specifically stating the cause for such requested termination. Any such request for termination shall be subject to the written approval of the Recipient, acted upon by the Recipient within ten (10) days of receipt of the notice of request to terminate. The decision of the Recipient shall be final and conclusive, provided that such approval shall not be unreasonably withheld.

C. This Agreement may also be terminated by either the Recipient or the Subrecipient in whole or in part, by mutual agreement setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Recipient determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Recipient may terminate the award in its entirety.

14. **PROGRAM CLOSE-OUT:** In the event the Subrecipient does not expend the amount allocated under this Agreement or the project is canceled, expired, assigned or terminated for any reason, any funds not claimed by the Subrecipient and approved by the Recipient for allowable costs by the end of the term or by the date of cancellation, expiration, or termination of this Agreement, as the case may be, shall no longer be payable to the Subrecipient under this Agreement.

15. **USE AND REVERSION OF ASSETS:** The Subrecipient shall use all CDBG-assisted property acquired under this Agreement in accordance with 24 CFR 570.505 for a period of five (5) years following the date the IOCRA issued a "Certificate of Completion" to the Recipient respective to the Recipient's CDBG Program. Unless specified otherwise within this Agreement, at the conclusion, cancellation, assignment or termination of this Agreement, the disposition of assets under this Agreement shall be in compliance with 24 CFR 570.503, 24 CFR 570.504, and 24 CFR 570.505, as applicable, which include but are not limited to the following:

(1) Personal property and equipment acquired under this Agreement shall revert to the Recipient or disposition in compliance with 24 CFR 570.503., unless Subrecipient continues to carry out the same Program for which said property and equipment was acquired.

(2) Where there is a residual inventory of unused supplies in excess of \$5,000.00 in total aggregate fair market value in which the Subrecipient has vested title through acquisitions under this Agreement, and where there is no need for said supplies for any other federally sponsored programs or projects, the Subrecipient shall compensate the Recipient for its share in compliance with 24 CFR 570.502.

(3) The Subrecipient shall transfer to the Recipient any funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

(4) Real property under the Subrecipient's control that was acquired or improved in whole or in part with funds under this Contract in excess of \$25,000.00, unless otherwise specified in Scope of Services, Appendix I, shall be (a) used to meet one of the national objectives pursuant to 24 CFR 570.208 until five (5) years after the IOCRA issues a "Certificate of Completion" respective to the approved CDBG Program to the Recipient, or (b) disposed of in a manner which results in the Recipient being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment to Recipient shall constitute CDBG Program Income and shall be subject to the provisions of 24 CFR 570.489(e).

(5) If so specified in Appendix I to this Agreement, the Subrecipient may retain CDBG-assisted real and personal property acquired under the Recipient's CDBG Program after the expiration of the five-year period covered by 24 CFR 570.503 and 24 CFR 570.505.

16. COMMUNITY DEVELOPMENT IDENTIFICATION IN PROJECT ACTIVITIES:

A. All buildings, offices, vehicles and other such property purchased, rehabilitated, or supported in whole or in part with funds made available under this Agreement shall identify the Program as a sponsor of the activity.

B. All pamphlets, brochures or other printed material prepared and/or distributed by the Subrecipient in connection with activities for which Community Development funding is provided under this Agreement shall identify the Program and IOCRA as sponsors of the activity by the inclusion of the following statement of all such material:

"This (brochure, pamphlet, etc.) was produced (in whole or in part) with the assistance of the Recipient of _____ through federal funds made available by the Indiana Office of Community and Rural Affairs under Title I of the federal Housing and Community Development Act, as amended."

C. Failure to comply with A or B above shall result in a disallowance of all costs incurred for the activity.

17. COPYRIGHTS: If this Agreement results in a publication or other copyrightable material, the author may copyright the work, but the Recipient and IOCRA reserve royalty free, nonexclusive, and irrevocable licenses to reproduce, publish, or otherwise use, and to authorize others to use, all copyrighted material and all material which can be copyrighted.

18. PATENTS: Any discovery or invention arising out of or developed in the course of work aided by this Contract shall be promptly and fully reported to IOCRA for determination by IOCRA as to whether patent protection on such invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interest.

19. EQUAL OPPORTUNITY AND NONDISCRIMINATION: The Subrecipient agrees to comply with equal opportunity requirements applicable to Community Development Block Grant activities. Specifically, the Subrecipient agrees to comply with:

A. TITLE VI, CIVIL RIGHTS ACT OF 1964: which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

B. TITLE VIII, CIVIL RIGHTS ACT OF 1968: which provides for fair housing throughout the United States. Kinds of discrimination prohibited include refusal to sell, rent, or negotiate, or otherwise to make unavailable; discrimination in terms, conditions and privileges; discriminatory advertising; false representation; blockbusting; discrimination in financing; and discrimination in membership in multi-listing services and real estate broker organizations. Discrimination is prohibited on the grounds of race, color, religion, sex and national origin. The IOCRA (and grantees) shall administer programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this Title.

C. SECTION 109, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1977: which provides that no person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Title.

D. AGE DISCRIMINATION ACT OF 1975: which provides that no person shall on the basis of age, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance.

E. SECTION 504 OF THE REHABILITATION ACT OF 1973: which provides that handicapped individuals may not be excluded from participation in, be denied benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance.

F. EXECUTIVE ORDER 11063: as amended by Executive Order 12259, which requires equal opportunity in housing and related facilities provided by federal financial assistance.

G. EXECUTIVE ORDER 11246: as amended by Executive Orders 11375 and 12086, which prohibit discrimination on the grounds of race, creed, color, sex or national origin in employment under federally assisted construction contracts.

H. SECTION 3, HOUSING AND URBAN DEVELOPMENT ACT OF 1968, which provides that to the greatest extent feasible, opportunities for training and employment shall be given to lower income residents of HUD/IOCRA-assisted project areas, and that contracts for work in connection with such projects be awarded to business concerns which are located in or are owned in substantial part by project area residents. In connection with its compliance with Section 3 and the Section 3 Clause set forth below, the Subrecipient shall insert in full in all contracts and subcontracts for work financed in whole or in part with assistance provided under this Agreement the Section 3 Clause which follows:

“The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 (u). Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.”

(1) The parties to this Agreement will comply with the provisions of Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in Title 24

Code of Federal Regulations (24 CFR), and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement.

(2) The Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

(3) The Contractor will include this Section 3 Clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development under 24 CFR. The Contractor will not subcontract with any subcontractor where Contractor has notice or knowledge that the latter has been found in violation of regulations under 24 CFR and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

(4) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR, and all applicable rules and orders of the Department contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR.

I. AMERICANS WITH DISABILITIES ACT OF 1990: which provides that no person shall on the basis of handicap, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance.

20. OTHER REQUIREMENTS: Notwithstanding the Recipient's responsibilities with respect to the requirements listed below, the Subrecipient agrees to comply with the following requirements, when applicable:

A. NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE. The Subrecipient agrees to comply with the provisions of Executive Order 11625.

B. RELOCATION AND ACQUISITION: The Subrecipient agrees to comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies of 1970 (42 U.S.C. 4601) and the regulations at 24 CFR 42, which may be amended from time to time.

C. ENVIRONMENT: The Subrecipient agrees to comply with the Clean Air Act (42 U.S.C. 1857, et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.), and the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) and the regulations pursuant to these acts, when applicable.

D. HISTORIC PRESERVATION: The Subrecipient agrees to comply with the National Historic Preservation Act (16 U.S.C. 470 et seq.) and regulations pursuant to it. The Subrecipient agrees to take into account the effect of the project for which Community Development funding is provided under this Agreement on any district, site, building, structure, or object listed in or found by the Secretary of the Interior, pursuant to 36 CFR 60.6, to be eligible for inclusion in the National Register of Historic Places.

E. LABOR STANDARDS: When applicable, the Subrecipient agrees to comply with the provisions of 24 CFR 570.603 and related requirements which may be issued from time to time by the IO CRA. The Subrecipient shall include in all applicable construction contracts the provisions of federal law

imposing labor standards on federally assisted construction, including, but not limited to residential projects for use by eight (8) or more families.

F. ARCHITECTURAL BARRIERS: The Subrecipient agrees to comply with the Architectural Barriers Act of 1968 (42 U.S.C. 4151) when applicable and with handicapped access requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225).

G. CULTURAL ENVIRONMENT: The Subrecipient agrees to comply with the provisions of the Flood Disaster Act of 1973 (42 U.S.C. 4001, et seq.) and regulations pursuant to it.

21. PROHIBITIONS:

A. Prohibition Against Payments of Bonus or Commission: The assistance provided under this Agreement shall not be used in payment of any bonus or commission to obtain HUD or Recipient approval of the application for such assistance or for additional assistance, or any other approval or concurrence required under this Agreement, Title I of the Housing and Community Development Act of 1974, as amended, or IO CRA/ HUD regulations with respect thereto; provided, however, that reasonable fees or bonafide technical, consultant, managerial or other such services, rather than solicitation, are not prohibited if otherwise eligible as program costs.

B. Prohibition Against Kickbacks: The Subrecipient agrees to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) which prohibits kickbacks from public works employees.

C. Conflict of Interest:

(1) No member, officer, or employee of the Recipient, or its designees or agents, no member of the governing body of the Recipient of _____ or the Subrecipient (and no one with whom they have family or business ties) who exercises any functions or responsibilities with respect to the program during his or her tenure or for one year thereafter, shall have any personal or financial benefit, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the Contract.

(2) The Subrecipient agrees that it will incorporate into every written contract the following provision:

"INTEREST OF CONTRACTOR AND EMPLOYEES: The Contractor covenants that no person who presently exercises any functions or responsibilities in connection with the Community Development Program, and no one with whom they have family or business ties, has any personal financial benefit, direct or indirect in this Contract."

D. Political Activity Prohibited: None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any candidate for public office or for political activities.

E. Prohibition of, and Elimination of, Lead-Based Paint Hazard: Notwithstanding any other provision, the Subrecipient agrees to comply with the regulations set forth in 24 CFR 570.608 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in residential structures undergoing federally assisted construction or rehabilitation and require the elimination of lead-based paint hazards. Every contract or subcontract including painting, pursuant to which such federally assisted construction or rehabilitation is performed, shall include appropriate provisions prohibiting the use of lead-based paint.

F. Prohibition of Assistance for Religious Activities and/or Organizations: None of the funds, materials, property or services provided under this Agreement may be used to promote religious activities or to assist religious organizations in promoting secular activities unless specifically allowed under 24 CFR 570.200(j).

G. Lobbying Prohibited: None of the funds provided under this Contract shall be used for publicity or propaganda purposes designed to defeat or support legislation pending before Congress.

22. CERTIFICATION REGARDING LOBBYING: The undersigned representative of the Subrecipient certifies, to the best of his or her knowledge and belief, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned representative of the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned representative of the Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, agreements) and that all subrecipients shall certify and disclose accordingly.

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

23. COMPLIANCE WITH FEDERAL RULES AND REGULATIONS: The Subrecipient agrees to abide by all applicable federal rules and regulations, as amended from time to time, including but not limited to those federal rules and regulations referred to in this Agreement. Unearned payments under this Agreement may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by HUD at any time or if the grant to the Recipient under Title I of the Housing and Community Development Act of 1974, is suspended or terminated.

24. COMPLIANCE WITH FEDERAL CDBG THIRD-PARTY CONTRACT PROVISIONS: The Subrecipient agrees to abide by all federal and IOCRA contract provisions in carrying out the subject CDBG Program. The Subrecipient agrees to incorporate into all third-party contracts undertaken by the Subrecipient involving CDBG funds the provisions provided herein as Appendix II.

25. CLAIMS AGAINST THE RECIPIENT: The Subrecipient agrees to defend, indemnify and save harmless the Recipient and the IOCRA from any and all claims of any nature whatsoever which may arise from the Subrecipient's performance of this Agreement; provided, however, that nothing contained in this Agreement shall be construed as rendering the Subrecipient liable for acts of the Recipient, its officers, agents or employees. Refer to Section 26 below for requirements respective to disallowances of costs by IOCRA or HUD. The Subrecipient further agrees to include the Recipient and the IOCRA as co-insured parties under all policies of liability insurance maintained by the Subrecipient respective to the subject CDBG-funded Program.

26. DISALLOWANCES OF PROGRAM COSTS BY IOCRA OR HUD: The Subrecipient agrees to indemnify and save harmless the Recipient from disallowances by the IOCRA or HUD of program costs incurred by the Subrecipient which arise from the Subrecipient's performance of this Agreement due to the Subrecipient's failure to meet a national objective of the Community Development Block Grant (CDBG) Program pursuant to 24 CFR 570.200(a)(2), 24 CFR 570.208, and 24 CFR 570.483, or for failure to comply with CDBG/HUD regulations or IOCRA regulatory requirements as determined by the IOCRA or HUD. The

Subrecipient agrees to promptly repay the Recipient for all such disallowed costs incurred by the Subrecipient.

IN WITNESS WHEREOF, the Recipient and the Subrecipient have executed this Agreement as of the date first above written.

EXECUTION/SIGNATORIES TO AGREEMENT PROVIDED ON SUCCEEDING PAGE

NAME OF SUBRECIPIENT:

BY: _____

**NAME OF CHIEF EXECUTIVE OFFICER OR
CHAIRMAN OF BOARD OF DIRECTORS**

SIGNATURE: _____

TITLE: _____

DATE: _____

ATTEST:

NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____

NAME OF RECIPIENT: _____

BY: _____

**NAME OF CHIEF ELECTED OFFICIAL OR
OR PRESIDENT OF LEGISLATIVE BODY**

SIGNATURE: _____

DATE: _____

ATTEST:

RECIPIENT'S ATTORNEY

DATE: _____

APPROVED BY THE INDIANA OFFICE OF COMMUNITY AND RURAL AFFAIRS:

BY: _____

Program Manager

DATE: _____

This document was prepared by Mark Wuellner J.D., Office of the Lieutenant Governor, State of Indiana.

APPENDIX I

REFERENCE/GOVERNING REGULATIONS: 24 CFR 570.503

1. STATEMENT OF WORK TO BE PERFORMED BY SUBRECIPIENT [24 CFR 570.503(b)(1)]:

A. DESCRIPTION OF WORK TO BE PERFORMED:

B. PROPERTY ADDRESS AND PARCEL NUMBER OF FACILITY TO BE ASSISTED:

C. SERVICE AREA OF CDBG PROGRAM:

D. SCHEDULE FOR COMPLETION OF WORK/PROJECT TIMETABLE:

E. TARGETED GOALS OF SUBRECIPIENT:

F. PROGRAM BUDGET (ATTACH ADDITIONAL SHEETS IF NEEDED):

2. RECORDS AND REPORTS TO BE FURNISHED BY SUBRECIPIENT [24 CFR 570.503(b)(2)]:

Refer to Sections 9, 10 and 11 of this Agreement between Recipient and Subrecipient. Additional recording and reporting requirements will include the following:

3. FEDERAL CDBG PROGRAM INCOME RECEIVED BY SUBRECIPIENT [24 CFR 570.503(b)(3)]:

Pursuant to 24 CFR 570.504, the Subrecipient shall do one (1) of the following respective to all CDBG Program Income received resulting from operation of CDBG-assisted Program facilities and assets:

- A. _____ Return all such Program Income to the Recipient; or,
- B. _____ Retain all such Program Income generated by the Subrecipient and Subrecipient shall expend all such Program Income for the following activities, approved by the Recipient and IOCRA in writing:

Recipient and Subrecipient agree that all CDBG Program Income shall be expended prior to drawing any additional CDBG funds from the IOCRA for Program-related expenses.

Recipient and Subrecipient further agree that in the event of reversion of CDBG-assisted facilities and assets to Recipient upon the expiration of this Agreement, or if received after the expiration of this Agreement, all CDBG Program Income shall be paid to the Recipient as required by 24 CFR 570.503(b)(7).

4. COMPLIANCE WITH UNIFORM ADMINISTRATIVE REQUIREMENTS [24 CFR 570.503(b)(4)]:

The Subrecipient shall comply with all applicable federal CDBG Uniform Administrative Requirements as described in Section 9 of this Agreement and other requirements set forth in 24 CFR 570.502.

5. COMPLIANCE WITH OTHER PROGRAM REQUIREMENTS [24 CFR 570.503(b)(5)]:

The Subrecipient shall comply with all applicable federal laws and regulations set forth under the following CDBG-related regulatory provisions:

- A. 24 CFR 570.601: Affirmatively furthering fair housing (Executive Order 11063)
- B. 24 CFR 570.602: Section 109 of the Housing and Community Development Act of 1977
- C. 24 CFR 570.603: Federal Labor Standards compliance requirements
- D. 24 CFR 570.604: Environmental standards
- E. 24 CFR 570.605: National Flood Insurance Program
- F. 24 CFR 570.606: Displacement, acquisition and relocation requirements
- G. 24 CFR 570.607: Section 3 of the Housing and Community Development Act of 1968
- H. 24 CFR 570.608: Compliance with lead-based paint requirements
- I. 24 CFR 570.609: Prohibition of use of suspended and debarred contractors and subrecipients
- J. 24 CFR 570.610 : Compliance with Uniform Administrative Requirements (24 CFR 570.202)
- K. 24 CFR 570.611: Compliance with Conflict of Interest requirements (24 CFR 570.611)
- L. 24 CFR 570.612: Compliance with Executive Order 12372

- M. 24 CFR 570.613: Eligibility requirements of certain resident aliens
- N. 24 CFR 570.614: Compliance with the Architectural Barriers Act and Americans With Disabilities Act

The Recipient shall be responsible for carrying out regulatory requirements respective to environmental responsibilities described at 24 CFR 570.604 and the Recipient shall have the responsibility for initiating the environmental review process as is required by 24 CFR Part 58.

6. SUSPENSION AND TERMINATION PROVISIONS [24 CFR 570.503(b)(6)]:

As set forth in Section 13 of this Agreement and in accordance with 24 CFR 85.43, suspension or termination of this Agreement may occur if the Subrecipient materially fails to comply with any term of the CDBG award to Recipient from IOCRA; further, the Agreement may be terminated for convenience in accordance with 24 CFR 85.44.

7. USE AND REVERSION OF ASSETS [24 CFR 570.503(b)(7)]:

A. Upon expiration of this Agreement, the Subrecipient shall transfer to the Recipient any CDBG funds on hand and any CDBG-related accounts receivable.

B. All CDBG-assisted real and personal property under control of Subrecipient shall be used to meet the prescribed CDBG national objective applicable to the CDBG award to the Recipient by until five (5) years after the date a "Certificate of Completion" is issued by IOCRA respective to this project.

C. In the event the Subrecipient fails to use the CDBG-assisted real and personal property in a manner which meets the prescribed CDBG national objective, the Subrecipient shall pay the Recipient an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvements to, the property.

D. No payment by Subrecipient to Recipient as set forth in Section 7C above is required after the expiration of the period of time set forth in Section 7B above. Further, unless otherwise specified within this Agreement, the Subrecipient may retain the CDBG-assisted facilities and assets after the expiration of the five-year period cited in Section 7B above.

APPENDIX II

FEDERAL AND STATE THIRD-PARTY CONTRACT PROVISIONS

CDBG-ASSISTED NON-CONSTRUCTION CONTRACTS

(Required by Title 24 of the Code of the Federal Register as well as other selected contract provisions required by the Indiana Office of Community and Rural Affairs for CDBG-assisted grants/activities)

The following Federal Regulations, Contract Provisions and Clauses are incorporated into this agreement in their entirety, and made an integral part hereof.

1. Equal Employment Opportunity (Executive Order 11246 dated 9/24/65, as amended by Executive Order 11375 dated 10/13/67):

The contractor hereby agrees that it will incorporate or cause to be incorporated into any contract for professional services, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the federal government or borrowed on the credit of the federal government pursuant to a grant, contract, loan insurance or guarantee or undertaken pursuant to any federal program involving such grant, contract, loan insurance or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination.

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

C. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, and with the rules, regulations and relevant orders of the Secretary of Labor.

E. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

F. In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of

September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

G. The contractor will include the portion of the sentence immediately preceding paragraph A and the provisions of paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 14, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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

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

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

2. Minority and Women Business Enterprise Policy (Indiana Office of Community and Rural Affairs):

The contractor agrees to ensure that disadvantaged business enterprises as defined in 13 CFR 124.103 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 13 CFR 124.103 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of this contract. The contractor shall establish and pursue a 10% goal for participation in the proceeds of this contract.

During the performance of this contract, the contractor agrees to comply with Executive Order 12138 entitled "Women Business Enterprise Policy" which includes, but is not limited to, creating or supporting new programs responsive to the special needs of women business enterprises, establishing incentives to promote business or business-related opportunities of women business enterprises, collecting and disseminating information in support of women business enterprise in ensuring to women business enterprises knowledge of any ready access to business-related services and resources.

3. Compliance in the Provision of Training, Employment and Business Opportunities:

A. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development through the Indiana Office of Community and Rural Affairs and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC, 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

4. Title VI Civil Rights Act of 1964:

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

A. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices.

B. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.

C. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, their sources of information and its facilities as may be determined by the Indiana Office of Community and Rural Affairs or the United States Department of Housing and Urban Development to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information is required or a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the awarding agency, the Indiana Office of Community and Rural Affairs, or the United States Department of Housing and Urban Development, as appropriate, and shall set forth what efforts it has made to obtain the information.

D. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Indiana Office of Community and Rural Affairs or the United States Department of Housing and Urban Development shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

- (1) Withholding of payments to the contractor under the contract until the contractor complies; and/or,
- (2) Cancellation, termination or suspension of the contract, in whole or in part.

E. The contractor shall include the provisions of paragraph (A) through (E) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Indiana Office of Community and Rural Affairs or the United States Department of Housing and Urban Development may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Indiana Office of Community and Rural Affairs to enter into such litigation to protect the interests of the State of Indiana, and, in addition, the contractor may request the United States Department of Housing and Urban Development to enter into such litigation to protect the interests of the United States.

5. Title VIII Civil Rights Acts of 1968 (as applicable):

The contractor shall comply with Title VIII Civil Rights Acts of 1968 which prohibits discrimination in the sale or rental of dwellings (as defined), discrimination in the financing or housing, blockbusting, and discriminatory advertising; and makes it unlawful to deny any person access to, or membership or participation in, any multiple listing service or real estate broker organization for discriminatory reasons.

6. Section 109 Housing and Urban Development Act of 1974 (as applicable):

The contractor provides that no person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part under this title.

7. Section 504 Rehabilitation Act of 1973:

A. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all demotion or transfer, recruitment, advertising, layoff or termination rates of pay or other forms of compensation, and selection for training, including apprenticeship.

B. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

C. In the event of the contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

D. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Indiana Office of Community and Rural Affairs, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

E. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 504 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

F. The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 504

of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

8. Fair Housing Amendments Act of 1988 (as applicable):

The contractor shall comply with Fair Housing Amendments Act of 1988 which Amends Title VIII of the Civil Rights Act of 1968 that prohibits discrimination on the basis of race, color, religion, sex or national origin in the sale, rental and financing of dwellings. The 1988 Amendments Act extends coverage of the 1968 Act to persons with disabilities and families with children. In addition, the 1988 Amendments establish certain design and construction requirements for new multi-family housing built for first occupancy on or after March 13, 1991.

9. Age Discrimination Act of 1975:

The contractor shall comply with the Age Discrimination Act of 1975 which provides that no person, on the basis of age shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

10. Americans With Disabilities Act of 1990:

The contractor shall comply with the Americans With Disabilities Act of 1990 which provides that no person, on the basis of handicap, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

11. Certification of Nonsegregated Facilities:

The contractor certifies that he/she does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and those under his/her control. He/she certifies further that he/she will not maintain or provide for employment segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of the contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or in fact segregated on the basis of race, color, religion or national origin because of habit, local custom, or otherwise. He/she further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certification from proposed subcontractors prior to the awards of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he/she will retain such certification in his/her files; and that he/she will forward this notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

12. Retention and Access Requirements For Records (24 CFR Part 85.42):

A. The contractor shall comply with Retention and Access Requirements For Records (24 CFR Part 85.42) and State of Indiana records access and retention requirements, to wit:

Financial records, supporting documents, statistical records and all other records pertinent to a grant shall be retained for a period of five (5) years, with the following qualifications:

- (1) If any litigation, claim, negotiation, audits or other action is started before the expiration of the five-year period, the records shall be retained until all litigation, claim or audit findings involving the records have been resolved, or the five-year period, whichever is later.
- (2) Records of nonexpendable property acquired with federal funds shall be retained for five years after final disposition of such property.

(3) When records are transferred to or maintained by the federal sponsoring agency, the five-year retention required is not applicable to the grantee.

B. The five-year retention period starts from the date of issuance of a "Certification of Completion" respective to the grant by the Indiana Office of Community and Rural Affairs.

C. The Indiana Office of Community and Rural Affairs shall request transfer of certain records to its custody from grantees when it is determined that the records possess long-term retention value. However, in order to avoid duplicate record-keeping, the Indiana Office of Community and Rural Affairs may make arrangements with grantees to retain any records that are continuously needed for joint uses.

D. The Indiana Office of Community and Rural Affairs, the United States Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records of grantee and sub-grantees to make audits, examinations, excerpts and transcripts.

E. Unless otherwise required by law, Indiana Office of Community and Rural Affairs shall not place restrictions upon grantees that will limit public access to the records of grantees that are pertinent to a grant except when the agency can demonstrate that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 USC 552) if the records had belonged to the grantor agency.

13. Conflict of Interest (24 CFR 85.36 and 24 CFR 570.611):

The contractor shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by federal funds. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Persons covered under this section include any person who is:

- (a) An employee, agent, consultant, officer, or elected or appointed official of the grantee, any designated public agency or any subrecipient agency that is receiving CDBG funds from the Indiana Office of Community and Rural Affairs;
- (b) Any member of his/her immediate family;
- (c) His or her partner; or
- (d) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements funded with CDBG funds. To the extent permitted by state or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents or by contractors or their agents.

No persons described in (a) through (d) above who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter.

14. Remedies/Sanctions or Breach of Contract Terms:

Upon written notice, the grantee may withhold payments to the contractor if the contractor shall fail to fulfill in a timely and proper manner its obligations to grantee under this contract, or if the contractor shall violate any of the conditions of this contract. The grantee shall in its written notice to contractor fully describe the nature of failure or violation by contractor, the corrective action required of contractor, and, the grantee shall allow the contractor thirty (30) days from the date of notification to correct such failure and/or violation. If such failure or violation is corrected by the contractor within thirty (30) days from the date of notification, then the grantee shall process payment(s) to the contractor. If such failure or violation is not corrected within thirty (30) days from the date of this notification, then the grantee may proceed to terminate this contract.

15. Termination of Contract for Cause - 24 CFR 85.43 (All Contracts in Excess of \$10,000):

If the contractor shall fail to fulfill in a timely and proper manner his/her obligations under this contract, or if the contractor shall continue to violate any of the covenants, agreements, or stipulations of this contract, following notices by the grantee and allowances for corrective actions specified in Paragraph 14 above, the grantee shall thereupon have the right to terminate this contract by giving written notice to the contractor of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the contractor under this contract shall, at the option of the grantee, become the property of the grantee and the contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. In the event the contractor disputes grantee's election to terminate this contract for cause under this paragraph, contractor may pursue equitable relief or remedy.

16. Termination for Convenience - 24 CFR 85.44 (All Contracts in Excess of \$10,000):

The grantee may terminate this contract for its convenience, at any time, by giving at least thirty (30) days notice in writing to the contractor. If the contract is terminated by the grantee as provided herein, the grantee agrees to pay the contractor, no later than thirty (30) days following the date of the written notice of contract termination by grantee. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the contractor under this contract shall, at the option of the grantee, become the property of the grantee and the contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

17. Changes to Contract:

The terms and conditions of this contract may be changed at any time by mutual agreement of the parties. Such modification shall be effective upon the signing by both parties of an addendum to this contract encompassing those changes. Where the addendum changes the compensation or time of performance, it shall also describe the change in scope, character or complexity of the work that is the basis for the change.

18. Contractor to Furnish Necessary Personnel Resources:

A. The contractor represents that it has, or will secure at its own expense, all personnel required in performing the services specified in this contract. Such personnel shall not be employees of or have, as individuals, any contractual relationship with the grantee.

B. All of the services required hereunder will be performed by the contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.

C. With the exception of the work described as being subcontracted within the contract, if any, none of the work or services covered by this contract shall be subcontracted without the prior approval of the grantee. Any additional work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this contract.

19. Reports and Information:

The contractor, at such times and in such forms as the grantee or the Indiana Office of Community and Rural Affairs may require, shall furnish grantee and/or the Indiana Office of Community and Rural Affairs such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred by grantee in connection therewith, and any other matters covered by this contract.

20. Records and Audits:

The contractor shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this contract and such other records as may be deemed necessary by the grantee to assure proper accounting for all funds applicable to this contract. These records will be made available for audit purposes to the grantee or any authorized representative, and will be retained for five years after the expiration of this contract unless permission to destroy them is granted.

21. Copyright and Patent Rights:

No reports, maps, or other documents produced in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the contractor. The US Department of Housing and Urban Development, the Indiana Office of Community and Rural Affairs and the grantee shall possess all rights to invention or discovery, as well as rights in data which may arise as a result of the contractor's services.

22. Compliance with State and Local Laws:

The contractor specifically agrees that in performance of the services herein enumerated, contractor and his/her employees/agents will comply with any applicable State, and Local Statutes, ordinances and regulations at the time this agreement is executed.

23. Disclosure Reports (HUD Reform Act of 1989 - 24 CFR Part 4.9):

Section 2 of the HUD Reform Act of 1989 requires that if the grantee receives \$200,000 or more in federal CDBG funds during a federal fiscal year, (October 1 - September 30), a HUD disclosure report must be completed for each contract funded in whole or in part with federal CDBG funds. A copy of all such Disclosure Reports must be submitted by the grantee to the Grant Services Office of the Indiana Office of Community and Rural Affairs within ten (10) days after contract execution. In order for the grantee to comply with this federal requirement, the grantee will provide to the contractor the prescribed format of Part IV to the HUD Disclosure Report, and the contractor agrees to furnish the grantee a completed Part IV to the HUD Disclosure Report within seven (7) days of execution of the agreement between contractor and grantee. Within such Part IV of the prescribed HUD Disclosure Report, the contractor will provide the grantee with the following minimum information:

- a. The name of all persons who are proprietors, partners, directors or officers of the contractor and thereby have a pecuniary interest in the proceeds of the CDBG-assisted contract;
- b. The social security account number of all proprietors listed in a. above, or the federal identification number of the partnership or corporation which is subject to the CDBG-assisted contract, as applicable;
- c. The type of participation each individual named in a. above will have in the CDBG-assisted contract. Such participation may be listed in the Part IV of the HUD Disclosure Report as "direct", or "passive", whichever applies to such proprietor, partner, director or officer, as applicable; and,
- d. The financial interest of the named individual as set forth in a. above; such interest to be expressed in dollar terms or in terms of percentage of ownership of the proprietorship, partnership, or corporation which is to receive federal CDBG funding under this contract.

24. Compliance with Copeland “Anti-Kick Back” Act:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Copeland “Anti-Kick Back” Act (18 USC 874) as supplemented in US Department of Labor regulations 29 CFR Part 3, respective to all contracts and subgrants for construction or repair services.

25. Compliance with Davis-Bacon Act:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Davis-Bacon Act (40 USC 276a to 276a-7) as supplemented in US Department of Labor regulations 29 CFR Part 5, respective to construction contracts in excess of \$2,000 awarded by grantees and subgrantees.

26. Compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Contract Work Hours and Safety Standards Act (40 USC 327-333) as supplemented in US Department of Labor regulations 29 CFR Part 5, respective to construction contracts in excess of \$2,000 awarded by grantees and subgrantees, and \$2,500 for other contracts which involve the employment of mechanics or laborers.

27. Compliance with Clean Air and Water Acts (applicable to all contracts over \$100,000):

In carrying out this agreement, the contractor agrees to comply with the requirements of the Federal Clean Air Act (42 USC 7401 et seq.), and the Federal Water Pollution Control Act (33 USC 1251 et seq.), as amended. Such statutes and regulations prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the Environmental Protection Agency’s List of Violating Facilities. The provision shall require reporting of violations to the grantor agency and to the US Environmental Protection Agency.

28. Conservation:

In carrying out this agreement, the contractor agrees to comply with the requirements of mandatory standards and policies relating to energy efficiency which are contained in the State of Indiana’s energy conservation plan issued in compliance with the federal Energy Policy and Conservation Act (PL 94-163, 89 Statutes 871).

29. Drug-Free Workplace Requirements:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Drug-Free Workplace Act of 1988 (42 U.S.C. 701) and to certify that contractor will comply with drug-free workplace requirements in accordance with the Act and with HUD rules found at 24 CFR part 24, subpart F.

APPENDIX III

Insert Sub-Recipient Lien and Restrictive Covenant Agreement when required.