

Bill No. 4652

Ordinance No. 18-100

Requested by: Michael Hurlbert

Sponsored by: Mike Elam

AN ORDINANCE AUTHORIZING EXECUTION OF AN AGREEMENT RELATING TO ST. CHARLES COUNTY'S "URBAN COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM" OR "URBAN COUNTY CDBG PROGRAM" FOR 2017 THROUGH 2019, NAMELY: A 2018 SUBRECIPIENT AGREEMENT BETWEEN ST. CHARLES COUNTY AND THE CITY OF ST. PETERS FOR THE CITY'S OPERATION OF THE CITY'S CDBG PROGRAMS AND SERVICES.

WHEREAS, in 1974, the U.S. Congress enacted and the President signed into law "The Housing and Community Development Act of 1974," herein called the "Act," relating to federal involvement in a wide range of housing and community development activities and containing eight separate titles; and

WHEREAS, the Act recognized that units of general local government ("UGLG") may enter into cooperation agreements with counties in order to form an "urban county" and undertake more comprehensive community development activities as authorized by Section 105 of the Act; and

WHEREAS, pursuant to the Act, to the provisions of Sections 70.210 to 70.320 RSMo, and to St. Charles County Ordinances 16-044 and 17-055, the County authorized cooperative agreements to form an "urban county" with

the Cities of Cottleville, Lake St. Louis, New Melle, St. Peters, Weldon Spring, Wentzville and City of St. Charles and renew such urban County designation and the U.S. Department of Housing and Urban Development, hereinafter referred to as “HUD”, has renewed the County’s designation as an “urban county”; and

WHEREAS, for the City of St. Peters to develop and implement City’s CDBG plans and programs for the period 2018 to 2019, it is necessary to enter into the subrecipient agreement authorized herein; and

WHEREAS, the provisions of Sections 70.210 to 70.320, RSMo, empower municipalities or political subdivisions to contract with each other for common services and the purposes herein set out and authorize the agreements with the City of St. Peters identified above.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. CHARLES COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The County Council hereby authorizes the County Executive to execute the 2018 Subrecipient Agreement between St. Charles County and the City of St. Peters for the City’s development and implementation of City’s CDBG funded plans and programs. The agreement will cover the period from January 1, 2018 to December 31, 2018, and shall be substantially the same in form and content as that attached hereto as **EXHIBIT A.**

Section 2. The County Executive has indicated that compliance with the terms of the Agreement identified in this ordinance shall be the responsibility of the Director of the St. Charles County Department of Community Development.

Section 3. This ordinance shall be in full force and effect from and after the date of its passage and approval.

October 9, 2018  
DATE PASSED

October 17, 2018  
DATE APPROVED BY COUNTY EXECUTIVE

Dave Hammer  
CHAIR OF THE COUNCIL

[Signature]  
COUNTY EXECUTIVE

ATTEST:  
[Signature]  
COUNTY REGISTRAR

# **EXHIBIT A**

## **SUBRECIPIENT AGREEMENT BETWEEN ST. CHARLES COUNTY AND THE CITY OF ST PETERS FOR CONDUCTING CITY CDBG PROGRAMS WITH 2018 FEDERAL FUNDING**

THIS AGREEMENT, entered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between St. Charles County, Missouri (herein called the “Grantee”) and The City of St. Peters, Missouri (herein called the “Subrecipient”).

WHEREAS, the Grantee has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383; and

WHEREAS, the Grantee and Subrecipient have entered into a Cooperation Agreement for joint participation in the Community Development Block Grant Program, as executed by the parties on July 15, 2016, (herein called the “Joint Agreement”); and

WHEREAS, the Grantee shall make available to the Subrecipient an allocated amount of CDBG funds per their Joint Agreement; and

WHEREAS, the Grantee and Subrecipient desire to establish responsibilities and obligations in Subrecipients utilization of such funds;

NOW, THEREFORE, it is agreed between the parties hereto that:

### **I. SCOPE OF PROJECTS**

#### **A. Activities**

Subject to Section IV.C of the Joint Agreement identified above, the Subrecipient will be responsible for administering several 2018 Community Development Block Grant (CDBG) programs in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

#### **Activity #1 St. Peters Transportation Program**

Provides trips to medical, shopping and essential services for qualifying St. Peters residents eligible based on age, disability or income who may lack access to a vehicle or are unable to drive. The major tasks that the Subrecipient will perform in connection with the provision of the eligible transportation program include, but are not limited to, the following:

- 1) **Outreach:** Conduct outreach to promote program with goal of assisting 250 St. Peters residents with transportation services.

- 2) **Intake/assessment of eligibility:** Accept applications and perform eligibility determinations.
- 3) **Program Administration:** Contract with a transportation provider per HUD procurement standards.
- 4) **Maintenance of case files and other records:** The Subrecipient will maintain program and financial records in accordance with the general requirements for record keeping specified in Section VIII of this Agreement.

**Activity #2 Home Improvement Program:** the Subrecipient will provide home improvement loans and grants to qualifying St. Peters residents eligible based on income.

The major tasks that the Subrecipient will perform in connection with the Home Improvement Program include, but are not limited to, the following:

- 1) **Refinement of plans, procedures and forms:** the Subrecipient will establish the program design and procedures (including but not limited to the priorities among applicants and among rehabilitation measures, the limits and structure of financial assistance, and the recapture and affordability policies), as well as any other necessary forms, documents or sample contracts.
- 2) **Outreach:** the Subrecipient will promote the program to attract enough eligible applicants from the City of St. Peters to participate in the program to meet the CDBG Year 2018 housing rehabilitation goal of 20 completed units.
- 3) **Intake/assessment of eligibility:** the Subrecipient will assist residents of St. Peters by answering questions that may arise regarding the Home Improvement Program or application prior to the submission deadline. The Subrecipient will make provision for translation services to meet the needs of non-English-speaking applicants should they be requested.

Initial eligibility determination of households will be made by the Subrecipient on the basis of satisfaction of income according to the most current income limits established by HUD.

- 4) **Contractors:** assist applicants with contractor approval for eligible rehabilitation projects.
- 5) **Final Inspection:** Subrecipient will provide final inspections for approved projects prior to final payment.
- 6) **Approval of contractor payments:** Subrecipient will ensure proper payments are made according to terms of approved bids.
- 7) **Maintenance of case files and other records:** The Subrecipient will maintain program and financial records in accordance with the general requirements for record keeping specified in Section VIII of this Agreement.

**Activity #3 Community Services:** Provides lawn mowing assistance to St. Peters residents accepted based on age and income or disability and income.

**1) Outreach:** the Subrecipient will promote the Community Services program to ensure that enough eligible applicants from the City of St. Peters participate in the program to meet the CDBG Year 2018 goal of assisting 7 eligible households.

**2) Intake/assessment of eligibility:** the Subrecipient will assist residents of St. Peters by answering questions that may arise regarding the Community Services program or application prior to the submission deadline.

**3) Communication:** the city will act as a liaison between the participant and contracted business providing the lawn mowing service.

**4) Maintenance of case files and other records:** The Subrecipient will maintain program and financial records in accordance with the general requirements for record keeping specified in Section VIII of this Agreement.

#### **Activity #4 Administration**

Funding to cover administrative costs associated with Rehabilitation programs to include but not limited to salaries, recording fees, and postage.

**Activity #5 Meals on Wheels:** Provides meals to St. Peters residents accepted based on age.

**1) Outreach:** the Subrecipient will work with the contractor to ensure that enough eligible applicants from the City of St. Peters participate in the program to meet the CDBG Year 2018 goal of assisting 50 eligible persons.

**2) Intake/assessment of eligibility:** the Subrecipient will assist residents of St. Peters by answering questions that may arise regarding the Meals on Wheels program.

**3) Communication:** the City will act as a liaison between the participant and contracted business providing the meals on wheels service.

**4) Maintenance of case files and other records:** The Subrecipient will maintain program and financial records in accordance with the general requirements for record keeping specified in Section VIII of this Agreement.

#### **B. National Objectives**

During the period covered by this agreement, not less than 70 percent of CDBG funds will be used for activities that benefit low- and moderate-income persons. In addition, each activity will meet one of the following national objectives for the program: benefit low- and moderate-income persons, prevention or elimination of slums or blight, or address community development needs having a particular urgency because existing conditions pose a serious and

immediate threat to the health or welfare of the community for which other funding is not available. Subrecipient will also provide documentation of National Objectives within Activity project files.

## **II. SCOPE OF SERVICES**

### **A. General Administration**

Subrecipient shall undertake and complete activities as set forth in this Agreement, including but not limited to qualifying eligible applicants based on completed applications and program guidelines, maintaining files, performing required environmental reviews, reviewing bids, & preparing check requests for all St. Peters programs and providing inspections for St. Peters Rehabilitation programs. Subrecipient shall monitor contractors who perform these duties on the Subrecipient participant's behalf to ensure compliance.

### **B. Levels of Accomplishment – Goals and Performance Measures**

The Subrecipient agrees to provide the following levels of program services:

#### **Activity Units/Year**

Activity #1 Subrecipient's goal is to assist 62 St. Peters residents under the Transportation Program utilizing CDBG funds and an additional 188 St. Peters residents with supplemental funding from the Subrecipient during FY18.

Activity #2 Sub-recipient's goal is to assist 20 St. Peters households under the Home Improvement Program during FY18

Activity #3 Sub-recipient's goal is to assist 7 St. Peters residents under the Community Services Program during FY18

Activity #4 Administrative costs related to salaries, recording fees or any additional costs associated with administration of Subrecipient's rehabilitation programs.

Activity #5 Subrecipient's goal is to provide 10 senior residents of St. Peters with 25 meals each.

### **C. Staffing**

Staff administering the CDBG programs will be persons employed by the Subrecipient or employed by a contractor of the Subrecipient for programs such as Community Services, and Transportation.

D. Performance Monitoring

The Grantee will directly monitor the performance of the Subrecipient against goals and performance standards as stated above as deemed necessary by the Grantee. Substandard performance as determined by the Grantee or its designee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures may be initiated.

**III. TIME OF PERFORMANCE**

The term of this Agreement and the provisions herein shall be in effect for CDBG program Year 2018 and shall extend to cover any additional time period during which the Subrecipient remains in control of CDBG funds or other CDBG assets, including program income. If unexpended funding will impact the Grantee’s timeliness ratio, the Grantee can require the Subrecipient to transfer funds to another approved program in accordance with the Grantee’s Citizen Participation Plan.

**IV. BUDGET**

CDBG funds shall be used solely for the stated purposes set forth in this Agreement. The expenditures will be supported by bids, invoices, vouchers and other data as appropriate. If the CDBG funds are not expended in accordance with the terms, conditions and time period set forth in this Agreement, the amounts improperly expended or not expended shall be returned to the Grantee.

Project costs shall be paid in accordance with the budget allocations agreed upon by the Grantee and Subrecipient. All costs incurred will be documented within the project files. It is further acknowledged and agreed that transferring funding between projects will adhere to the guidelines established in the County’s Citizen Participation Plan.

Subrecipient will administer CDBG programs under the terms of this agreement based on the Subrecipient’s total share of two hundred thousand and zero/one hundreds dollar (\$200,000.00) of the Grantee’s FY18 total allocation per the Joint Agreement identified above.

**Activity 1 (Transportation)**

<u>Line Item</u>	<u>Amount:</u>
Salaries and Administration	\$_____
Fringe	_____
Office Space (Program only)	_____
Utilities	_____
Communications	_____
Reproduction/Printing	_____
Supplies and Materials	_____
Mileage	_____



Audit	_____
Other (Specify)	up to \$28,500.00 – Contracted transportation services
Indirect Costs (Specify)	_____
<b>TOTAL</b>	<b>\$_____</b>

**Activity 2 (Home Improvement)**

<u>Line Item</u>	<u>Amount:</u>
Salaries and Administration	_____
Fringe	_____
Office Space (Program only)	_____
Utilities	_____
Communications	_____
Reproduction/Printing	_____
Supplies and Materials	_____
Mileage	_____
Audit	_____
Other (Specify)	\$159,000.00 rehabilitation loans
Indirect Costs (Specify)	_____
<b>TOTAL</b>	<b>\$_____</b>

**Activity 3 (Lawn Maintenance)**

<u>Line Item</u>	<u>Amount:</u>
Salaries	\$_____
Fringe	_____
Office Space (Program only)	_____
Utilities	_____
Communications	_____
Reproduction/Printing	_____
Supplies and Materials	_____
Mileage	_____
Audit	_____
Other (Specify)	\$1,500.00 lawn maintenance assistance
Indirect Costs (Specify)	_____

**Activity 4 (Administration)**

<u>Line Item</u>	<u>Amount:</u>
Salaries and Administration	\$_____
Fringe	_____
Office Space (Program only)	_____
Utilities	_____
Communications	_____

Reproduction/Printing	_____
Supplies and Materials	_____
Mileage	_____
Audit	_____
Other (Specify)	\$1,000.00 rehab admin
Indirect Costs (Specify)	_____

**Activity 5 (Meals on Wheels)**

<u>Line Item</u>	<u>Amount:</u>
Salaries and Administration	\$_____
Fringe	_____
Office Space (Program only)	_____
Utilities	_____
Communications	_____
Reproduction/Printing	_____
Supplies and Materials	_____
Mileage	_____
Audit	_____
Other (Specify)	\$10,000.00 – Contracted Meals services
Indirect Costs (Specify)	_____
<b>TOTAL</b>	<b>\$ 200,000.00</b>

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C)(2) of this Agreement. In addition, the Grantee may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. Any amendments to the budget must be approved in writing by both the Grantee and the Subrecipient.

**V. PAYMENT**

It is expressly agreed and understood that Subrecipient’s total CDBG allocation will be paid by the Grantee under this Agreement as identified in the Joint Agreement.

The Subrecipient will advance fund its programs outlined in Section IV of this Agreement. The Subrecipient will monitor funds, prepare check requests and track expenditures on behalf of CDBG program participants and programs.

Draw-downs for the reimbursement of eligible expenses shall be made against the line item budgets specified in Section IV herein and in accordance with performance as entered into the Integrated Disbursement and Information System (IDIS) by the Grantee or its representative.

**VI. NOTICES AND COMMUNICATION**

Notices required by this Agreement shall be in writing and delivered via mail, commercial courier, or personal delivery or sent by facsimile or other electronic means provided that receipt

is confirmed. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

The below named individuals shall be the authorized representatives of the Grantee and Sub-recipient and are hereby authorized to approve amendments or adjustments as provided herein.

Communication and details concerning this contract shall be directed to the following contract representatives:

<u>Grantee</u>	<u>Subrecipient</u>
Robert Myers, AICP Director of Planning & Zoning Division St. Charles County Government 201 N. Second St. – Suite 410 St. Charles, MO 63301 636-949-7335 ext. 7225 <a href="mailto:rmyers@sccmo.org">rmyers@sccmo.org</a>	William B. Benesek, P.E. Manager, Transportation and Development Services Group City of St. Peters One St. Peters Centre Blvd St. Peters, MO 63376 636-477-6600, ext. 1390 <a href="mailto:bbenesek@stpetersmo.net">bbenesek@stpetersmo.net</a>

## **VII. GENERAL CONDITIONS**

### **A. General Compliance**

The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including Subpart K of these regulations, except that (1) the Subrecipient does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Subrecipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

### **B. "Independent Contractor"**

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Subrecipient is an independent contractor.

C. Hold Harmless

The Subrecipient shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers' Compensation

The Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

E. Insurance & Bonding

The Subrecipient shall carry sufficient insurance or coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

The Subrecipient shall comply with the bonding and insurance requirements of 24 CFR 84.31 and 84.48, Bonding and Insurance.

F. Grantee Recognition

The Subrecipient shall insure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

G. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Grantee's governing body as may be required. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal or state guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

#### H. Suspension or Termination

In accordance with 24 CFR 85.43, the Grantee may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or
4. Submission by the Subrecipient to the Grantee reports that are incorrect or incomplete in any material respect.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the Grantee or the Subrecipient, in whole or in part, by 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 Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the award in its entirety.

### VIII. ADMINISTRATIVE REQUIREMENTS

#### A. Financial Management

##### 1. Accounting Standards

The Subrecipient agrees to comply with 24 CFR 84.21–28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

##### 2. Cost Principles

The Subrecipient shall administer its program in conformance with OMB Circulars A-122, “Cost Principles for Non-Profit Organizations,” A-21, “Cost Principles for Educational Institutions,” or OMB Circular A-87, “Cost Principles for State and Local Governments”, as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

#### B. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f. Financial records as required by 24 CFR 570.502, and 24 CFR 84.21–28; and
- g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Retention

The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

4. Disclosure

The Subrecipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly

connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited unless prior written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The Subrecipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control over CDBG funds, including program income.

6. Audits & Inspections

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning subrecipient audits and 2 CFR part 200, sub part F.

C. Reporting and Payment Procedures

1. Program Income

Program income shall be retained by the Subrecipient in addition to the total allocation agreed upon in the joint agreement. The Subrecipient shall annually report all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this contract. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Subrecipient may only use such income for activities permitted under this contract. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the Grantee.

2. Indirect Costs

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payments.

4. Progress Reports

The Subrecipient shall submit an annual Progress Report to the Grantee outlining accomplishments of approved activities for the Consolidated Annual Performance and Evaluation Report.

D. Procurement

1. Compliance

The Subrecipient shall comply with federal guidelines concerning the purchase of equipment. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this Agreement.

2. OMB Standards

Unless specified otherwise within this agreement, the Subrecipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40–48.

3. Travel

The Subrecipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this Agreement.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:



1. The Subrecipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.
2. Real property under the Subrecipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement. If the Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Subrecipient shall pay the Grantee an amount equal to 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 shall constitute program income to the Grantee. The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period.
3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee.

**IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT**

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. The Subrecipient shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

**X. PERSONNEL & PARTICIPANT CONDITIONS**

A. Civil Rights

1. Compliance

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

2. Nondiscrimination

The Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Subrecipient agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The Grantee shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. Affirmative Action

1. Approved Plan

The Subrecipient agrees that it shall be committed to carry out pursuant to the Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program.

2. Women- and Minority-Owned Businesses (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or contract, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Subrecipient will include the provisions of Paragraphs X.A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. “Section 3” Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Grantee, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD 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). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns

that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement, if any, a notice advising said labor organization or worker's representative of its 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.

c. Subcontracts

The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written form and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Subrecipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Subrecipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

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

4. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include (but are not limited to) the following:

- a. The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
- b. No employee, officer or agent of the Subrecipient shall participate in the 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.
- c. No covered persons 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. For purposes of this paragraph, a “covered person” includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Subrecipient, or any designated public agency.

5. Lobbying

The Subrecipient hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions; and
- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly:
- d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or



entering into this transaction imposed by section 1352, title 31, U.S.C. 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.

6. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

7. Religious Activities

The Subrecipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

**XI. ENVIRONMENTAL CONDITIONS**

A. Air and Water

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. , 7401, *et seq.*;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint

Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

**XII. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

**XIII. SECTION HEADINGS AND SUBHEADINGS**

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

**XIV. WAIVER**

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

**XV. ENTIRE AGREEMENT**

This agreement constitutes the entire agreement between the Grantee and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or

written between the Grantee and the Subrecipient with respect to this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have entered into this Agreement on the date last written below.

Executed by the County this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

Executed by the City this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ .

[Grantee]

[Subrecipient]

By \_\_\_\_\_  
Steve Ehlmann, County Executive

By \_\_\_\_\_  
Russell W. Batzel, City Administrator

Attest \_\_\_\_\_

Attest \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_