

County Of Lexington

CDBG

Policy & Procedures



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Introduction

The Housing and Community Development Act of 1974 (HCDA), authorized HUD to create the Community Development Grant (CDBG) Program. The program seeks to provide decent housing, a suitable living environment, and expand economic opportunities for low and moderate income persons.

The County of Lexington has been a participant in the Community Development Block Grant (CDBG) Program since July 1, 2000. To continue participation in this program, the County of Lexington contractually agrees with HUD to implement the Housing and Community Development Act of 1974 and related CDBG program regulations in 24 CFR 570. All CDBG allocations are subject to the regulations detailed in OMB Circulars A-110 and A-122.

This Policies & Procedures Manual establishes the framework guiding the operation of the Lexington County Community Development Block Grant (CDBG) Program. IT provides an approach for making decisions, ensuring the program is operated in a fair and consistent manner, as well as providing all program participants with an understanding of how the County manages its CDBG program.

Community Development Block Grant (CDBG) Program

The County's participation in the CDBG Program is through the Urban County Entitlement portion of this block grant. It became eligible for this entitlement when its population exceeded 200,000 in the unincorporated areas. The County receives funds directly from HUD each year, based on Congressional apportionment.

The primary objective of the CDBG Program is to develop sustainable communities for persons of low- and moderate-income (LMI), thereby improving the housing, quality of life, and economic conditions of the Lexington community. HUD defines LMI as household income that is less than 80% of area median income.

Activities under the County of Lexington's CDBG Program must predominately benefit persons of low- and moderate-income, be eligible under the CDBG requirements, and meet a minimum of one of three HUD national objectives:

- Benefit LMI persons
- Aid in the prevention or elimination of slum or blight
- Meet an urgent need

CDBG IMPLEMENTATION PROCESS

The following provides an overview of the framework used by the County of Lexington to make decisions concerning the organizations, projects, and activities funded through the use of County CDBG funds.

Step 1: Submit Consolidated Plan / Annual Action Plan & Determine Program Delivery Method

Step 2: Select Eligible Activities that meet a National Objective

Step 3: Comply with other Federal requirements

Step 4: Address Financial and Administrative Requirements

Step 5: IDIS- Set Up & Fund Activity

Step 6: Report and Monitor Progress

Step 7: Enter Accomplishments into IDIS

Step 1. Consolidated Plan & Determine Program Delivery Method

CONSOLIDATED PLAN/ACTION PLAN

The process of completing / submitting the Consolidated Plan (and annual Action Plans) helps the County to determine what activities to fund during the upcoming program year.

The Consolidated Plan is a five year plan which describes the community needs, resources, priorities, and proposed activities to be undertaken under the CDBG program.

Each year, the County must submit an update to the Consolidated Plan to HUD, referred to as an Action Plan. The Action Plan describes the specific planned uses for CDBG. Both the Consolidated Plan and annual Actions Plan are approved by Lexington County Council.

The Consolidated Plan includes the following:

1. A description of the entity responsible for overseeing the development of the Consolidated Plan and a description of the process undertaken to develop the plan;
2. A housing and homeless needs assessment;
3. A housing market analysis;
4. A strategic plan; and
5. A one-year Action Plan.

PROGRAM DELIVERY METHOD

Currently the County of Lexington uses CDBG funds to assist homeowners with minor home repairs, as well as the emergency repair and replacement of septic tanks. In addition funds are used for neighborhood revitalization, infrastructure and public facilities, as well as public service activities, which are subject to the 15% Public Services cap.

The County is responsible for ensuring that CDBG funds are used in accordance with all program requirements. The use of designated public agencies, subrecipients, or contractors does not relieve the grantee of this responsibility. The grantee is also responsible for determining the adequacy of performance under subrecipient agreements and procurement contracts and for taking appropriate action when performance problems arise.

Before disbursing funds to any organization that is carrying out CDBG activities on behalf of the County, a written subrecipient agreement must be executed. Furthermore, The U.S. Department of Housing and Urban Development stipulates that certain requirements be included in all written agreements with subrecipients. Moreover, these requirements may vary over time and it is the responsibility of the County to remain aware of revised requirements.

Written agreements must remain in effect for the length of time that the subrecipient has control over any CDBG funds, including program income and or property. However, it is good practice to update subrecipient agreements annually to ensure the agreements are current with regulations and requirements. This process also allows an opportunity to revisit and clarify problem areas or issues.

Step 2. Select Eligible Activities that Meet a National Objective

CDBG Eligible Activities

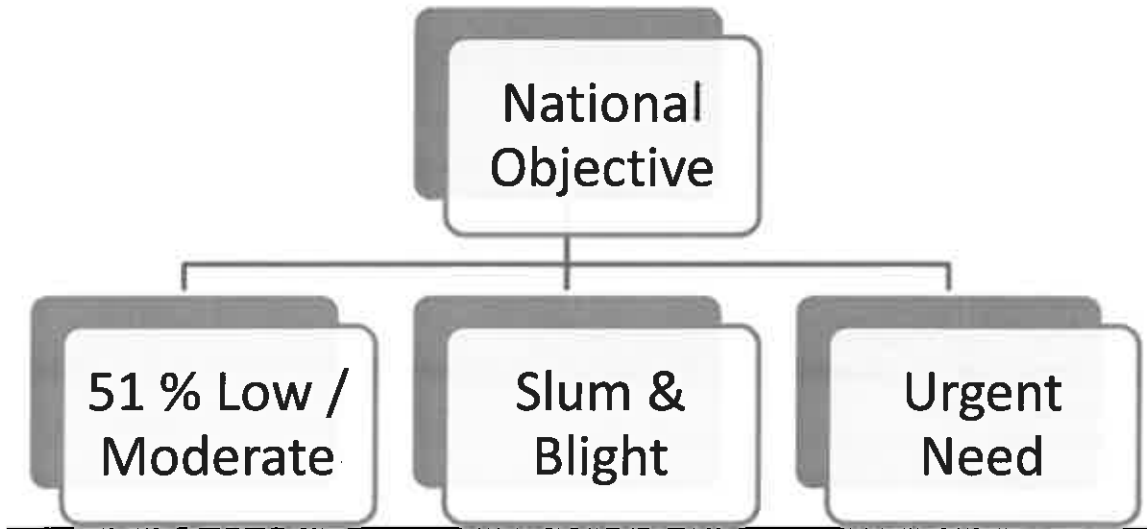
1. Acquisition of real property for any public purposes other than the general conduct of government.
2. Disposition of property acquired with Community Development Block Grants funds.
3. Acquisition, construction, rehabilitation, or installation of public facilities and improvements carried out by the County or other public or private nonprofit entities.
*Generally, this does not apply to new construction.
4. Public services (limited to 15% of the County's total CDBG entitlement) which are directed toward improving the community's public services and facilities, including, but not limited to, those concerned with employment, welfare reform, child care, health, drug abuse, education, job training assistance, recreational needs, crime prevention, or energy conservation.
5. Removal of architectural barriers, which restrict the mobility of elderly and/or persons with disabilities. All publicly and privately owned buildings and facilities are eligible for funding.
6. Rehabilitation and preservation for:
 - a. Low and moderate-income owner-occupied houses.
 - b. Low and moderate-income public housing.
 - c. Publicly owned non-residential buildings and improvements otherwise eligible for assistance.
 - d. Publicly or privately owned historic properties.
 - e. Commercial or industrial facility for job creation or retention
 - f. Public Facilities
 - g. Affordable housing or mixed income housing
 - h. Low and moderate-income senior housing
 - i. Businesses that agree to hire, retain and/or serve low and moderate income persons.
7. Activities designed to create or retain jobs. All jobs created within the applicant's program are required to be permanent and at least 51 percent of the total must be for persons of low and moderate income.

CDBG Ineligible Activities

The following activities may not be assisted with CDBG funds:

1. Buildings for the general conduct of government. This includes operating and maintenance expenses. Exceptions are operation and maintenance associated with public service activities, interim assistance, and CDBG program staff.
2. General government expenses except to carry out the CDBG program.
3. Political or religious activities.
4. Construction equipment.
5. Fire protection equipment unless part of a public facility.
6. Personal furnishing or property.
7. Food not related to direct service delivery to clients.
8. Furnishings that are not integral structural fixtures.
9. New housing construction except for land acquisition and other specific circumstances.
10. Income payments and other subsistence payments made to individuals or a family.

National Objectives are defined as the following:



The LMI national objective is the primary national objective because the statute requires that grantees expend 70% of the CDBG funds to meet the LMI national objective.

1. 51 % Low and Moderate Income

At least 51% or more of the persons and families benefiting must be low and moderate-income (LMI) for public projects and public facilities and 100% LMI for housing activities. LMI can be determined by HUD census data or by conducting a survey. LMI is generally calculated on an area basis, meaning either the entire jurisdiction of the County or a defined targeted area within the County must be at least 51% LMI.

- To be counted as a beneficiary of a project, LMI documentation must be obtained.
- For every separate activity funded under the same project, there must be 51% LMI or the removal of slum and blight achieved.
- For the purposes of determining eligibility, all persons and families must be counted. For the purposes of determining the amount of CDBG funding, all households must be counted.
- A project may not be designed to benefit moderate-income persons to the exclusion of low-income persons.
- HUD's Section 8 program income guidelines (as modified by the Housing and Community Development Act of 1987) shall be used to define low and moderate-income for the CDBG Program. The annual income limits are available from <http://www.huduser.org/portal/>. If HUD has not published the applicable year's limits, then the community may use the previous year in order to begin the survey work.
- "Income" should be viewed as a family's total adjusted gross income. Any person that belongs to an LMI family is considered an LMI person. Request a copy of the direct beneficiaries IRS Form 1040 or other equivalent income statements

2. Elimination of Slum & Blight

To prove this HUD national objective, a project must propose one of the two different methods.

1. The first method occurs when a structure is blighted; when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to health, safety and public welfare.

For the County to participate in this activity it must, at a minimum, determine blighted structures by applying existing dangerous building ordinance, building code level of violation or applicable occupancy or habitability designation or code violation in a manner consistent with their ordinance. The ordinance, code violation or designation must be applied to the specific structure, not to the area as a whole. The predominance of blight in an area does not allow blight to be assumed for each structure inside the area.

2. The second method covers area blight, and includes submitting a resolution passed by the governing legislative body declaring the area blighted in accordance with 24 CFR 570. As stated, the definition of the national objective *elimination of slum and blight* reads as follows. The area meets the conditions of either (a) or (b):

a) At least 25% of the properties throughout the area experience one or more of the following conditions:

1. Physical deterioration of buildings or improvements,
2. Abandonment of properties
3. Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings,
4. Significant declines in property values or abnormally low property values relative to other areas in the community, or

5. Known or suspected environmental contamination.

b) The public improvements throughout the area are in a general state of deterioration.

3. Urgent Need

The use of the urgent need national objective is rare. It is generally used for activities to alleviate emergency conditions. According to "Basically CDBG" Course Training Manual examples include:

- Acquisition of property located in a flood plain that was severely damaged by a recent flood;
- Public facility improvements like the reconstruction of a publicly-owned hospital that was severely damaged by a tornado;
- Demolition of structures that are severely damaged by a major earthquake;
- Urgent need qualified activities must meet the following criteria:
 - The existing conditions must pose a serious and immediate threat to the health or welfare of the community;
 - The existing conditions are of recent origin or recently became urgent (generally, within the past 18 months);
 - The grantee is unable to finance the activity on its own; and
 - Other sources of funding are not available.

Pursuant to 24 CFR 570.207 Ineligible Activities are as follows:

- 1) Maintenance or operation costs. **
- 2) General government expenses.
- 3) Political activities.
- 4) Improvements to city halls and courthouses, except those required to meet the Americans with Disabilities Act. Note: CDBG funds used for ADA projects may only convert existing facilities to accessibility. CDBG funds may not be used to add new facilities.
- 5) Purchase of equipment, except for fire protection, public services, landfills or recreation.
- 6) Income payments, except for loss of rental income due to displacement.
- 7) Application preparation costs or a bonus award for writing a successful application.
- 8) Religious purposes.

**** Maintenance and Operation Costs: Any cost that recurs on a regular basis (generally, less than five years) is considered a maintenance or operation cost, therefore ineligible for CDBG assistance.**

Step 3. Comply with Other Federal Regulations

ENVIRONMENTAL REVIEW

An Environmental Review Record must be completed for each project in order to meet the Environmental Review Requirements set forth at 24 CFR Part 58. All projects will publish appropriate notices (including HUD 8-Step Process), submission of the Request for Release of Funds and Certification and Authority to Use Grant Funds will be issued by HUD prior to commencing with project activities.

FAIR HOUSING, ACCESSIBILITY, AND EQUAL EMPLOYMENT

The County and any sub-recipient(s) must adhere to all the basic tenets of fair housing and equal opportunity regulations. Recipients are prohibited from practicing discrimination on the grounds of race, color, national origin, religion, sex, handicap, or familial status.

This prohibition applies to all project contractors or subcontractors. Beneficiary information should be determined and demographic data compiled, with this information made available in the project file for public review.

A. FAIR HOUSING

According to the HUD Fair Housing Planning Manual, the broad objectives of Affirmatively Furthering Fair Housing can be interpreted to mean:

- Analyze and eliminate housing discrimination in the jurisdiction.
- Promote fair housing choice for all persons.
- Provide opportunities for racially and ethnically inclusive patterns of housing occupancy.
- Promote housing that is physically accessible to, and usable by, all persons, particularly persons with disabilities.
- Foster compliance with the nondiscrimination provisions of the Fair Housing Act.

B. ACCESSIBILITY

The County shall abide by HUD regulations in Section 504, HUD's implementation of the American with Disability Act (ADA). The County is to conduct a self-evaluation of accessibility to determine their current programs, services, policies, and practices meet the requirements of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

C. EQUAL EMPLOYMENT

Nondiscrimination is a requirement of employment and employment practices. Employment opportunities may not be denied on the basis of race, color, national origin, sex, age, religion, familial status, or disability. Affirmative action and equal employment opportunity policies are fundamental aspects of CDBG funded activities.

The Americans with Disabilities Act modifies and expands the Section 504 Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a disability" in employment

and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.

Federal and State Laws and Regulations (included amendments)	Fair Housing & Nondiscrimination	Accessibility	Equal Employment & Contracting
Title VI of the Civil Rights Act of 1964	X		
Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act)	X	X	
Section 109 of Title 1 of the Housing and Community Development Act of 1974	X		X
The Fair Housing Amendment Act of 1988	X		
The Age Discrimination Act of 1975	X		
Section 504 of the Rehabilitation Act of 1973	X	X	X
The Americans with Disabilities Act of 1990 (ADA)	X	X	X
Section 109 of Title I of the Housing and Community Development Act of 1974	X		X
The Equal Employment Opportunity Act			X
Section 3 of the Housing and Urban Development Act of 1968, as amended			X
Executive Order 11246			X
24 CFR Part 85 (the Common Rule):			X

PROCUREMENT

All procurements made in whole or in part with CDBG funds must comply with the applicable Federal requirements found in 24 CFR Part 85.36 (referred to as the "Common Rule"). The requirements governing the purchasing process are designed to ensure that you:

- Follow a **free and open competitive process** in securing those products or services.
- Properly **document** your purchasing activities and decisions.
- Observe the special **rules for particular kinds of purchases** (small purchases, competitive sealed bids, competitive proposals, and sole source procurements).
- **Properly bond and insure** work involving large construction contracts and/or subcontracts.
- Use **local businesses** and contract with **small, minority and/or women-owned businesses** to the maximum extent feasible.

According to the table below, it appears that the County of Lexington's procurement policy is stricter than CDBG's procurement policy. Therefore, the County's procurement policy will take precedence.

County of Lexington	HUD Requirements	HUD Requirement Notes
\$1,500 or less without competitive bids.	See Below	
Over \$1,500 and not more than \$5,000 requires quotations or telephone bids from at least 3 vendors	3 written quotes should be obtained for all purchases up to \$100,000.	<i>Award should be made to the lowest responsive and responsible source.</i>
Over \$15,000 requires advertise for sealed bids allowing 14 days before bids are received and opened. The lowest and most responsive bid, meeting specifications will be recommended for award.	Over \$100,000 a) Competitive Sealed Bids. Publish one time in widest circulation paper. b) Competitive Proposals for professional services	All bids must be opened publically at the time and place stated in the invitation for bids. A firm-fixed price contract award must be made in writing to the responsive bidder whose bid is lowest, most responsible and responsive. <i>All unsuccessful bidders must be notified in writing.</i>

CONTRACT MANAGEMENT

Contract management is a large part of the County of Lexington's project management process and our staff takes great pains to ensure that all parties are held to the roles and responsibilities for which they are receiving payment.

To this end, project delays or problems are often the result of misunderstandings, assumptions of the responsibilities of different parties in a contract, or of parties not performing their work to a standard.

Before entering into a contract the County ensures that all contracts are written so that they are based on a lump sum or unit price. Moreover, Grant Programs staff is careful of any hidden or unexpected costs or additional fees that may have been added to the contract. Such fees may include per hour additional fees for surveying, obtaining easements, etc. Often grantees may think these costs are part of the base contract and have not allowed for the additional cost in their budget.

As required by Title 24 of the Code of the Federal Register as well as other selected contract provisions required by the Lexington County Community Development Office for CDBG-assisted grants/activities.

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

1. **Prime Contractor Responsibilities:**

The Contractor is required to assume sole responsibility for the complete effort and enforcement of laws and regulations under this contract. The County will consider the Contractor to be the sole point of contact with regard to all contractual matters.

2. **Reversion of Assets:**

All real property acquired or improved in whole or in part with CDBG funds in excess of \$25,000 under this Contract must continue in the use that provides the service benefits and national objectives for which it was funded until five years after expiration of this Contract as set forth in 24 CFR 470, or such longer period of time as determined by the County; or it must be disposed of in a manner resulting in a reimbursement to the County in the amount of the current fair market value of the property less any portion thereof attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

3. **Legal Services:**

No attorney-at-law shall be engaged through the use of any funds provided under this contract in suits against the State, Local Public Body or any political subdivision.

4. Political Activity: (24.CFR 570.207(a)(3)

None of the funds, materials, property or services provided directly or indirectly under this contract shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office or otherwise in violation of the provisions of the "Hatch" Act.

5. Reporting of Fraudulent Activity:

If at any time during the term of this contract anyone has reason to believe by whatever means that, under this or any other program administered by the County a recipient of funds has improperly or fraudulently applied for or received benefits, monies' or services pursuant to this or any other contract, such information shall be reported to the appropriate authorities.

6. Acquisitions, Relocation and Antidisplacement:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970 as amended by the Uniform Relocation Act Amendments of 1987 Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987. Any displacement of persons resulting from the proposed CDBG project will be carried out in accordance with Section 104(d) of the Housing and Community Development Act of 1974, as amended.

7. 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, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR 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 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 consideration 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 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, as amended 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, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended, 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, as amended, 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, as amended, 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.

8. 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 County and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC, 1701, 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 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 135.

9. Subcontracting with Small and Minority Firms, Women's Business Enterprises:

It is national policy to award a fair share of contracts to small and minority and women's owned businesses. Accordingly, affirmative steps must be taken to assure that small, minority and women owned businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

- A. Including qualified small and minority businesses on solicitation lists;
- B. Assuring that small, minority and women owned businesses are solicited whenever they are potential sources;
- C. Whenever economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small, minority and women owned businesses' participation;
- D. Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority businesses; and
- E. Using the services and assistance of the Small Business Administration, the Governor's Office of Small and Minority Business Assistance, the Department of Commerce and the Community Services Administration as required.

10. 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 procurement 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 procurement 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 County 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 County, 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 County 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 procurement 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 County 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 County to enter into such litigation to protect the interests of the County, 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.

11. 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.

12. 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.

13. 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 County, 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.

14. Lead-Based Paint:

The construction or rehabilitation of residential structures with assistance provided under this Agreement is subject to the HUD Lead-Based Paint regulations, 24 CFR 35. Any grants or loans made by the County for the rehabilitation of residential structures with assistance provided under this Agreement shall be made subject to the provisions for the elimination of lead-based paint hazards under Subpart B of said regulations, and the County shall be responsible for the inspections and certifications required under Section 35.14(f) thereof.

15. 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 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.

16. 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.

17. 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.

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

- A. 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 county 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:
- (1) An employee, agent, consultant, officer, or elected or appointed official of the county, any designated public agency or any subrecipient agency that is receiving CDBG funds;
 - (2) Any member of his/her immediate family;
 - (3) his or her partner; or
 - (4) An organization, which employs, or is about to employ, any of the above, or has a financial or other interest in the firm selected for award.
- B. 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 sub-agreements 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 contractors or their agents.
- C. No persons described in (1) through (4) 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.

19. Debarment Certification:

The contractor must comply with Federal Debarment and Suspension regulations prior to entering into a financial agreement for any transaction as outlined below.

- A. Any procurement contract for goods and services, regardless of type, is expected to equal or exceed the Federal procurement small purchase threshold (which is \$25,000 and includes all federal funding sources).
- B. Any procurement contract for goods and services, regardless of amount, under which the Contractor will have a critical influence on or substantive control over the transaction.

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 County to assure proper accounting for all funds applicable to this contract. These records will be made available for audit purposes to the County 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. Retention and Access Requirements For Records (24 CFR 85.42):

- A. The contractor shall comply with Retention and Access Requirements For Records (24 CFR 85.42) and County records access and retention requirements, to wit:
- B. 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 County.
- C. The five-year retention period starts from the date of final payment by the County.
- D. The County shall request transfer of certain records to its custody when it is determined that the records possess long-term retention value. However, in order to avoid duplicate record

keeping, the County may make arrangements to retain any records that are continuously needed for joint uses.

- E. The County, 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 to make audits, examinations, excerpts and transcripts.
- F. Unless otherwise required by law, the County shall not place restrictions that will limit public access to the records 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.

22. Compliance with State and Local Laws:

The contractor specifically agrees that in performance of the services herein enumerated, the 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. Federal Labor Standards Provisions:

In carrying out this agreement, the contractor agrees to comply with the following Federal Labor Standards Provisions for applicable construction contracts in excess of \$2,000 or residential rehabilitation contracts involving more than eight units. These regulations must be complied with or sanctions will be instituted.

A. Minimum Wage Rates For Laborers and Mechanics:

All laborers and mechanics will be paid, unconditionally and not less than once each week, and without subsequent deduction or rebate on any account (except such payroll deductions as are made mandatory by law and other such payroll deductions as are permitted by the applicable regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to the Copeland Act, hereinafter identified), the full amount due at time of payment computed at wage rates not less than those contained in the wage determination decision of said Secretary of Labor (a copy of which is attached and herein incorporated by reference), regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor and such laborers and mechanics. For the purpose of this clause, contributions made or costs reasonably anticipated under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section 5.5(a)(1)(iv) of Title 29, Code of

Federal Regulations. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period are deemed to be constructively made or incurred during such weekly period.

B. Under Payments of Wages and Salaries:

In cases of underpayment of wages by the Contractor or by any subcontractor to laborers or mechanics employed by the Contractor or subcontractor upon the work covered by this contract, the County, in addition to such other rights as may be afforded it under this contract, shall withhold from the Contractor out of any payments due the Contractor, so much thereof as the County may consider necessary to pay such laborers or mechanics the full amount of wages required by this Contract. The amount so withheld may be disbursed by the County, for and on account of the Contractor or the subcontractor, (as may be appropriate), to the respective laborers or mechanics to whom the same is due on their behalf to plans, funds, or programs for any type of fringe benefit prescribed in the applicable wage determination.

C. Anticipated Costs of Fringe Benefits:

If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing fringe benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract, provided that, the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. A copy of any findings made by the Secretary of Labor in respect to fringe benefits being provided by the Contractor must be submitted to the County with the first payroll filed by the Contractor subsequent to receipt of the findings.

D. Overtime Compensation Required by Contract Work Hours and Safety Standards Act (76 Stat. 357-360; Title 40 U.S.C., Section 327-332):

(1) Overtime Requirements:

No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any laborer or mechanic in any work week in which he is employed on such work to work in excess of 40 hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of 40 hours in such work week.

(2) Violation-Liability for Unpaid Wages, Liquidated Damages:

In the event of any violation of the clause set forth in Paragraph (1), the Contractor and any subcontractor shall be liable such affected employee for his unpaid wages and shall, in addition, be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual employed in violation of the clause set forth in Paragraph (1) in the sum of \$10.00 for each calendar day on which

such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in Paragraph (1).

(3) Withholding for Liquidated Damages:

The County shall withhold or cause to be withheld from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may be administratively determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for liquidated damages as provided in the clause set forth in paragraph (2).

(4) Subcontracts:

The Contractor shall insert in any subcontracts the clauses set forth in Paragraphs (1), (2), and (3) of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

E. Employment of Apprentices/Trainees:

(1) Apprentices:

Apprentices will be permitted to work at less than the pre-determined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program who is not individually registered in the program but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in a craft classification shall not be greater than the ration permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate who is not a trainee as defined in subdivision (2) of this subparagraph or is not registered or otherwise employed as stated above, shall be paid the wage determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or subcontractor will be required to furnish to the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates) for the area of construction prior to using any apprentices on the contract work. The wage rate paid apprentices shall be not less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination.

(2) Trainees:

Except as provided in 29 CFR 5.15, trainees will not be permitted to work at less than the predetermined rate for work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Manpower Administration, and the Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every Trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any trainee listed on the payroll at a trainee rate who is not registered and participating in a training program approved by the Bureau of Apprenticeship and Training, shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or subcontractor will be required to furnish the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(3) Equal Employment Opportunity:

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR 30.

(4) Employment of Certain Persons Prohibited:

No person under the age of sixteen years and no person who, at the time, is serving sentence in a penal or correctional institution shall be employed on the work covered by this contract.

F. Regulations Pursuant to Copeland "Anti-Kickback" Act

The Contractor shall comply with the applicable regulations of the Secretary of Labor, United States Department of Labor, made pursuant to the Copland Act of June 13, 1934 (48 Stat. 948; 62 Stat. 862; Title U.S.C., Section 874; and Title U.S.C., Section 276c) and any amendments or modifications thereof, shall cause appropriate provisions to be inserted in subcontracts to insure compliance by all subcontractors subject thereto, and shall be responsible for submission of affidavits required by subcontractors thereunder, except as the Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions from the requirements thereof.

G. Employment of Laborers or Mechanics not listed in Wage Determination Decision:

Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract will be classified or reclassified in conformance with the wage determination by the County, and a report of the action taken shall be submitted by the

County, through the Secretary of Housing and Urban Development to the Secretary of Labor, U.S. Department of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question, accompanied by the recommendation of the County, shall be referred through the Secretary of Housing and Urban Development to the Secretary of Labor for final determination.

H. Fringe Benefits Not Expressed as Hourly Wage Rates:

Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Contractor is obligated to pay cash equivalent of such a fringe benefit, the County shall require an hourly cash equivalent be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the County, shall be referred through the Secretary of Housing and Urban Development to the Department of Labor for determination.

I. Posting Wage Determination Decisions and Authorized Wage Deductions:

The applicable wage poster of the Secretary of Labor, U.S. Department of Labor and the applicable wage determination decisions of said Secretary of Labor with respect to the various classifications of laborers and mechanics employed and to be employed upon the work covered by this contract, and a statement showing all deductions, if any, in accordance with the provisions of this contract, to be made from wages actually earned by persons so employed or to be employed in such classifications, shall be posted at appropriate conspicuous points at the site of the work.

J. Complaints, Proceedings, or Testimony by Employees:

No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceedings or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this contract to his employer.

K. Claims and Disputes Pertaining to Wage Rates:

Claims and disputes pertaining to wage rates or to classifications of laborers and mechanics employed upon the work covered by this contract shall be promptly reported by the Contractor in writing to the County for referral by the latter through the Secretary of Housing and Urban Development to the Secretary of Labor, U.S. Department of Labor, whose decision shall be final with respect thereto.

L. Questions Concerning Certain Federal Statutes and Regulations:

All questions arising under this contract which relate to the application or interpretation of (a) the aforesaid Copeland Act; (b) the Contract Work Hours and Safety Standards Act; (c) the Davis-Bacon Act; (d) the regulations issued by the Secretary of Labor, U.S. Department of

Labor pursuant to said Acts; or (e) the labor standards provisions of any other pertinent Federal statute, shall be referred through the County and the Secretary of Housing and Urban Development, to the Secretary of Labor, U.S. Department of Labor for the Secretary's appropriate ruling or interpretation which shall be authoritative and may be relied upon for the purposes of this contract.

M. Payrolls and Basic Payroll Records of Contractor and Subcontractors:

The Contractor and each subcontractor shall prepare his payrolls on forms satisfactory to and in accordance with instructions to be furnished by the County. The Contractor shall submit weekly to the County two certified copies of all payrolls of the Contractor and of the subcontractors, it being understood that the Contractor shall be responsible for submission of copies of payrolls of all subcontractors. Each such payroll shall contain the "Weekly Statement of Compliance" set forth in section 3.3 of Title 29, Code of Federal Regulations. The payrolls and basic payroll records of the Contractor and each subcontractor covering all laborers and mechanics employed upon the work covered by this Contract shall be maintained during the course of the work and preserved for a period of 5 years thereafter. Such payrolls and basic payroll records shall contain the name and address of each employee, his correct classification, rate of pay (including rates of contributions or costs anticipated of the types described in Section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. In addition, whenever the Secretary of Labor has found under Section 5.5 (a)(1)(iv) of Title 29, Code of Federal Regulations, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1 (b)(2)(B) of the Davis-Bacon Act, the Contractor or subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. The Contractor and each subcontractor shall make his employment records with respect to persons employed by him upon the work covered by this contract available for inspection by authorized representatives of the Secretary of Housing and Urban Development, the County, and the U.S. Department of Labor. Such representatives shall be permitted to interview employees of the Contractor or of any subcontractor during working hours on the job.

N. Specific Coverage of Certain Types of Work by Employees:

The transporting of materials and supplies to or from the site of the project or program to which this contract pertains by the employees of the Contractor or of any subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the project or program to which this contract pertains by persons employed by the Contractor or by any subcontractor, shall for the purposes of this contract, and without limiting the generality of the foregoing provisions of this contract, be deemed to be work to which these Federal Labor Standards Provisions are applicable.

O. Ineligible Subcontractors:

The Contractor shall not subcontract any part of the work covered by this contract or permit subcontracted work to be further subcontracted without the County's prior written consent.

The County will not approve any subcontractor for work covered by this contract who is at the time ineligible to receive an award of such subcontract under the provisions of any applicable regulations issued by the Secretary of Labor, U.S. Department of Labor or the Secretary of Housing and Urban Development.

P. Provisions to be Included in Certain Subcontracts:

The Contractor shall include, or cause to be included, in each subcontract covering any of the work covered by this contract, provisions which are consistent with these federal labor standards provisions and also a clause requiring the subcontractors to include such provisions in any lower tier subcontracts which they may enter into, together with a clause requiring such insertion in any further subcontracts that may in turn be made.

Q. Breach of Foregoing Federal Labor Standards Provisions:

In addition to the causes for termination of this contract as herein set forth, the County reserves the right to terminate this contract if the Contractor or any subcontractor whose subcontract covers any of the work covered by this contract shall breach any of these Federal Labor Standards Provisions. A breach of these Federal Labor Standards Provisions may also be grounds for debarment as provided by the applicable regulations issued by the Secretary of Labor, U.S. Department of Labor.

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 Section 306 of the Federal Clean Air Act (42 USC 1857(h)), section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and the Environmental Protection Agency regulations (40 CFR 15) respective to all contracts in excess of \$100,000 awarded by the county. 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 County and to the US Environmental Protection Agency.

24. 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 South Carolina's energy conservation plan issued in compliance with the Federal Energy Policy and Conservation Act(PL 94-163, 89 Statutes 871)

M. Engineer/Consultant's Certificate of Completed Work

A copy of the Certificate for Acceptance, and Final Payment, signed by the project engineer/consultant, must be obtained prior to closeout. This certificate must cover all work included in the project (regardless of funding source), including grantee cash and in-kind. The certificate must state that work has been completed in accordance with drawings and specifications and is functioning properly with the recommendation for Final Payment.

LABOR STANDARDS

Construction work that is financed in whole or in part with CDBG funds must adhere to certain Federal Labor standard requirements that include the following:

A. Davis-Bacon Act

Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation). *Davis-Bacon does not apply to the rehabilitation of residential structures containing less than eight units or force account labor.*

B. Copeland Anti-Kickback Act

The Copeland Anti-Kickback Act(40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR Part 3) requires that workers be paid weekly, that deductions from workers' pay be permissible, and that contractors maintain and submit weekly payrolls.

C. Contract Work Hours and Safety Standards Act

The Contract Work Hours and Safety Standards Act (40 USC, Chapter 5, Sections 326-332; and 29 CFR Part 4, 5, 6 and 8; 29 CFR Part 70 to 240) applies to contracts over \$100,000 and requires that workers receive overtime compensation (time and one-half pay) for hours they have worked in excess of 40 hours in one week.

D. Section 3 of the Housing and Urban Development Act of 1968

Section 3 of the Housing and Urban Development Act of 1968, as amended requires the provision of opportunities for training and employment that arise through HUD-financed projects to lower-income residents of the project area. Also required is that contracts be awarded to businesses that provide economic opportunities for low- and very low-income persons residing in the area.

Step 4. Financial & Administrative Requirements

ADMINISTRATION & PLANNING

CDBG funds can be used for administrative and planning activities. Funds under these categories are subject to the 20% statutory limitation.

The following are eligible administrative activities:

- General management, oversight and coordination
 - Providing local officials and citizens with information about the CDBG program;
 - Preparing budgets and schedules;
 - Preparing reports;
 - Monitoring program activities
- Fair Housing Activities;
- Indirect costs; and
- Submission of applications for Federal programs.

Eligible planning activities are the following:

- Comprehensive plans;
- Community development plans (i.e. Consolidated Plan);
- Functional plans (i.e. land use, economic development, floodplain management, transportation, historic preservation, etc.).
- Other plans and studies (i.e. neighborhood plans, capital improvements, individual plans, historic preservation studies, etc.).

Any costs and time charged must be documented through the appropriate means such as invoices, receipts, time and attendance records, etc. Documentation shall be kept on file and will be reviewed at financial monitoring.

Under this category, CDBG funds may not be used for the following activities:

- Engineering, architectural and design costs related to a specific project; or
- Other costs of implementing plans.

These costs may be eligible as part of an eligible project.

PUBLIC SERVICES

The total amount of CDBG funds expended for public services activities must not exceed 15% of the yearly allocation of funds plus 15% of program income received within the program year.

According to 24 CFR 105(a) (8) allows the use of grant funds for public service activities, including but not limited to:

- Employment services (e.g. job training);
- Crime prevention and public safety;
- Child care;
- Health services;
- Substance abuse services (e.g. counseling and treatment);
- Fair housing counseling;
- Education programs;
- Energy conservation;
- Services for senior citizens;
- Services for homeless persons;
- Welfare services (excluding income payments);
- Down payment assistance; and
- Recreational services.
-

CDBG funds may be used to pay for labor, supplies, and material as well as to operate and/or maintain the portion of a facility in which the public service and located. This includes the lease of a facility, equipment and other property needed for the public service.

For the public service to be eligible, the service must be either 1) a new service; or 2) a quantifiable increase in the level of an existing service which has been provided by the entity through state or local government funds in the 12 months preceding the submission of the County of Lexington's Consolidated Plan / Annual Action Plan to HUD.

TIMELY DISTRIBUTION OF FUNDS

HUD requires the County of Lexington to use the CDBG funds it receives in a timely manner. HUD determines if the County of Lexington is spending down its CDBG entitlement in a timely manner by checking to see what the unspent balance is on July 3 of each year. HUD requires the amount of unspent funds to be no more than 150% of the entitlement amount for the current year.

The best method to review the County's timeliness is to refer to the IDIS program report number 56.

PROGRAM INCOME

Program income is the gross income received by the County of Lexington which was directly generated from the use of CDBG funds. Program income is treated as additional CDBG funds subject to all requirements.

Examples of program income include:

- Proceeds from the sale or lease of property purchased or improved with CDBG funds;
- Funds collected through special assessments on properties not owned and occupied by LMI households in order to recover the CDBG portion of a public improvement.

Program income does not include:

- Any income received in a single year by the County and its subrecipients, that does not exceed \$35,000; and
- Amounts generated and kept by a nonprofit development organization under 105(a) (15).
- Program income must be disbursed prior to the drawdown of additional funds from IDIS.

UNIFORM ADMINISTRATIVE REQUIREMENTS

In accordance with 24 CFR Part 85 the County of Lexington must adhere to certain administrative requirements. These requirements include OMB Circular A-87 "Cost Principles for State, Local and Indian Tribal Governments". This circular establishes principles and standards for determining allowable costs under Federal grants.

Non-profits are required to comply with OMB Circular A-122 "Cost Principles for Non-Profit Organizations". This circular establishes principles for determining allowable costs under grants, contracts and other agreements with nonprofit organizations.

In addition, local governments and nonprofit organizations are required to comply with OMB Circular A-133 "Audits of Institutions of States, Local Governments and Nonprofit Institutions".

For additional information on uniform administrative rules for Federal grants and cooperative agreements visit http://www.hud.gov/offices/lead/library/lead/24_CFRPART_85.pdf

AUDIT REQUIREMENTS

The County of Lexington's fiscal year runs from July 1 through June 30. Each year since 1988 the County has been awarded the prestigious national Certificate of Achievement for Excellence in Financial Reporting. In order to be awarded a Certificate of Achievement, the County must publish an easily readable and efficiently organized CAFR whose contents conform to program standards. The CAFR must satisfy both generally accepted accounting principles and applicable legal requirements.

CITIZEN PARTICIPATION

Throughout the year, the County provides opportunities for citizen participation which supports in the development of the Annual Action Plan. The following are examples of meetings which are open to the public and include discussions of the County's housing and community development needs and activities to be undertaken as described in the Annual Action Plan.

- Consolidated Annual Performance and Evaluation Report (CAPER) and Annual Needs Assessment Public Hearing
- Public Input Meeting at Gaston Branch Public Library
- Public Input Meeting Cayce-West Columbia Branch of Public Library
- Lexington County Council Planning and Administration Committee
- Public Input Meeting –Batesburg –Leesville Branch of Public Library
- Newspaper Ad in Local Newspaper Announcing Citizen Input
- Public Input Meeting –Pelion Branch of Public Library
- Lexington County Council Approval
- Public Input Meeting-Irmo Branch of Public Library
- Draft 2014 Annual Action Plan Public Hearing

A 30-day comment period will be open prior the final plan is submitted for approval.

ADVISORY COMMITTEE

The Lexington County CDBG Advisory Committee is established to provide input to and maximize the effectiveness of the CDBG program. The CDBG Advisory Committee is composed of not more than fifteen (15) community members reflecting the diversity of our community and includes representatives from banking, civic, and our faith based organizations and institutions.

A meeting will be held at least once (1) annually. Meetings will be held more frequently if deemed necessary by the Committee. Meetings are held at the Lexington County Administration Building, unless otherwise decided.

The primary responsibilities of the CDBG Community Advisory Group are to:

1. Review proposals for allocating the CDBG funds, and make recommendations to County Council.
2. Review and approval of all applicants for clearance and demolition based on established eligibility criteria and staff recommendations.
3. Review Annual Action Plan and Consolidated Annual Performance and Evaluation Report and make recommendations to CDBG staff.
4. Provide input on the needs of low and moderate-income residents of Lexington County.
5. Provide input on how to affirmatively further fair housing.
6. Provide guidance on affordable housing.

Recommendations to County Council are non-binding, but will be given full consideration by County Council.

RECORD RETENTION PERIOD

Under the uniform administrative requirements of the CDBG regulations, the County is required to retain CDBG records for a period of not less than four years. The record retention period begins from the date of submission of the CAPER in which the specific activity is reported on for the final time rather than from the date of submission of the final expenditure report for the award.

To be consistent with Consolidated Plan regulations, which require that grantees maintain information and records relating to the Plan and the use of funds under the programs covered by the Consolidated Plan, record(s) must be maintained for a period of not less than five years.

INTERNAL CONTROLS

The CDBG program is administered by the Grants Division within the Community Development Department. Other individuals and/or departments play a key role in the day to day of the CDBG program such as the County Administrator, County Council, County Counselor, Director of Community Development, Procurement Department, Finance Department and the Advisory Committee.

REIMBURSEMENT REQUESTS / IDIS DRAWS

1. Upon receipt of request, invoice is stamped and marked with the date received, the Purchase Order number, and account number of the project.
2. All requests are verified by the Technician for accuracy, e.g., payrolls, copies of checks showing invoices have been paid by subrecipient, expenses are for items stipulated in subrecipient agreement budget, etc.
3. Any additional information needed or corrections/revisions of the request from the subrecipient should be done at this point.
4. Invoices are recorded for tracking purposes @ Y:\Grant Programs\CDBG\Drawdowns, Payment Request, Invoices\Invoice Tracking --in the appropriate activity folder.
5. Invoices go to CDBG Administrator for approval.
6. All payment requests then go to Director for payment approval.
7. Signed Requests are returned to the Technician.
8. A copy is made of the invoice and retained in the file "Pending Payment in Banner – CDBG" and the original is submitted to Procurement.
9. Invoices/Requests are checked for payment in Banner each Friday.
10. If PAID, invoice/request copy is marked as such and moved to the file "PAID, Pending IDIS Drawdown – CDBG" along with a screen print of Banner with the payment highlighted.
11. All paid invoices are drawn in IDIS on or about the 20th of each month unless circumstances warrant otherwise.
12. An IDIS Control Sheet is created for each activity/project then saved on the Y drive @ Y:\Grant Programs\CDBG\Drawdowns, Payment Request, Invoices\IDIS CONTROL SHEETS\FY and a copy printed and signed to put with the voucher.
13. All documents: invoice copy, supporting documentation, IDIS Control Sheet, and screen print from IDIS showing creation of voucher, are submitted to Finance (via scanned pdf) for approval of draw.
14. A copy of the approval and the IDIS Control Sheet with the signature of Finance Representative is returned to the Grant Analyst and maintained with other voucher documents.
15. Vouchers are held in the file "Waiting for Bank ACH sheet." until the cover page from the bank is received.
16. Vouchers are then filed by voucher number.

Step 5. IDIS Set Up & Fund Activity

All projects and activities are to be entered into IDIS AFTER a Subrecipient Agreement / Contract has been signed. Grantees must enter data on several different levels within IDIS Online.

- **Projects:** A grantee will add a new project in IDIS Online for each project included in the Action Plan, unless that project is a continuation of one from previous years and has already been entered into IDIS Online. This ensures that there is a parallel structure between the Action Plan, IDIS Online, and the CAPER reports that will be generated from IDIS Online. Projects mainly serve an organizational purpose and do not capture detailed information. Projects only capture enough data to give HUD an understanding of how the proposed use of funds is eligible. Detailed data are captured at the activity level.
- **Activities:** To draw down funds and to capture detailed program related accomplishment data, a grantee will set up at least one activity under each project. Activities are the basic building blocks in IDIS Online. All funds are expended and all program accomplishments are reported at the activity level. A project may have one or more activities.
- **Activity Funding:** Once the basic data are entered for an activity into IDIS Online, the grantee can commit CDBG funds to the activity. This commitment process ensures that a grantee does not budget more money than what is available. Once funds are committed to one activity, those funds are shown as unavailable for all other activities.

Step 6. Monitor & Report Progress

CALENDAR OF EVENTS

The following is a copy of events that are due each Program Year.

January	<ul style="list-style-type: none"> Federal Financial Report, SF 425 – due to Field Office on the 30th
February	
March	
April	<ul style="list-style-type: none"> Semi-Annual Labor Standards Enforcement Report- Local Contracting Agencies – Form 4710 – due to ATL Office of Labor Relations Federal Financial Report, SF 425 – due to Field Office on the 30th
May	<ul style="list-style-type: none"> Annual Action Plan
June	<ul style="list-style-type: none"> End of Program Year- June 30
July	<ul style="list-style-type: none"> Beginning of Program Year- July 1 Federal Financial Report, SF 425 – due to Field Office on the 30th
August	
September	<ul style="list-style-type: none"> CAPER – due Sept. 30 CDBG Financial Summary Report - PR26 Section 3 Annual Report – Form 60002 (due w/ CAPER) Contract and Subcontract Activity – Form 2516
October	<ul style="list-style-type: none"> Semi-Annual Labor Standards Enforcement Report- Local Contracting Agencies – Form 4710 – due to ATL Office of Labor Relations Federal Financial Report, SF 425 – due to Field Office on the 30th
November	
December	<ul style="list-style-type: none"> HOME Match Report, Form 40107-A – due to HUD Field Office on or before Dec. 31 and a copy to the Office of Affordable Housing Programs (submitted as part of the HOME APR) HOME Annual Performance Report, Form 40107 – due to HUD Field Office and HOME Program, Rm 7176, 451 7th Street, S.W., Washington D.C. 20410 on or before Dec. 31

MONITORING OF SUBRECIPIENTS

Lexington County will comply with its monitoring responsibilities of subrecipient projects funded under Title I of the Housing and Community Development Act of 1974, as amended. The Grants staff will utilize both “desk monitoring” and “internal/on-site” monitoring to assess the quality of program performance over the duration of the agreement or contract. The following Monitoring Plan will be utilized:

Monitoring Plan Objectives

The objectives are to ensure that subrecipients:

- Carry out their CDBG-funded projects in a timely manner, as described in their agreements (as modified or amended).
- Comply with all regulations governing their administrative, financial, and programmatic operations.
- Achieve their performance objectives within schedule and budget.
- Have a continuing capacity to carry out the approved program or project.

Monitoring Guidelines

The Lexington County Grant Programs staff maintains frequent contact with subrecipient personnel in order to achieve the objectives cited above. An annual workshop will be conducted covering the applicable federal rules and regulations to be followed by each subrecipient in the administration of their CDBG project. The workshop will cover administrative, financial and programmatic requirements.

The following steps are the standard monitoring policies and procedures which will be followed:

- Review and analyze project budgets, national objectives, activity eligibility and other application details to determine potential projects.
- Prepare thorough and comprehensive subrecipient agreement providing details of the project and requirements.
- Evaluate environmental impact of project and implement required procedures.
- Review ongoing written status reports and other communications to monitor for adherence to timelines and compliance requirements.
- Visit project site before, during and after construction.
- Monitor all subrecipient projects at least once during the project to determine compliance with all applicable laws, regulations and policies.
- Review and approve payment requests.
- Prepare and coordinate monthly reports on project status, expenditures to date, and timeliness.
- Prepare monthly report of CDBG draws detailing funds drawn on each active project and overall progress made to meet HUD timeliness requirements.
- Analyze HUD IDIS reports monthly to reconcile balances and timeliness amounts.

The Lexington County Grant Programs Division staff will conduct desk and on-site monitoring of CDBG activities and subrecipients. The desk monitoring includes on-going review of reimbursement requests and monthly reports. The on-site monitoring utilizes a checklist to evaluate the compliance of the projects/activities with all aspects of the CDBG program. The subrecipient will be informed at least fourteen (14) days in advance of the time of an on-site visit, the purpose of the visit and the compliance areas to be covered.

The areas monitored may include:

- Overall Management System
- Program Benefit
- Record Keeping
- Progress in Activities
- National Objectives
- Environmental Review
- Financial Management
- Procurement
- Labor Standards
- Non-Construction Contracts
- Acquisition/Relocation
- Compliance with federal regulations

Monitoring Results

A letter reporting the results of monitoring will be sent to the grantee. The monitoring letter may contain the following:

- Contract number of grant monitored
- Date(s) of monitoring
- Names(s) of CDBG staff who monitored
- Scope of monitoring
- Names of local officials involved in the monitoring visit
- Monitoring conclusions supported by facts considered in reaching the conclusions
- Specific recommendations or required actions
- Due date of required action
- If appropriate, offer of technical assistance

The monitoring letter will be sent usually within 30 days of monitoring or earlier if possible, particularly if there are major findings. When a subrecipient is found to be out of compliance, they will have 30 days to correct deficiencies. Copies of supporting documentation demonstrating that corrective action has been taken will be required. Failure by the subrecipient to correct deficiencies may result in funds being withheld and possible restrictions on future grants.

*******The County of Lexington shall have the same rights as the Secretary of HUD as to other remedies for noncompliance per 24 CFR 570.912 and 24 CFR 570.913**

Step 7: Enter Accomplishments into IDIS

HUD requires reliable, comprehensive information regarding program performance to ensure accountability on the use of CDBG funds. HUD must comply with the Government Performance and Results Act of 1993 and the performance management changes brought about by the Government Performance Modernization Act of 2010, fulfill reporting requirements for Congress and other stakeholders, measure progress made in meeting Agency Priority Goals, monitor grantee performance, and evaluate overall program results. In addition, grantees are subject to the full CDBG regulations regarding recordkeeping, listed at 24 CFR 570.490 (States) and 570.506(Entitlements). HUD must be able to measure the contributions the CDBG program makes toward meeting the needs of low- and moderate-income citizens across the country and be able to account for the expenditures of each and every CDBG activity, focusing on achieving the primary goal of the program to serve low and moderate income persons. This guidance is intended to assist grantees in providing information needed for HUD to meet these requirements.

Grantees are required to report all accomplishments achieved for each activity in a program year, excluding planning and administration activities (matrix codes 20, and 21A-J) for States and Entitlements, but including planning-only activities for State grantees (matrix code 20A). Complete information must be reported for each activity. These data are required to demonstrate national objective compliance and to account for the use of CDBG funds. The data required for each activity are dependent on the activity's matrix code and national objective. The matrix code identifies the eligible use of an activity and is required for each activity in IDIS. Each activity, except for planning and administration activities, must also meet a national objective to either benefit low- and moderate income persons, aid in the prevention or elimination of slums or blight, or meet an urgent need.

Direct benefit activities, those with a national objective of LMC*, LMH*, and LMJ*, generally require the following accomplishment data:

- Race/ethnicity of beneficiaries
- Income level of beneficiaries
- Number of jobs created and retained, for LMJ activities
- Leveraging
- Performance measures

For LMA* activities information on the service area must be reported by either using HUD Low- and Moderate-

Income Summary data (LMISD) or data obtained in a survey. If the grantee is using data from a survey, the grantee must enter the total LM universe population, the low-/moderate-income population and the percentage of low- to moderate-income persons. Data required for LMA* activities also includes:

- Leveraging
- Performance measures

For activities with a national objective of SB* and URG, grantees must report:

- Actual units
- Designation of slum blight area, for SBA activities
- Leveraging
- Performance measures

*Denotes all national objective criteria options under a general national objective category.

Timely Reporting is Required

When accomplishment data are not entered on a regular basis, the CDBG program does not have up-to-date information on what has been achieved. This results in undercounting the program's accomplishments and is due, in part, to the infrequent entry of data in IDIS by some grantees.

Report as frequently as possible.

- Reporting as benefits are realized is the ideal
- Quarterly reporting is recommended
- Annual reporting is required

Grantees should understand the data needs upfront for each activity. If the grantee is carrying out the activity itself, it should provide the manager of that activity with complete information on what data are needed and when those data are due. When activities are being carried out by subrecipients or financial assistance has been provided to for-profit businesses, agreements should contain complete information on what data are to be collected and when those data need to be submitted. Penalties should be attached when data are not submitted as designated in an agreement.

The CDBG regulations regarding recordkeeping are listed at 24 CFR 570.490 (States) and 570.506 (Entitlements).

ADDITIONAL PROGRAMS

MINOR HOME REPAIR PROGRAM

The MHR Program generally provides up to \$13,000 in assistance for eligible minor repairs. An amount exceeding \$13,000 may be approved at the discretion of the Community Development Director with justification for the repair costs. If repair costs exceed the limits of the MHR program, it may be recommended to the CHR Program subject to that program's eligibility requirements.

MANUFACTURED HOMES

Single-family detached homes or manufactured homes are eligible for assistance through the MHR Program.

- If the home is a manufactured home, the home must be 20 years old or less at the time of application.
- A manufactured home must have permanent utility connections and a permanent foundation as stipulated by the Lexington County Building Code Ordinance.
- The land on which the manufactured home is located must be owned by the applicant. All structures must be owner-occupied.

DEFERRED FORGIVABLE LOAN

All income qualified low- and moderate-income homeowners (as defined by HUD) may receive assistance in the form of a deferred forgivable loan on a pro-rata basis not to exceed five (5) years. If the property is sold within the five (5) year loan period, the pro-rata balance will be due in full.

SEPTIC TANK REPAIR AND REPLACEMENT PROGRAM

The Septic Tank Repair and Replacement Program uses CDBG funds to repair or replace the failing septic system of low- and moderate-income that meet the CDBG income restrictions can have their septic tank repaired at no cost. This program is ran in conjunction with the County's Public Works Department.

KEY DEFINITIONS

24 CFR Part 85 (the Common Rule): This rule provides that the grantee shall take affirmative steps to encourage contracting with small minority and female owned business enterprises when possible as sources of supplies, equipment, construction, and services.

Action Plan: An annual update to HUD regarding the Consolidated Plan.

Consolidated Plan: The Consolidated Plan is prepared by the grantee in accordance with 24 CFR Part 91, and describes needs, resources, priorities and proposed activities to be undertaken with respect to CDBG program. An approved Consolidated Plan is one which has been approved by HUD.

Contractors: A contractor is an entity paid with CDBG funds in return for a specific service (e.g., construction). Contractors must be selected through a competitive procurement process based on the City's procurement standards.

Copeland Anti-Kickback Act: Makes it a criminal offense for a person to induce anyone employed in the construction, completion, or repair of any public building, public work, or building, or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which the employee is otherwise entitled. The Act also regulates payroll deductions, specifies methods of paying wages to covered employees, and requires the submission of weekly payrolls in conjunction with statements of compliance by all contractors in a format that meets the requirements of 29 CFR Section 5.5.

Davis-Bacon Act: The Act is triggered when construction work over \$2,000 is financed in whole or in part with CDBG funds. It requires that workers receive no less than the prevailing wages being paid for similar work in the same area.

Draw down: Refers to the process of requesting and receiving CDBG funds. Grantees draw down funds from a line of credit established by HUD, while subrecipients draw down funds from the grantee.

Executive Order 11246: This Executive Order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race.

Grantee: Each entitlement community, or grantee, administers its local CDBG program in accordance with program requirements.

Household: All the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any groups of related or unrelated persons who share living arrangements.

Income: Grantees may select any of three definitions of income: (1) Annual income as defined under Section 8; (2) Annual income as reported under the Census long form; or (3) Adjusted gross income as defined by the IRS Form 1040.

Limited Clientele: Persons (or groups of persons) are presumed to be principally LMI, according to HUD. These include: abused children, battered spouses, elderly persons (age 62 and over), adults

meeting the Bureau of the Census' definition of severely disabled, homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers.

Low and Moderate Income: Low and moderate income (LMI) means family or household annual income less than the Section 8 Low Income Limit, generally 80% of the area median income, as established by HUD.

Low-Income Household/Family: A household/family having an income equal to or less than the Section 8 Very Low Income limit (50% of the area median income) as established by HUD.

Moderate-Income Household/Family: A household/family having an income equal to or less than the Section 8 Low Income limit (80% of area median income) established by HUD, but greater than the Section 8 Very Low Income Limit (50% of area median income) established by HUD.

Section 109 of Title 1 of the Housing and Community Development Act of 1974: This section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title I of the Act.

Section 3 of the Housing and Urban Development Act of 1968, as amended: Requires the provision of opportunities for training and employment that arise through HUD-financed projects to lower-income residents of the project area, to the greatest extent feasible and consistent with Federal, State and local laws and regulations. Also required is that contracts be awarded to businesses that provide economic opportunities for low- and very low-income persons residing in the area. Amendments to Section 3 in 1992 included requirements for providing these opportunities in contracts for housing rehabilitation, including lead-based paint abatement, and other construction contracts.

Section 109 of Title I of the Housing and Community Development Act of 1974: Requires that no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded with CDBG funds on the basis of race, color, religion, national origin, or sex.

Section 504 of the Rehabilitation Act of 1973: It is unlawful to discriminate based on disability in federally assisted programs. This section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funding assistance. Section 504 also contains design and construction accessibility provisions for multi-family dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991.

Subrecipient: An entity that assists the grantee to implement and administer its program. Subrecipients are generally nonprofit organizations that assist the recipient to undertake one or more activities on behalf of the grantee, such as a home rehabilitation. Subrecipients are also referred to as subgrantees.

The Age Discrimination Act of 1975: This Act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving Federal funding assistance. Effective January 1987, the age cap of 70

was deleted from the laws. Federal law preempts any State law currently in effect on the same topic including: KRS 18A.140; KRS 344.040; 101 KAR 1:350 Paragraph 11; 101 KAR 1:375 Paragraph 2(3); 101 KAR 2:095 Paragraphs 6 and 7.

The Americans with Disabilities Act of 1990 (ADA): This Act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against “a qualified individual with a disability” in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment. Kentucky adopted this Act in 1992 with the enrollment and passage of Senate Bill 210.

The Equal Employment Opportunity Act: This Act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in Federal court against private sector employers after the EEOC has investigated the charge, found “probable cause” of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings Federal, State, and local governments under the Civil Rights Act of 1964.

The Fair Housing Amendment Act of 1988: This Act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand of the Justice Department jurisdiction to bring suit on behalf of victims in Federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.

The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978: This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of Federal laws prohibiting discriminatory employment.

The Vietnam Era Veterans’ Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002): This Act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.

Title VI of the Civil Rights Act of 1964: This Act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving Federal financial assistance.

Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act): This Act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promotes fair housing.

EXAMPLE AGREEMENT

COUNTY OF LEXINGTON

SUBRECIPIENT AGREEMENT

IRMO CHAPIN RECREATION COMMISSION

Universally Accessible
Playground

THIS AGREEMENT made and entered into this **18th** day of **July, 2016** by and between the **County of Lexington**, South Carolina (hereinafter referred to as "the County" or "Recipient"), and the **Irmo Chapin Recreation Commission** (hereinafter referred to as "ICRC" or "the Subrecipient").

WHEREAS, the County of Lexington has received Community Development Block Grant (CDBG) Program funds from the United States Department of Housing and Urban Development under Title I of the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the Community Development Department of the County of Lexington has the responsibility of administering CDBG Program funds to maximize benefits to low- and moderate-income persons through the provision of certain programs and projects; and

WHEREAS, the ICRC intends to use CDBG funding to construct an ADA compliant, universally accessible playground located in Saluda Shoals Park.

NOW THEREFORE, in valuable consideration and mutual promises hereafter set forth between the parties hereto, the legal sufficiency of which is hereby acknowledged by the parties, it is agreed as follows:

I. SCOPE OF PROJECT

- A. Statement of Work** – ICRC will use CDBG funding to construct an ADA compliant, universally accessible playground that will allow children of all abilities access to state-of-the-art play equipment. This accessible playground will promote physical and cognitive growth and social development among all children. This project will include a HUD environmental review, a Request for Release of Funds, architectural drawings and specifications, and adherence to Davis Bacon requirements, etc. The County is providing up to **\$300,000** in CDBG funds to be used for activities identified in the application budget (Attachment A) with ICRC providing a 10% cash match of the amount of funds awarded by the County. All other costs of the project are the responsibility of the Subrecipient. The Subrecipient is to enter into all contracts solely in its name and not on behalf of the County.
- B. Specific Tasks** – The Subrecipient shall cause the preliminary activities and provide all necessary monitoring. This shall include selecting the contractor(s) through a competitive bid process that meets Federal, state, and county standards; and ensuring the work moves forward in a timely manner. The Subrecipient shall also submit requests for payment of CDBG funds to the County for processing, with all necessary documentation to support said requests, in a timely manner.
- C. Quantifiable Level of Service** – By the end of the project, activities will have been carried out and completed as described above.

II. TIME OF PERFORMANCE – PUBLIC FACILITIES AND INFRASTRUCTURE

Services of the Subrecipient shall start on the **18th** day of **July, 2016** and end on the **30th** day of **June, 2018**. Per the discretion of the County, the Subrecipient may request an extension to the time of performance. Should an extension be granted, the Subrecipient must adhere to all provisions of the Agreement.

EXAMPLE AGREEMENT

III. ENVIRONMENTAL REVIEW

Where applicable, the commitment of funds is conditioned on the satisfactory completion of an environmental review and receipt of the Request for Release of Funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58, if required. In accordance with 24 CFR Part 58, recipients, owners, developers, sponsors or any third party partners cannot undertake any physical actions on a site, commit, expend, or enter into any legally binding agreements for this project that constitute choice-limiting actions for any CDBG or non-CDBG funds before the environmental review process has been completed and the County has received a Release of Funds from HUD. Choice-limiting actions are defined by HUD as property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance. If you have any need to expend funds prior to the execution of the subrecipient agreement (costs to conduct environmental review, administration, etc.), please submit a written request to us. All requests for pre-award costs are subject to the provisions of 24 CFR 570.200(h) (1) and OMB Circular A-87. **Any violation of this provision will result in the automatic denial of this funding request (or de-obligation of the CDBG funds, if already awarded).**

IV. USE OF FUNDS/REVERSION OF ASSETS

- A. Funds received pursuant to this agreement shall be used in accordance with the requirements under Title I of the Housing and Community Development Act of 1974 (as amended), 24 CFR Part 570, and other regulations governing the CDBG Program. **Any unused funds remaining at the expiration of this agreement shall revert to the County.**
- B. In accordance with 24 CFR Part 570, upon expiration of this Agreement the Subrecipient shall transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. It shall also include provisions designed to ensure that any real property under the Subrecipient's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the subrecipient in the form of a loan) in excess of \$25,000 its either:
 1. Used to meet one of the national objectives in 24 CFR 570.208 (formerly 570.901) until five years after expiration of this agreement (as amended); or
 2. Not used in accordance with (1), in which event the Subrecipient shall pay to the County an amount equal to the market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The County shall consider the payment program income.

V. PAYMENT

- A. It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed **\$300,000**. The County will reimburse the Subrecipient funds based upon information submitted by the Subrecipient and consistent with the approved budget.
- B. Payment for services will be made within approximately thirty (30) days of receipt of an acceptable detailed invoice, supporting documentation, and Request for Payment form. If any items therein are questioned, payment will be withheld pending verification of the amount claimed and the validity of the claim. The Subrecipient shall provide complete cooperation during any such investigation.
- C. Funds for payment under this Agreement are contingent upon the appropriation of funds by the Federal Grantor and approval of those funds by Lexington County Council. If for any reason funds are not received from the federal government or are not approved by Lexington County Council, the County has no financial responsibility to provide funding.

EXAMPLE AGREEMENT

- D. The Subrecipient agrees that it will commit and provide monies from its own resources for cost overruns that are required to complete the project. It is the responsibility of the Subrecipient to supplement the grant amount to the extent necessary to complete the project.

VI. REIMBURSEMENT OF FUNDS

- A. The Subrecipient shall be responsible for reimbursement to the County for any disbursed funds, which are determined by HUD to have been misused or misappropriated. In the case of Agreement violations by the Subrecipient, the County may request that some or all of the grant funds be returned even if the Subrecipient has expended the funds. Any reimbursement of funds which is required by the County shall be due within thirty (30) days after giving written notice to the Subrecipient.
- B. The Subrecipient shall return to the County any funds paid to the Subrecipient in excess of the allowable costs of services provided under this Agreement. If the Subrecipient fails to return excess funds, the County may deduct the appropriate amount from subsequent payments due to the Subrecipient from the County. The County also reserves the right to recover such funds by any other legal means including litigation if necessary.

VII. MONITORING

- A. The County shall review the performance of the Subrecipient on an ongoing basis to ensure compliance with this Agreement, the provisions of the Community Development Block Grant (CDBG) Program, and other applicable Federal, state, and local laws, regulations, and policies. Any identified instances of non-compliance will be communicated to the Subrecipient in writing along with a plan of correction. No payments shall be made until the Subrecipient is in compliance with the plan of correction.
- B. The Subrecipient shall submit a monthly progress report in the format provided by the County.
- C. The Subrecipient shall submit a completed audit certification form provided by the County at the end of its fiscal year. If the Subrecipient exceeded \$750,000 in federal expenditures, it will submit the required audit to the County within nine (9) months of the end of the audited fiscal year.

VIII. GENERAL ADMINISTRATIVE CONDITIONS

A. General Compliance

When applicable, the Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the United States Department of Housing and Urban Development (HUD) regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state, and local laws, regulations, and policies governing the funds provided under this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Independent Subrecipient

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 Subrecipient" with respect to the services to be performed under this Agreement. The County shall be exempt from

EXAMPLE AGREEMENT

payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent subrecipient.

C. Hold Harmless

The Subrecipient shall hold harmless, defend, and indemnify the County from any and all claims, actions, suits, charges, and judgments whatsoever that arise out of the Subrecipients performance and nonperformance of the services or subject matter called for in this Agreement. If HUD determines that funds were not spent properly and pursues collection from the County, the Subrecipient will indemnify the County for the funds allocated and all costs (attorney fees etc.) associated with the collection from the Subrecipient.

D. Worker's Compensation

The Subrecipient shall provide Worker's Compensation Insurance coverage in accordance with South Carolina law for all of its employees involved in the performance of this Agreement.

E. Insurance & Bonding

The Subrecipient shall carry sufficient insurance coverage to protect assets associated with this Agreement from loss due to theft, fraud, and/or undue physical damage, and as a minimum shall have a blanket fidelity bond covering all employees. The subrecipient shall maintain liability insurance with an approved insurance company in a minimum amount of \$1,000,000.

The Subrecipient shall comply with the bonding and insurance requirements of OMB Circular A-110, Bonding and Insurance.

F. County of Lexington Recognition

The Subrecipient shall insure recognition of the role of the County of Lexington in providing services through this Agreement. All activities, facilities, and items utilized pursuant to this contact 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 County or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, are executed in writing, and signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this Agreement, nor relieve or release the County or Subrecipient from its obligations under this Agreement.

The County may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of project, 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 the County and Subrecipient.

H. Suspension and Termination

In the event of material breach of this Agreement by the Subrecipient, including failure to adequately complete the scope of work within the designated timeframe, the County shall give written notice specifying the material breach. The County would regard any

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deviation from the requirements of this Agreement that was neither trivial nor innocent as being material. Such deviations are evaluated on an instance-by-instance basis.

If such notice of material breach is given and the Subrecipient has not begun correction of the material breach within two (2) days or has not substantially corrected the material breach within ten (10) days of receipt of the written notice, the County shall have the right to terminate unilaterally and immediately services hereunder without further notice.

The County reserves the right to purchase any and all services or other items thereafter in the open market, charging the Subrecipient with any additional costs. Should such charge be assessed, no subsequent bids or proposals of the defaulting Subrecipient will be considered until the assessed charge has been satisfied.

Additionally, the County shall have a similar right of rescission in any instance where the Subrecipient provides or seeks to provide any services for a price higher than that specified in this Agreement, without regard to cause, including governmental regulatory intervention and insistence. In the event of rescission, revocation, or termination, all documents and other materials in possession of the County or scheduled for delivery to the County relating to performance hereunder shall become the property of the County.

The County's failure to exercise their rights or terminate under this provision shall not be construed as a waiver of their rights to terminate, rescind, or revoke the services herein in the event of any subsequent breach.

IX. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standard

The Subrecipient agrees to comply with OMB Circular A-110 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation of all costs incurred.

2. Cost Principles

The Subrecipient shall administer its program in compliance with the following as applicable and these principles shall be applied for all costs incurred:

- a. OMB Circular A-122, "Cost Principles for Non-Profit Organizations"
- b. OMB Circular A-21, "Cost Principles for Educational Institutions"
- c. 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperation Agreements to State and Local Governments"
- d. OMB Circular A-87

B. Records and Reports

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR Part 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

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- 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 Part 570.502, and OMB Circular A-110
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The Subrecipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment. 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 five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-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 the County of Lexington Community Development Grants Division or their designees for review upon request.

4. Disclosure

The Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the County's or Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited by this Agreement unless written consent is obtained from such person receiving service, and in the case of a minor, that of a responsible parent/guardian.

5. Property Records

The Subrecipient shall maintain inventory records of all real property associated with this Agreement. Records should clearly identify all properties that are purchased, improved, or sold.

6. Close-Outs

The Subrecipients obligation to the County shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to, making final payments, disposing of program assets

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(including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the County), and determining the custodianship of records.

7. Access to Records

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the County, the United States Department of Housing and Urban Development (HUD) or their representatives, at any time during normal business hours, as often as the County or HUD deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

C. Program Income/Payment Procedures/Progress Reports

1. Program Income - (relevant to CDBG funded activities)

The Subrecipient shall report quarterly (with the financial reports) any program income as defined in 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this Agreement. 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 use such income during the Agreement period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program income balance on hand. All unused program income shall be returned to the County at the end of the Agreement period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be remitted promptly to the County.

2. Payment Procedures

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

3. Progress Report

The Subrecipient shall submit monthly progress reports to the County in the form and content as required by the County.

D. Procurement

The Subrecipient shall procure all goods and services in conformance with the terms and conditions of this Agreement, OMB Circular A-110, other Federal, State, and County laws and Procurement policies, and good purchasing practices. All goods and services will be competitively procured. Each procurement action will be fully documented and will be subject to review by the Lexington County Procurement Department. Procurement records will be made available to auditors of the County. All procurement records will be kept for a minimum of five (5) years after completion of the contract.

X. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Subrecipient agrees to comply with South Carolina Human Affairs Law and 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 with

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Executive Order 11246 as amended by Executive Orders 11375 and 12086.

2. Nondiscrimination

The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

3. Land Covenants

This Agreement 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 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, 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 of or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the County 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 any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 United States Code 706). The Subrecipient agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, or in any program or activity that receives benefits from federal financial assistance.

B. Affirmative Action

1. Approved Plan

The Subrecipient agrees that it shall be committed to an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.

2. Women and Minority Owned Business Enterprises

The Subrecipient will use its best efforts to afford minority and women owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51%) percent owned and controlled by minority group members or women. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

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3. Access to Records

The Subrecipient shall furnish and cause each of its own Subrecipients or sub-Subrecipients to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the County, 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. Labor Unions

The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice 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. 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 IV-A, Civil Rights, and IV-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 sub-Subrecipients.

C. Employment Restriction

1. Prohibited Restrictions

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or 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, the Copeland "Anti-Kickback" Act (40 United States Code 276a-276a-5; 40 United States Code 327 and 40 276c) 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 shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the County 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 Subrecipients engaged under contracts in excess of \$2,000,000 for construction, renovation, or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the County 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

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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 of the Housing and Urban Development Act of 1968 (12 United States Code 1701 u)

The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 United States Code 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing. The Subrecipient agrees to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this Agreement, the Subrecipient certifies that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

The Subrecipient agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Subrecipient's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The Subrecipient agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Subrecipient will not subcontract with any subcontractor where the Subrecipient has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

The Subrecipient will certify that any vacant employment positions including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

The Subrecipient agrees to submit such reports as required to document compliance with Part 135.

Noncompliance with the regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

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D. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this Agreement without prior written consent of the County thereto; provided, however, that claims for money due or to become due to the Subrecipient from the County under this Agreement 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 County.

2. Subcontracts

a. Approvals

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

b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports 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 Agreement 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 ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the County 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 Title 5 United States Code, Chapter 15.

4. Conflict of Interest

The following provisions regarding "conflicts of interest" apply to the use and expenditure of CDBG funds by the Subrecipient.

In the procurement of supplies, equipment, construction and services, the more restrictive conflict of interest provisions of the State of South Carolina Ethics, Government Accountability and Campaign Reform Act of 1991 or of the Subrecipient shall apply.

In cases not governed by the above, such as acquisition and disposition of real property and the provision of CDBG assistance to individuals, businesses, and other private entities, the following provisions shall apply.

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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 Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-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.

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 United States Code 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 (50) years old or older or that are included in a Federal, state, or local historic property list.

XII. SEVERABILITY

If any term or provision of this contract shall be found to be illegal or unenforceable, then notwithstanding any such illegality or unenforceability, the remainder of said contract shall remain in full force and effect and such term or provision shall be deemed to be deleted and severable therefrom.

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XIII. NOTICES

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

Recipient

Rita V. Squires
CDBG Program Administrator
County of Lexington
212 South Lake Drive, Suite 401
Lexington, South Carolina 29072
(803) 785-8121

Subrecipient

Elizabeth Taylor
Executive Director
Irmo Chapin Recreation Commission
5605 Bush River Road
Columbia, South Carolina 29212
(803) 772-1228

XIV. ATTACHMENTS

Attached hereto and hereby incorporated by reference and made a part of this Agreement as fully as if set forth herein:

Attachment A: Budget

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals on the day and year above written.

COUNTY OF LEXINGTON

Joe Mergo III, County Administrator

IRMO CHAPIN RECREATION COMMISSION

Elizabeth Taylor, Executive Director