

THE STATE OF TEXAS
COUNTY OF FORT BEND

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**SUBRECIPIENT AGREEMENT
FOR
PUBLIC IMPROVEMENT PROJECT**

This Agreement is by and between the City of Rosenberg, a body corporate and politic under the laws of the State of Texas (hereinafter referred to as “City” or “Subrecipient”) and Fort Bend County, a body corporate and politic under the laws of the State of Texas (hereinafter referred to as “County” or “Grantee”).

WITNESSETH:

WHEREAS, the County has submitted a Community Development Block Grant to the U.S. Government, application number B-17-UC-48-0004, which has been approved by the U.S. Government through the U.S. Department of Housing and Urban Development:

WHEREAS, the City has agreed to cooperate to be included in the grant application; and,

WHEREAS, included in the approved grant application for the construction of 12” water line and associated appurtenances at an area in North Rosenberg having the Brazos River as the northern boundary, Elm Street as the western boundary, Walnut Street and Avenue E as the southern boundary and Eighth Street as the eastern boundary, for a total cost of \$353,804.00, hereinafter referred to as the “Project”; and,

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing such funds;

WHEREAS, the County is the grantee named in the grant charged with compliance of the federal laws, rules, and regulations relating to the expenditure of funds received from the U.S. Government pursuant to the approved Community Development Block Grant application; and,

WHEREAS, the County desires to assure compliance with such laws, rules, and regulations relating to the expenditure of funds under the Community Development Block Grant application; and,

WHEREAS, the County and City mutually agree as to the need to expedite this Project as quickly as possible;

NOW, THEREFORE, the County and City do mutually agree as follows:

I. SCOPE OF AGREEMENT

The County and City agree to construct the Project in accordance with the guidelines, rules, and regulations required by the U.S. Department of Housing and Urban Development (hereinafter referred to as HUD).

II. DUTIES OF THE COUNTY AND CITY

2.01 The City shall be responsible, at its own expense, for paying for the design of the Project.

2.02 Within ninety (90) days after the date this Agreement is executed by both parties, the City will submit 50% design submittal to the County for the County's review and comments. The County shall review the preliminary plans and specifications and return comments to the City within seven (7) days. Comments will be forwarded to the City for incorporation into the final plans and specifications. Final plans and specifications shall be submitted to the County to ensure compliance with HUD/County technical requirements. The final plans and specifications shall be returned to the County within forty-five (45) days.

2.03 Within forty-five (45) days after approval by the County of final plans and specifications, the City will advertise for and receive bids for the construction of the Project in accordance with the approved plans and specifications in the manner similar to that of other City projects.

2.04 Upon receipt and tabulation of the bids for the Project, City will determine the lowest and best bid for the construction of the Project. In the event the lowest and best bid for the construction of the Project is an amount that would result in the cost of the Project being equal to or less than the sum of the \$353,804.00, City will notify County of the amount of the lowest and best bid for the Project. Upon such notification to the County, the County will transmit to the City written notice to proceed.

2.05 In the event the lowest and best bid for the construction of the Project is an amount in excess of the sum of \$353,804.00, the City will pay the difference between \$353,804.00 and the lowest and best bid up to a maximum of ten percent (10%) of such lowest and best bid. If the amount of then available funds, the \$353,804.00 plus the City's contingency portion, is not sufficient to construct the Project then the parties agrees to reduce the Project scope as necessary to allow the construction of the Project with the available funds. Upon receipt of written notification of the lowest and best bid, the County will notify the City to proceed to let the contract and continue with the construction of the Project.

2.06 The City shall be responsible for the administration of the construction contracts, with the County approving the award of the bid. The City shall, at its own expense, furnish the necessary inspection personnel to assure itself of compliance with the Agreement. The County shall periodically inspect the Project during construction. The County shall fund the Project as set forth in this Agreement.

2.07 The City and the County, through its Community Development Department Director, may by prior written agreement mutually agree to re-allocate the funds among the various line items of the budget or to new line items created in the budget.

2.08 The City shall submit regular Progress Reports to the Grantee in the form, content, and frequency as required by the Grantee.

III. PROJECT COSTS

3.01 For and in consideration of the Project as herein set forth, the County agrees to fund project costs not to exceed the total sum of Three Hundred Fifty Three Thousand Eight Hundred Four and No/100 Dollars (\$353,804.00) as set forth in the Budget for CDBG Funds, which shall be in full and total compensation for payment of all expenses allowed under this Agreement and the Grant Agreement with HUD.

CDBG Budget

Construction	\$353,804.00
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Total CDBG Funds	<u>\$353,804.00</u>
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City Funds

Engineering	\$44,700.00
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Contingency	\$32,900.00
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Total City Funds	<u>\$77,600.00</u>
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3.02 The County shall not be liable for the payment of expenses or costs, which are not allowable under the terms of this Agreement and the Grant Agreement with HUD. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 24 CFR 85.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed Three Hundred Fifty Three Thousand Eight Hundred Four and No/100 Dollars (\$353,804.00). City shall submit an invoice upon delivery of the Project. Such invoice shall include any other documentation requested by the County. All invoices shall be approved by the Fort Bend County Community Development Department prior to payment.

V. SOURCE OF FUNDING

5.01 The County has no County funds for the costs of goods and services to be rendered under this Agreement. It is expressly agreed and understood that this Agreement is predicated upon and conditioned on the County receiving funds for the purpose of paying the entire obligation of the County under this Agreement from funds to be received from the U.S. Department of Housing and Urban Development, by virtue of Grant No. B-17-UC-48-0004, entitled Community Development Block Grant. Accordingly, notwithstanding anything herein to the contrary, the maximum liability of the County under the terms and provisions of this Agreement shall not exceed \$353,804.00 amount actually received by the County from HUD pursuant to the Block Grant.

5.02 The City admits knowledge of the fact that the County's obligation hereunder for payment of compensation and costs, if any, is limited to Federal funds received pursuant to the Grant Agreement in connection with the Community Development Block Grant Program of the U.S. Department of Housing and Urban Development, and that unless and until adequate funds have been received by the County under the Grant Agreement to pay the City's compensation and expense reimbursement, the County shall have no obligation to the City.

VI. TERM OF AGREEMENT

The time for performance of the Scope of Services under this Agreement shall begin on the date of execution by the County and end no later than April 30, 2019. City shall complete the tasks described in the Scope of Services within this time or within such additional time as may be extended by the County. The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the Subrecipient remains in control of CDBG funds or other CDBG assets, including program income.

VII. GENERAL COMPLIANCE

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

7.02 Where the Subrecipient is a governmental entity, Subrecipient agrees to comply with the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and OMB Circular A-87.

VIII. SUBCONTRACTS

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

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

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

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

IX. PROCUREMENT

9.01 Compliance. The Subrecipient shall comply with current Grantee policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this Agreement.

9.02 OMB Standards. Unless specified otherwise within this agreement, the Subrecipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 85.

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

X. ADMINISTRATIVE REQUIREMENTS OF SUBRECIPIENT

10.01 Accounting Standards. The Subrecipient agrees to comply with 24 CFR 85 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

10.02 Cost Principles. The Subrecipient shall administer its program in conformance with OMB Circular A-87, "Cost Principles for State and Local Governments," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

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

- a) Records providing a full description of each activity undertaken;
- b) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c) Records required to determine the eligibility of activities;
- d) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f) Financial records as required by 24 CFR 570.502, and 24 CFR 85; and
- g) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

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

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

10.06 Disclosure. In such case where client data is collected, the Subrecipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by State or Federal law, unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

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

10.08 Audits & Inspections. All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Subrecipient shall include the above paragraph in each subcontract financed in whole or in part with Department of Housing and Urban Development (hereinafter referred to as HUD), funds for federal funding of a Community Development Block Grant Program (hereinafter referred to as CDBG) HUD funds.

10.09 Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning Subrecipient audits and OMB Circular A-133.

XI. USE AND REVERSION OF ASSETS

11.01 The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 85 and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

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

XII. NOTICE

12.01 Unless otherwise provided in this Agreement, any notice provided for or permitted to be given must be in writing and delivered in person or by depositing same in the United States mail, postpaid and registered or certified, addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party. Notice deposited in the mail as described above shall be conclusively deemed to be effective, unless otherwise stated in this Agreement from and after the expiration of three (3) days after it is so deposited.

12.02 For the purpose of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the County, then to:

Honorable County Judge and Commissioners Court
Fort Bend County
c/o Community Development Department
301 Jackson
Richmond, Texas 77469

If to the City, then to:

Honorable Mayor and City Council
City of Rosenberg
P.O. Box 32
Rosenberg, Texas 77471

12.03 Each party shall have the right, from time to time at any time, to change its respective address and each shall have the right to specify as its new address, provided that at least fifteen (15) days written notice is given of such new address to the other party.

XIII. GRANTEE RECOGNITION

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

XIV. AGREEMENT DOCUMENTS

This Agreement includes the following exhibits and such exhibits are attached hereto and made a part hereof for all purposes:

- Exhibit A - CDBG Program Requirements
Exhibit B - Certification for Contracts, Grants,
Loans and Cooperative Agreements
Exhibit C - Guidelines for Entity Design, Bidding and Administration of Construction
Projects.

XV. SUSPENSION AND TERMINATION

15.01 In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the Grantee or the Subrecipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the award in its entirety.

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

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

XVI. INDEPENDENT CONTRACTOR

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

XVII. HOLD HARMLESS

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

XVIII. WORKERS' COMPENSATION

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

XIX. INSURANCE AND BONDING

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee. The Subrecipient shall comply with the bonding and insurance requirements of 24 CFR 85, Bonding and Insurance.

XX. AMENDMENTS, MODIFICATIONS AND WAIVERS

20.01 The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Grantee's governing body.

20.02 Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

20.03 The Grantee 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 services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

20.04 No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.

20.05 The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

20.06 This Agreement and the attached exhibits represent the entire Agreement between the County and the City, and there are no other effective agreements, representations or warranties between the County and the City that are not contained in the Agreement Documents.

XXI. ASSIGNABILITY

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this contract may be assigned to a bank,

trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

XXII. SEVERABILITY

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

XXIII. SECTION HEADINGS AND SUBHEADINGS

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

XXIV. WAIVER

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

{Execution Page Follows}
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XXV. EXECUTION

IN TESTIMONY OF WHICH, THIS AGREEMENT shall be effective upon execution of all parties.

FORT BEND COUNTY:

Robert E. Hebert, County Judge

Date

ATTEST:

Laura Richard, County Clerk

APPROVED AS TO FORM:

Assistant County Attorney

Date

Reviewed by: COUNTY PROJECT MANAGER

Marilynn Kindell, Director
Fort Bend County Community Development Department

CITY OF ROSENBERG:

By _____
City Manager

Date

ATTEST:

City Secretary

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$353,804.00 to accomplish and pay the obligation of the Fort Bend County under this contract.

Robert E. Sturdivant, County Auditor

EXHIBIT A

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM REQUIREMENTS PERSONNEL & PARTICIPANT CONDITIONS

The Subrecipient ("City") acknowledges that services in performance of this Agreement shall be financed in whole or in part with funds from the Department of Housing and Urban Development (hereinafter referred to as HUD), for federal funding of a Community Development Block Grant Program (hereinafter referred to as CDBG) and certifies to abide by the following requirements that apply to subrecipients as well as grantees. The Subrecipient shall include these requirements in each subcontract, SubAgreement or purchase order, specifically or by reference, so that such provisions will be binding upon each subSubrecipient, subcontractor or vendor

I.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

1. Compliance

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063 as amended by Executive Order 12259.

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 status, or status with regard to public assistance. The Subrecipient will take affirmative action to insure 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 to be provided by the contracting agency 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, Part I. 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 or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and

entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

II.

FAIR HOUSING REQUIREMENTS

The City shall comply with the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR Part 100, Part 109, and Part 110. No person in the United States shall, on the basis of race, color, religion, sex, national origin, handicap or familial status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with CDBG funds. In addition, Subrecipient will not discriminate in housing practices in any aspect of the sale or rental of housing for families with children and persons with disabilities. Subrecipient will abide by all requirements as set by the Fair Housing Act for the design and construction of new rental or for-sale multi-family housing to ensure a minimum level of accessibility for persons with disabilities.

III.

EXECUTIVE ORDER 11063

The City shall comply with Executive Order 11063 as amended by Executive Order 12259 and as contained in 24 CFR Part 107. City will take all action necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use or occupancy thereof, if such property and related facilities area, among other things, provided in whole or in part with the aid of loans, advances, grants, or contributions agreed to be made by the Federal Government.

IV.

SECTION 109 OF THE COMMUNITY DEVELOPMENT ACT OF 1974

The City shall comply with Section 109 of the Community Development Act of 1974, in that no person in the United States shall on the ground of race, color, religion, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with CDBG funds.

V.

EXECUTIVE ORDER 11246

The City shall comply with Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (451 CFR Chapter 60) which provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin

in all phases of employment during the performance of Federal or federally-assisted construction contracts.

City agrees that Contractors and Subcontractors on Federal or federally-assisted construction contracts shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship.

VI.

RELOCATION, ACQUISITION & DISPLACEMENT

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

VII.

SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

The City shall comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

1. The City shall, to the greatest extent feasible, give opportunities for training and employment to lower-income residents of the County and shall award contracts for work in connection with the Project to business concerns which are located in or owned in substantial part by persons residing in the County.
2. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the federal financial assistance provided under this Agreement and binding upon the Grantee, the Subrecipient and any subSubrecipients. Failure to fulfill these requirements shall subject the Grantee, the Subrecipient and any subSubrecipients, their successors and assigns, to those sanctions specified. Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.
3. The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all SubAgreements executed under this Agreement:

The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and Agreements 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 areas of the project.

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs. The Subrecipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

4. Notifications

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

5. Subcontracts

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

VIII.

LEAD-BASED PAINT

The City agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, and in particular Sub-Part B thereof. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants or properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

IX.

USE OF DEBARRED, SUSPENDED OR INELIGIBLE CITIES

The City shall not use assistance to directly or indirectly employ, award contracts to, or otherwise engage the services of, or fund any City or subCity during any period of debarment, suspension or placement in ineligibility status under provisions of 24 CFR Part 24.

X.

DEBARMENT AND SUSPENSION OF CONTRACTORS

The Contractor shall comply and facilitate compliance with the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. A contract award in any tier must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. § 180 that implement Executive Orders Nos. 12549 (3 C F R part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order No. 12549. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount).

XI.

UNIFORM ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPALS

The City and its agencies or instrumentalities, and subrecipients shall comply with the policies, guidelines, and requirements of 2 CFR 200 as applicable, as they relate to the acceptance and use of Federal funds under this part.

The Subrecipient shall procure materials in accordance with the requirements of 2 CFR 200.318, Procurement Standards, and shall subsequently follow Property Management Standards, covering utilization and disposal of property.

XII.

CONFLICT OF INTEREST

1. The Subrecipient agrees to abide by the provisions of 24 CFR 85 and 570.611, which includes (but is not limited to) the following:
2. The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
3. No employee, officer or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved
4. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Subrecipient, or any designated public agency.

No member of or delegate to the Congress of the United States, and no resident Commissioner, shall be admitted to any share or part of this Agreement or to any benefit direct or indirect which arises from the Agreement.

XIII.

ELIGIBILITY RESTRICTIONS FOR CERTAIN RESIDENT ALIENS

The City agrees to abide by the provisions of 24 CFR 570.613 with respect to the eligibility restrictions for certain resident aliens. Certain newly legalized aliens, as described in 24 CFR Part 49, are not eligible to apply for benefits under covered activities funded by the

programs listed in this part of the regulation. The Grantee shall provide the City with any guidelines necessary for compliance with that portion of the regulation.

XIV.

ARCHITECTURAL BARRIERS ACT AND AMERICANS WITH DISABILITIES ACT

The City agrees to comply with any federal regulations issued pursuant to compliance with the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) which requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with the standards that insure accessibility to, and use by, physically handicapped people. The City also agrees to comply with any federal regulations issued pursuant to compliance with the Americans with Disabilities Act (42 U.S.C. 12131 U.S.C. 155, 201, 218 and 225) which provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. The Grantee shall provide the City with any guidelines necessary for compliance with that portion of the regulation in force during the term of this Agreement.

XV.

MINORITY AND WOMEN'S OWNED BUSINESS ENTERPRISES (W/MBE)

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

XVI.

DISCRIMINATION ON THE BASIS OF AGE OR HANDICAP

The City shall not discriminate on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 61-1-07) and implementing regulations at 24 CFR part 146. The City shall not discriminate against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8.

XVII.

LABOR STANDARDS

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

XVIII.

EEO 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.

XIX.

RECORDS FOR AUDIT PURPOSES

Without limitation to any other provision of this Agreement, the City shall maintain all records concerning the Project that will facilitate an effective audit to determine compliance with program requirements. Records shall be kept for three (3) years from the expiration date of the Agreement. The City will give the County, HUD, and the Comptroller General of the United States, the General Accounting Office or any of their authorized representatives access to and the right to examine, copy or reproduce all records pertaining to the acquisition and construction of the Project and the operation of the Project. The right to access shall continue as long as the records are required to be maintained.

XX.

AUDITS AND INSPECTIONS

Grantee, HUD, and the Comptroller General of the United States or any of their authorized representatives at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within thirty (30) days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning subrecipient audits and OMB Circular A-133.

XXI.

DRUG-FREE WORKPLACE

The Subrecipient will or will continue to provide a drug-free workplace by:

- A. Maintaining a Zero Tolerance Drug Policy;
- B. Posting in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Subrecipient's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- C. Stating in all solicitations or advertisements for employees or subcontractors placed by or on behalf of the Subrecipient that the Subrecipient maintains a drug-free workplace;
- D. Establishing an ongoing drug-free awareness program to inform employees about: (1) the dangers of drug abuse in the workplace; (2) the Subrecipient's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- E. Including the provisions of the foregoing clauses in all third party contracts, subcontracts, and purchase orders that exceed ten thousand dollars (\$10,000.00), so that the provisions will be binding upon each subcontractor or vendor.

XXII.

SECTARIAN

The Subrecipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j).

XXIII.

HATCH ACT

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

XXIV.

LOBBYING

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

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly:
- d. **Lobbying Certification** This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

XXV.

COPYRIGHT

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

XXVI.

DAVIS BACON

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 Agreement Work Hours, the Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276, 327-333) 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 which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property designed for residential use for less than eight (8) households, all Contractors engaged under Agreements in excess of \$2,000.00 for construction, renovation or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply with federal requirements adopted by the Grantee pertaining to such Agreements and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR, Parts 3, 1, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such Agreements subject to such regulations, provisions meeting the requirements of this paragraph, for such Agreements subject to such regulations, provisions meeting the requirements of this paragraph, for such Agreements in excess of \$10,000.00.

The Subrecipient shall also comply with 24 CFR Part 70, which sets out the circumstances under which individuals who volunteer their services may be used.

XXVII.

OSHA

Where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participant's health or safety.

XXVIII.

ENERGY CONSERVATION

The City agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

XXIX.

ENVIRONMENTAL REQUIREMENTS

The City agrees to comply with the following regulations insofar as they apply to the performance of this Agreement: Clean Air Act, 42 U.S.C., 1857, et seq., Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder, Environmental Protection Agency (EPA) regulations pursuant to 40 CFR, Part 50, as amended, National Environmental Policy Act of 1969, and HUD Environmental Review Procedures (24 CFR, Part 58).

XXX.

HISTORIC PRESERVATION

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

XXXI.

NATIONAL FLOOD INSURANCE PROGRAM

If a community has had notice for more than a year that an area has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, the Subrecipient agrees that CDBG funds cannot be spent for acquisition or construction purposes in the area unless the community is participating in the National Flood Insurance Program and such insurance has been purchased for the properties in question. Contractor also acknowledges that there is a statutory prohibition against providing Federal assistance to a person who had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance and the person failed to obtain and maintain such insurance. (24 CFR 58.6(b)).

XXXII.

FLOOD DISASTER PROTECTION ACT OF 1973

The Subrecipient agrees to comply with the requirements of the Flood Disaster Protection Act of 1973 (P.L.-2234) in regard to the sale, lease or other transfer of land acquired, cleared or improved under the terms of this Agreement, as it may apply to the provisions of this Agreement.

XXXIII.

FLOODPLAIN MANAGEMENT

Subrecipient will select sites that are located outside of special flood hazard areas for projects proposing new construction or substantial improvement of existing buildings. Executive Order 11988, Floodplain Management, directs agencies "to avoid direct or indirect support of floodplain development wherever there is a practicable alternative" (24 CFR Part 55).

XXXIV.

RELOCATION, REAL PROPERTY ACQUISITION, AND ONE-FOR-ONE HOUSING REPLACEMENT (24 CFR 570.606)

The Subrecipient agrees to comply with (1) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (2) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (3) the requirements in 24 CFR 570.606(d) governing optional relocation policies. The Grantee may, however, preempt the optional policies. The Subrecipient shall provide relocation assistance to displaced persons as defined by 24 CFR 70.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG assisted project. The Subrecipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences. Displacement of persons (including families, individuals, businesses, non-profit organizations and farms) as a result of activities assisted with CDBG funds is generally discouraged.

XXXV.

OMB STANDARDS

Unless specified otherwise within this agreement, the Subrecipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 85.

XXXVI.

ILLEGAL ALIENS

Pursuant to U.S.C Section 1324a, "Unlawful Employment of Aliens", the Subrecipient shall meet the following requirements prior to signing this Agreement and for the duration thereof. By execution of this Agreement, the Subrecipient certifies that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that the Subrecipient will participate in either the federal E-Verify Program (which is jointly administered by the U.S. Department of Homeland Security and the U.S. Social Security Administration) (the "E-Verify Program"), or examine such other documents as allowed by law

in order to confirm the eligibility of all employees who are newly hired for employment to perform work under this Agreement.

EXHIBIT B

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief that:

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Executed this _____ date of _____, 2018.

By _____
(Signature)

(Typed or printed name)

(Title, if any)

Covered Action: COMMUNITY DEVELOPMENT BLOCK GRANT
(Type and identity of program, project or activity)

EXHIBIT C

**GUIDELINES FOR
ENTITY DESIGN, BIDDING AND ADMINISTRATION
OF CONSTRUCTION PROJECTS**

These guidelines are intended to assist those public entities receiving Fort Bend County Community Development Block Grant Funds. The guidelines will facilitate the entity's understanding and compliance with applicable federal and county regulations, policies and processes where the entity is responsible for design, bidding, and construction administration phases of a project. Included as a part of this exhibit are Appendices 1, 2 and 3. If clarification is needed, Fort Bend County Community Development Department (CDD), (281) 341-4410.

1. The entity must submit the proposed consultant's SF 254 and 255 or SF 330 qualification statements and professional liability insurance certification for approval prior to commissioning the consultant.
2. Upon approval by CDD, the entity may retain consultant services.
3. The schematic design must be within the previously approved project scope.
4. Preliminary plans and outline specifications shall be submitted to CDD to review for compliance with project scope, estimated cost and constructability. Comments will be returned to the consultant for incorporation into the final plans. Final plans will be submitted to the County and will be reviewed to ensure compliance with HUD/County technical requirements and to insert County-related documents. Corrections and comments will be returned to the consultant for revisions. Final documents must be approved by CDD.
5. Prior to award of contract, CDD and the County Engineer's Office will review the bid documents, the bidder's qualification statements, minority business plan and financial statements to ensure that the City has a good contracting record, adequate capitalization and/or equipment, etc., to successfully complete the project, meets minority participation goals and that the bidder has not been debarred by HUD from working on federal contracts.
6. The Entity shall conduct a prebid meeting (if necessary) and a preconstruction conference with the City(s), consultant, and CDD representatives in attendance.
7. Inspection will be the responsibility of the Entity. The County Engineer will periodically inspect construction.
8. The Entity will be responsible for preparing monthly pay estimates. Preparation will consist of a site meeting with the Entity and/or consultant and the City's representative to accurately determine the percentage completion of various components of the work and

time used. The monthly estimate is based on a previously submitted and approved schedule of values. Upon completion of the final draft of each monthly estimate, the consultant will be required to sign same. The estimates will then be reviewed by the County Engineer and processed through CDD, County Auditor and the County Treasurer.

9. All requests for changes in contract will be processed by the Entity. All change requests must be within the original scope of work and be approved by CDD prior to processing. No person will have authority to verbally alter, modify, expand or reduce the requirements of the drawings or specifications. All modifications affecting cost, scope, quality or time shall be made part of the contract by a "Change-In-Contract" approved by the Entity. All change orders required due to errors and/or omissions by the consultant will be paid for by the Entity. Total aggregate "Changes-In-Contract" will not exceed twenty-five percent (25%) of the original contract amount.
10. CDD will review all payrolls and conduct working interviews and will hold the general City responsible for compliance with labor, EEO and minority business requirements.

APPENDIX 1

I. PROCEDURES FOR SUBMITTING ENGINEERING PROPOSALS

Fort Bend County's Community Development Department requires that engineering firms submitting qualification statements do so in the manner prescribed below. This information should substantiate the capacity and ability of the firm and its staff to perform this type of engineering work. It is also important to list projects completed of a similar nature that demonstrate this capability. Any proposal submitted without all of the information requested below will be considered as non-responsive.

- A. Submit one (1) copy of information on the firm in the form of a corporate resume, including SF 254 and SF 255 or SF 330 Forms.
- *B. Submit one (1) copy of current project activities of a similar nature being undertaken by your firm (including dollar amount and contact persons).
- *C. Submit any other pertinent information on the firm's ability to carry out the contractual responsibilities; including such things as equipment, use of sub-contracts, and special knowledge of the project area or activity being considered.
- *D. Provide a list of persons, and their classification, who will be assigned to this job.
- *E. Provide a resume of all employees who will be assigned to this project, including a listing of projects having similar work.
- F. Provide a detailed scope of work on how you propose to handle this type of construction. The scope of work should contain categories for initial site investigation, submission of preliminary plan (construction drawings) for review, correction of revisions which result from said review, technical specifications, easement drawings/legal descriptions, and meetings as may be required.
- G. Provide a list of subcontractors to be employed (if known) and whether these firms are minority or female owned.
- H. Submit one (1) copy of the Proposal Summary (Appendix 2).
- I. Submit one (1) copy of the Certification for Contracts, Grants, Loans and Cooperative Agreements (Appendix 3).

*NOTE: It is not necessary to re-list data already included on the SF 254 and SF 255 or SF 330 forms.

II. SELECTION CRITERIA

The award of the contract for engineering services required by this Request for Proposal shall be determined by analysis of, but not necessarily limited to, the following factors:

- A. Documented evidence of qualifications, resources and experience of the proposing firm to perform the required services;
- B. Commitment by the proposing firm to complete the construction plans, documents, design surveys and easement descriptions within the required time;
- C. Other factors as deemed appropriate, including a review of the items submitted under Section I. PROCEDURES FOR SUBMITTING ENGINEERING PROPOSALS.

III. MBE/WBE PARTICIPATION

Where possible, engineering firms are encouraged to utilize the skills and services of minority businesses in the fulfillment of the contractual responsibilities pertaining to this project.

IV. ENGINEERING SERVICES

The City shall enter into a contract for engineering services as listed below:

- 1. The Engineer will be responsible for ascertaining the scope of improvements outlined in this report (scope of work) and developing a Layout and Cost Estimate. The Engineer should recommend alternative layouts if field investigations identify additional problems not covered in the original scope of work.
- 2. Upon direction of the City, the Engineer will prepare construction plans and documents as required so as to install the scope of work identified in this report.
- 3. The Engineer will identify and prepare easement/right-of-way descriptions if necessary.

APPENDIX 2

PROPOSAL SUMMARY

(Include with proposal after selection of engineer)

- | | |
|---------------------------|-------|
| 1. Engineer (Firm Name) | _____ |
| *2. P.E. Hours | _____ |
| *3. Minority/Female Hours | _____ |
| *4. Total Hours | _____ |

*These are total estimated hours for the entire project. The data requested here is in addition to the breakdowns called for in Section I (D & F), PROCEDURES FOR SUBMITTING PROPOSALS.

APPENDIX 3

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief that:

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Executed this _____ date of _____, 2018.

By _____
(Signature)

(Typed or printed name)

(Title, if any)

Covered Action: COMMUNITY DEVELOPMENT BLOCK GRANT
(Type and identity of program, project or activity)