



CITY OF HARRISONBURG

MEMORANDUM OF AGREEMENT FOR IMPLEMENTATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM 2005-2006 PROGRAM YEAR

This contract (hereinafter the "AGREEMENT") is made and entered into this _____ day of _____, 2005, by and between the CITY OF HARRISONBURG, VIRGINIA (hereinafter the "**City**"), located at the City Manager's Office, 345 South Main Street, Harrisonburg, Virginia 22801, and _____ (hereinafter the "**Subrecipient**"), located at _____.

WITNESSETH THAT:

WHEREAS, the **City** has entered into a contract dated _____, with the U.S. Department of Housing and Urban Development (HUD), under which HUD has agreed to provide \$613,398 in Community Development Block Grant (CDBG) entitlement funds under Title 1 of the Housing and Community Development Act of 1975, as amended; and

WHEREAS, at the Regular City Council Meeting on Tuesday, May 10, 2005, the Harrisonburg City Council approved by unanimous vote the **City's** 2006 Action Plan for the CDBG Program, in which the **Subrecipient's** project is incorporated; and

WHEREAS, the **City** desires the **Subrecipient** to carry out a portion of the program described in its Annual Action Plan; and

WHEREAS, the **City** desires the **Subrecipient** to carry out and complete the projects described in the Scope of Services by June 15, 2006; and

WHEREAS, the **Subrecipient** represents that it has the capacity to do so and is willing to carry out those portions of the Community Development Block Grant program described in its application to the **City** for 2005-2006 CDBG funding and in the Scope of Services in this AGREEMENT;

NOW THEREFORE, in consideration of the premises and the mutual covenants, promises and representations contained herein, the parties hereto do agree as follows:

ARTICLE I - SCOPE OF SERVICES

1.1 General

The **City**, acting by and through the City Manager's Office, engages the services of the **Subrecipient** to undertake the projects and activities outlined in this AGREEMENT and the attachments hereto.

1.2. Program / Project Description



1.3. National Objective to be Met

XXXXXXXXXX – KIM TO FILL OUT XXXXXXXXThe **Subrecipient** shall meet the Low- and Moderate- Income Limited Clientele (LMC) national objective. Because of the nature of the project, it may be concluded that the clientele are LMI. The Subrecipient shall serve a group primarily presumed to be LMI.

1.4. Subrecipient Services

The services furnished and activities performed by the **Subrecipient** shall include but are not necessarily limited to those outlined in Attachment A, "Action Plan", attached to and made a part of this AGREEMENT by reference. Said Action Plan shall serve as the work plan for the project described in item 1.2 above, and the operating budget for said project will be as described in Attachment B, "Budget Form", attached to and made a part of this AGREEMENT by reference. The **Subrecipient** will follow the objectives, accomplishments, and budget in Attachments A and B. **The Subrecipient understands and agrees that staff wages, salaries, fringe benefits, and other administrative or "operating" expenses are NOT ELIGIBLE for reimbursement under this AGREEMENT.**

1.5. Revision of Scope

The approved objectives, accomplishments, and budget items in Attachments A and B may be revised when necessary by the **City**. At any time the **Subrecipient** may request a budget revision, however the revision must be approved in writing by the **City** prior to any purchases under the new budget. Approval may be in the form of a letter, a fax, or an email.

1.6. Low and Moderate Income (LMI)

For the purposes of this AGREEMENT, Low and Moderate Income (LMI) is defined as household annual income less than the Section 8 Low Income Limit, generally 80% of the area median income, as established by HUD. A map of the City's designated LMI areas is available online at www.ci.harrisonburg.va.us or at the City Manager's Office. Also, the following table shows the income limits for median family incomes as adjusted for family size. This table may be used to assist in determining LMI eligibility.

Area: Harrisonburg / Rockingham		FY 2004 Median Family Income: \$ 52,200						
-----ADJUSTED INCOME LIMITS (by household size)-----								
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 + Persons
30% Limits	\$10,950	\$12,550	\$14,100	\$15,650	\$16,900	\$18,150	\$19,400	\$20,650
Very Low Income (50%)	\$18,250	\$20,900	\$23,500	\$26,100	\$28,200	\$30,300	\$32,350	\$34,450
Low & Moderate Income (80%)	\$29,250	33,400	\$37,600	\$41,750	\$45,100	\$48,450	\$51,600	\$55,100

In addition, the following persons are generally presumed to be principally LMI: abused children, battered spouses, homeless persons, migrant farm workers, illiterate adults, severely disabled adults, elderly persons, and persons living with AIDS.



ARTICLE II - COMMENCEMENT & COMPLETION

2.1 Commencement and Completion of Services (Period of Performance)

This AGREEMENT shall commence on July 1, 2005, and terminate on June 15, 2006, unless an extension has been approved by the **City** by that date OR unless the AGREEMENT is terminated earlier in accordance with other provisions herein.

ARTICLE III - COMPENSATION AND USE OF FUNDS

3.1 General Compensation

Unless amended, the total amount of CDBG funds provided by the **City** to the **Subrecipient** under this AGREEMENT shall not exceed \$_____ (_____dollars). At the sole discretion of the **City**, any funds remaining unexpended as of the termination date of this AGREEMENT may be de-obligated from this AGREEMENT and made available for other CDBG projects, as determined appropriate by the **City**.

3.2 Reimbursement Requests

This is a cost-reimbursement agreement. Disbursement of funds under this AGREEMENT may be requested only for necessary, reasonable, and allowable costs described in Attachment B, "Budget", and for which the **Subrecipient** has made payment during the period of performance set forth in item 2.1. The **City** agrees to reimburse the **Subrecipient** for such costs, and payment shall be made upon receipt of a Request for Reimbursement from the **Subrecipient** specifying the services performed or expenses incurred. Reimbursements shall be requested no more frequently than once a month, and requests shall be submitted to the City Manager's Office in form and content satisfactory to the **City**, using the Reimbursement Request Form provided by the **City** (Attachment H). All Requests for Reimbursement must be accompanied by documentation of payment for eligible expenses (i.e., invoices, receipts, bills from vendors, copies of checks, time sheets, etc.), documentation of matching funds expenditure or donations (i.e., volunteer time logs, time sheets, mock invoices for donated items, etc.), and other supporting documentation. Supporting documentation must a) bear a date paid stamp and indicate the date and check number by which the cost was paid, or b) be accompanied by either an agency payment voucher providing this information or a copy of the signed check with which the payment was made.

For construction and renovation projects, including façade improvements, a **City** official will complete a site inspection prior to reimbursements to ensure that materials for which a reimbursement is requested are in place on the building. **Reimbursements for construction/building materials, renovations, and façade improvements will only be made once the materials are in place.**

All requests for reimbursements of funds associated with activities under this AGREEMENT must be received by the City NO LATER THAN 4:30 pm, Thursday, June 15, 2006. The **City** shall not be bound to honor Requests for Reimbursement received after this deadline.

3.3 Program Income

The **Subrecipient** agrees to abide by the Program Income Requirements set forth in 24 CFR Part 570.504(c), attached and incorporated by reference (found in Attachment C).



Program Income is defined as gross income received by a unit of local government (**City**) or a **Subrecipient** of a unit of general local government (**City**) that was generated from the use of CDBG funds.

The **Subrecipient** agrees to remit all Program Income to the **City** within five (5) days of its receipt, unless a request is made to the **City** within that same five (5) day period that the **Subrecipient** would like to spend those funds on other CDBG-eligible costs. Such requests must be approved in writing by the **City** and/or HUD prior to **Subrecipient** expenditure of Program Income. Should these requests be approved, verification of the expenditure of Program Income by no later than the contract completion date described in item 2.1 of this AGREEMENT must be submitted to the **City** by the Request for Reimbursement deadline described in item 3.2. If **Subrecipient**, after **City** approval, chooses not to remit Program Income to the **City**, the **Subrecipient** must spend all Program Income on eligible CDBG activities prior to requesting additional reimbursements from the **City**.

Program Income that is received by the **Subrecipient** before close-out of the grant that generated the income is treated as additional CDBG funds and is subject to all Federal regulations and policies governing the program. Under limited circumstances the **City** may approve the use of CDBG Program Income for the purpose of capitalizing a Revolving Loan Fund for specific identified activities. Payments to a Revolving Loan Fund are Program Income and must substantially be disbursed from the Revolving Loan Fund before additional grant funds are drawn from the **City** for Revolving Loan Fund activities.

Regardless of whether Program Income is remitted to the **City** or spent on other CDBG-eligible costs, documentation of the receipt of Program Income, such as supporting schedules identifying the project and the source of income, must be submitted to the **City** within five (5) days of its receipt. When Program Income is generated by an activity that is only partially assisted with CDBG funds, the Income shall be prorated to reflect the percentage of said funds used.

At the end of the term of this AGREEMENT, as described in item 2.1, the **City** may require remittance of all or part of any Program Income balances (including investments thereof) held by the **Subrecipient** (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for Section 108 security needs).

3.4 Double Reimbursement

The **Subrecipient** shall not claim reimbursement from the **City** under this AGREEMENT for any portion of its obligations which has been paid by another source of revenue.

3.5 Withholding Payments

All payments to the **Subrecipient** are subject to the **Subrecipient's** compliance with this AGREEMENT. A breach of the AGREEMENT is grounds for non-payment until such corrective measures are made which will resolve AGREEMENT non-compliance.

3.6 Regulation for Use of Funds

The use of funds received pursuant to this AGREEMENT shall be in accordance with the requirements of the Housing and Community Development Act of 1974 (as amended), 24 CFR Part 570 (Attachment C), and other regulations governing the use of Contract funds, and any amendments or policy revisions thereto which shall become effective during the term of this AGREEMENT. It is the **Subrecipient's** responsibility to read, understand, and comply with these regulations. In addition, the **Subrecipient** agrees to comply with other applicable laws, including the National Environmental Policy Act of 1969 (and the implementing regulations at 24 CFR 58), the National Historic Preservation Act of 1966 as amended (16 USC 470), Section 504 of the



Rehabilitation Act of 1973 (29 USC 794) (and the implementing regulations at 24 CFR 8), the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975 (42 USC 6101) (and the implementing regulations at 24 CFR 146), the prohibition against using debarred contractors at 24 CFR 570.609, and Executive Orders 11063, 11246, 11375, 12086, and 12259.

The **Subrecipient** agrees to comply with the uniform administrative requirements specified at 24 CFR 570.502 and 24 CFR 570.610. **Subrecipients** that are governmental entities (including public agencies) shall comply with the requirements and standards of OMB Circular No. A-87, "Cost Principles for State, Local, and Indian Tribal Governments"; OMB Circular A-128, "Audits of State and Local Governments" (implemented at 24 CFR 44); and the sections of 24 CFR 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," specified at 24 CFR 570.502(a). **Subrecipients**, except **Subrecipients** that are governmental entities, shall comply with the requirements and standards of OMB Circular No. A-122, "Cost Principles for Non-Profit Organizations," or OMB Circular No. A-21, "Cost Principles for Educational Institutions," as applicable; and OMB Circular A-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions" (as set forth in 24 CFR part 45). Audits shall be conducted annually. Such **Subrecipients** shall also comply with the provisions of the Uniform Administrative requirements of OMB Circular A-110 (implemented at 24 CFR part 84, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations") or the related CDBG provision, as specified in 24 CFR 570.502(b).

ARTICLE IV - ASSIGNMENTS

4.1 Interest in Contract

Neither the **City** nor the **Subrecipient** shall assign, sublet, or transfer their interest in this AGREEMENT without the prior written consent of the other.

4.2 Successors

This AGREEMENT shall be binding upon each of the parties, their assigns, purchasers, trustees, and successors.

4.3 Subcontracting / Third Party Contracts

The very nature of certain project activities requires subcontracting. Third parties may be procured for a variety of services, including but not limited to demolition, construction, and renovation; legal services; and engineering services. The **Subrecipient** agrees to furnish to the **City** with a copy of each third party contract which it executes in the performance of the work to be undertaken within the scope of this AGREEMENT. Furthermore, the **Subrecipient** must incorporate in any and all such contracts provisions which will obligate each of its subcontractors or partners to comply with all applicable affirmative action laws, non-discrimination requirements, anti-kickback requirements, Federal Labor Standard Provisions, and Lobbying Prohibitions issued by federal agencies applicable to this program. The **City** must approve, in advance and in writing, any third party contract that is not in accordance with the budget outlined in this AGREEMENT or is for the purpose of conducting management studies. **Furthermore, the City shall not be obligated or liable hereunder to any party other than the Subrecipient.**

The **Subrecipient** agrees to incorporate or cause to be incorporated in all third party contracts or subcontracts funded under the Community Development Block Grant (CDBG) Program provision(s) requiring all applicable federal, state, and local laws, rules, and regulations to be adhered to in accordance with all parts of this AGREEMENT. Specifically, the Subrecipient agrees to require and monitor compliance by all contractors, subcontractors, and other third



parties with the provisions outlined in **Article XI (11) - Other Subrecipient Compliance Requirements**.

ARTICLE V - FINANCIAL MANAGEMENT

5.1 Audit Requirements, Frequency of Audits, and Retention of Audit Funds

If the **Subrecipient** is in receipt of total federal funds equal to or in excess of \$500,000, it will have an audit performed in compliance with provisions of OMB Circular A-133 (Audits of Institutions of Higher Education and other Non-Profit Organizations). The audit must comply in all respects with the generally accepted auditing standards of the American Institute of Certified Public Accountants, the standards for financial and compliance audits contained in the standards for Audit of Governmental Organizations, programs, activities, and functions issued by the U. S. General Accounting Office. Two copies of each audit report shall be submitted to the **City**. The **Subrecipient** must advise the **City** in writing stating who will conduct their audit at least 90 days prior to the close of their fiscal year.

All audit reports are due on or before one year after the close of the program year. Before the due date, the **Subrecipient** should submit to the **City** (1) an audit report or (2) a letter giving the reason for non-compliance with the due date and requesting an extension of time with a specific date the report will be submitted. In event of the latter, the **City** will respond in writing to the **Subrecipient** to approve or disapprove the request.

An amount will be withheld from each **Subrecipient** for which an audit is required until an audit report is received. The amount to be withheld will be determined at the **City's** discretion, with a minimum retention of \$1,000.

Any **Subrecipient** receiving less than \$500,000 in federal funding shall not be required by the **City** to undergo an annual independent audit of the CDBG expenditures under this AGREEMENT. Furthermore, no expenditures with respect to any such audit undertaken by the **Subrecipient** of its own initiative shall be chargeable to the funds under this AGREEMENT.

The **Subrecipient** shall submit copies of audits completed for the applicable program year to the **City**, regardless of whether those audits are required by this AGREEMENT.

ARTICLE VI - RESPONSIBILITIES OF SUBRECIPIENT

6.1 Compliance with Laws

The **Subrecipient** shall comply with the provisions of all labor laws, procurement laws, the laws of the City of Harrisonburg, the laws of the Commonwealth of Virginia, and all federal statutes and regulations which may be applicable to the performance of this AGREEMENT. The Office of the City Manager and the Department of Finance shall monitor compliance with these provisions.

The Subrecipient shall comply with Title 24 CFR Part 85 and/or Title 24 CFR Part 84, as required.

6.2 Employees

The **Subrecipient** warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the **Subrecipient**, to solicit or secure this AGREEMENT, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the **Subrecipient**, any fee, commission, percentage, brokerage fee, gifts, or other consideration contingent upon or resulting from the award or making of this AGREEMENT. For breach or violation of this warranty, the **City** shall have the right to



annul or void this AGREEMENT without liability, or in its discretion to deduct from the AGREEMENT amount described in item 3.1 the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

6.3 Performance Measures.

During the Program Year, the **Subrecipient** agrees to work diligently towards the objectives and projected accomplishments outlined in the Action Plan (Attachment A). If it is determined that any of these objectives will not be completed within the identified timeframe, a request for an extension must be submitted to the **City** for consideration. Such a request must identify the reasons for the extension and must be accompanied by a proposed project timeline that can reasonably be accomplished. A failure to meet the objectives in Attachment A and those identified in item 5.2, "Program Benefit", will represent grounds for the conditioning of grant funds. Incidents of non-performance will suspend grant operations until corrective measures are implemented. If the grant is conditioned, access to grant funds will be suspended pending a satisfactory cure to the related incident of nonperformance.

The **Subrecipient** agrees to assist the **City** in demonstrating appropriate program benefit for the project activities implemented by **Subrecipient**. As provided in **Article I - Scope of Services**, project activities are to be implemented in accordance with the descriptions in items 1.1 through 1.5, as well as Attachments A and B - the Action Plan and the Budget.

ARTICLE VII DOCUMENT AND RECORD-KEEPING

7.1 Record Requirements

The **Subrecipient** shall maintain all records required by the federal regulations specified in 24 CFR Part 570.506 and 570.507 (found in Attachment C), and that are pertinent to the activities to be funded under this AGREEMENT. Such records shall include but are not 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 which demonstrate compliance with the requirements in 24 CFR 570.505 regarding any change of use of real property acquired or improved with CDBG assistance;
- (E) Records that demonstrate compliance with citizen participation requirements;
- (F) Records which demonstrate compliance with requirements in 24 CFR 570.606 regarding acquisition, displacement, relocation, and replacement housing;
- (G) Records documenting compliance with all Federal Fair Housing and Equal Opportunity regulations in the use of CDBG funds;
- (H) Financial records that document all transactions and that can be properly documented and audited, as required by 24 CFR Part 570.502, and OMB Circular A-110;
- (I) Agreements and other records related to lump sum disbursements to private financial institutions for financing rehabilitation as prescribed 24 CFR 570.513;



- (J) Other records necessary to document compliance with Subpart K of 24 CFR 570 (starting on page 149 of Attachment C);
- (K) Copies of all bid documents, bids received, RFPs, RFQs, and any other procurement documents;
- (L) Copies of all third party or subcontracts; and
- (M) Detailed records on **Subrecipient's** organization, financial and administrative systems, and the specific CDBG-funded project(s) or activities.

Please note that the above descriptions are brief and provide only a summary of the records the *Subrecipient* is required to maintain. The *Subrecipient* must consult 24 CFR Part 570.506 (Attachment C) for a detailed description of the required records.

7.2 Retention

The **Subrecipient** shall retain all records of all project expenses, activities, correspondence, records pertinent to any and all expenditures incurred under this AGREEMENT, and any other information as requested by the **City** or by HUD for a period of five (5) years after the termination of all activities funded under this AGREEMENT, or after the resolution of all federal audit findings, which ever occurs later. 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. All files and records will be made available during normal business hours and other reasonable times for review by the **City** or by HUD.

7.3 Quarterly Reports

The **Subrecipient** agrees to submit program activity and progress reports to the **City** on a quarterly basis or more frequently if requested, and other reports as may be required or requested by the **City** or HUD. Attachment A is the **Subrecipient's** Action Plan, which contains measurable objectives to be achieved by the following specified dates: September 30, December 31, March 31, and June 30. Quarterly progress reports are due no later than 4:30 pm, 14 days after each of these deadlines. If the 14th day falls on a weekend or holiday, the report shall be due by 4:30 pm the next business day. Quarterly Reports will include, at a minimum:

- (A) City CDBG Quarterly Progress Report Form (Attachment K);
- (B) A description of all project activities that have taken place during the reporting period, including all outreach activities and public participation events;
- (C) Photographs and newspaper/media clippings of progress to date, if applicable;
- (D) A description of how objectives specified for achievement by that date have been met, OR a description of obstacles that have prevented those objectives from being met, how those obstacles are being addressed, and a new anticipated date of completion for those objectives;
- (E) A description and dollar amount of CDBG funds spent to date, and how much of those funds have already been reimbursed;
- (F) A description and dollar amount equivalent of matching funds (including in-kind) expended to date;



- (G) A description of any anticipated problems or obstacles, and a plan for how those future obstacles will be addressed;
- (H) A description of the number and qualifying LMI characteristics of persons or households assisted with CDBG funds to date, such as LMI by household income, homeless, severely disabled, abused children, migrant farm workers, battered spouses, illiterate adults, elderly, or persons living with AIDS;
- (I) Copies of completed Applications for Assistance received to date;
- (J) Other supportive information or documentation, as applicable; and
- (K) Any other reports or documentation as requested by the **City** or HUD.

7.4 Final Report

The final quarterly report will also serve as the final project report, and will include, in addition to the requirements listed in item 7.3 above, a thorough assessment of the project, including successes and weaknesses; a comparison of projected accomplishments and objectives to actual accomplishments and goals achieved, including reasons for any discrepancies between the two; notation of any CDBG funds or matching funds that were not expended and reasons why; total number and qualifying LMI characteristics of persons or households assisted with CDBG funds or other resources leveraged by using CDBG funds, including any matching funds or donations that would not have been received without CDBG assistance; and identification of future related projects that may be eligible for CDBG assistance. This final report will be due 14 days after June 30 or the date of final reimbursement, whichever is later.

7.5 Client Data

The **Subrecipient** agrees to maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, ethnicity, race, gender, age, head of household, income level, disability, homeless status, or other basis for determining eligibility, and a description of the service provided. **Subrecipients** will use the Standard Application for Assistance (Attachment L) provided by the **City** to collect Client Data OR other form that **Subrecipient** chooses, as long as it has been pre-approved for use by the **City**. Standard Application for Assistance Forms and all supporting documentation and information shall be made available to **City** monitors or their designee for review upon request, and copies of each new Application for Assistance shall be submitted to the **City** with each Quarterly Progress Report.

7.6 Property Development Data

The **Subrecipient** shall maintain complete data on property the **Subrecipient** purchases, develops, redevelops, renovates, or sells with assistance from CDBG funds. This information shall include, at a minimum:

- (A) A central inventory of all real property purchased, developed, redeveloped, renovated, or sold with CDBG funds (whether all or in part), including the TOTAL purchase price or cost of development or renovation AND the amount of CDBG funds used for the project (if CDBG funds are from multiple years, specify amounts per year);
- (B) Information on any occupants displaced by the development activity, including but not limited to information that supports the **Subrecipient's** compliance with 24 CFR Part 570.606;
- (C) The number of units and bedrooms per unit before and after renovation; and



(D) The progress of each development project.

Summaries of this information shall be submitted with each progress/activity report.

7.7 Access to Records

The **Subrecipient** agrees that the **City**, HUD, or any authorized representative has access to and the right to examine all records, books, papers, or documents related to the project. The **City** reserves the right, on demand and without notice, to review all of the **Subrecipient's** files associated with this AGREEMENT where payments are based on a record of time, salaries, materials, or actual expenses. The same right to review will be imposed upon any third party or subcontractor of the **Subrecipient**; therefore, it is the **Subrecipient's** responsibility to ensure that any contract entered into with a third party or subcontractor contains all necessary clauses and language required by the **City** and/or HUD to ensure compliance with this AGREEMENT and with all local, state, and federal regulations.

ARTICLE VIII - MONITORING

8.1 General

The **Subrecipient** shall monitor the progress of the project covered by this AGREEMENT and shall submit appropriate reports to the City Manager's Office. In addition, it is the **City's** intention to monitor the **Subrecipient's** performance and financial and programmatic compliance, which shall include at least one on-site review during the period of this AGREEMENT.

8.2 Financial Monitoring

The Office of City Manager and the Department of Finance on behalf of the **City** shall monitor, review, and evaluate the financial procedures of the **Subrecipient** through documents submitted to the **City** and on-site monitoring. The **Subrecipient** shall provide and make available to the **City** such reports and records that will be necessary for a proper financial evaluation. With reasonable notice being given to the **Subrecipient**, the **City** shall schedule at least one on-site visit and other visits that may be needed during the course of this AGREEMENT.

8.3 Programmatic Monitoring

The Office of City Manager and the Department of Finance on behalf of the **City** shall monitor, review, and evaluate the **Subrecipient**. Fiscal reports will be reviewed and evaluated in terms of the total budget and accomplishments in relationship to expenditures. With reasonable notice being given to the **Subrecipient**, the **City** shall schedule at least one on-site visit and other visits that may be needed during the course of this AGREEMENT. At such times and in such forms as the **City** may require, there shall be furnished to the **City** such statements, records, data, and information as may be necessary.

8.4 Projects Involving Construction or Renovation

For all projects requiring building construction or renovation, the construction/renovation must comply with the **City** building code and all zoning regulations. Additionally, for construction/renovation projects, including façade improvements, a **City** official will complete a site inspection prior to reimbursements to ensure that materials for which a reimbursement is requested are in place on the building. **Reimbursements for construction/building materials and façade improvements will only be made once the materials are in place.**

8.5 Subrecipient Evaluation Plan

During site inspections and quarterly report and records reviews, the **City** will confirm that each **Subrecipient** is following its evaluation plan as outlined in the **Subrecipient's** 2005-2006 CDBG Application to the **City**, incorporated as a part of this AGREEMENT by reference, OR the



Subrecipient will be required to submit an amended evaluation plan to the **City**, which satisfies **City** requirements.

8.6 Monitoring Letters and Reports.

A Site Visit Evaluation Worksheet (SVEW) will be completed after each visit by the **City** Block Grant Coordinator or designee, and all worksheets will be maintained in **City** CDBG files. Within a reasonable period of time (generally 30 days) after the monitoring visit, the **City** shall furnish to the **Subrecipient** a copy of the completed SVEW and any necessary letters or reports summarizing the monitoring visit. Such letters and reports will include any findings or concerns and recommendations for improvement.

8.7 Subrecipient Response

The **Subrecipient** shall have 30 days from the receipt of a financial or programmatic monitoring visit letter to address any findings or concerns.

ARTICLE IX - TERMINATION, SANCTIONS, & CLOSE OUTS

9.1 Termination

In the event that the **Subrecipient** fails to comply with any term of this AGREEMENT, the **City** may suspend or terminate this AGREEMENT, in whole or in part, or take other remedial action in accordance with 24 CFR 85.43. The **City** may also terminate this AGREEMENT for convenience in accordance with 24 CFR 85.44.

Furthermore, CDBG funding to be made available by the **City** under this AGREEMENT is contingent upon necessary appropriations by the U.S. Congress. In the event that sufficient funds are not appropriated, at the sole discretion of the **City**, this AGREEMENT may be terminated in whole or in part.

In the event of termination of this AGREEMENT by the **City** due to **Subrecipient** noncompliance, as set forth above, the **Subrecipient** shall refund to the **City** all unexpended monies provided under the AGREEMENT. At the **City's** discretion, the **Subrecipient** may also be required to refund all CDBG funds awarded during the period of this AGREEMENT that have already been spent by the **Subrecipient** and reimbursed by the **City**.

Should the **City** desire to terminate this AGREEMENT for noncompliance, it shall first give written notice of the reason for proposed termination. The notice shall set forth the following:

- (A) Reasonable description of the default/reason for termination;
- (B) Demand for a cure; and
- (C) Statement of reasonable time within which a cure must be affected. Such reasonable time will be presumed to be not less than five, nor more than fifteen, business days. Such times shall be measured from the actual receipt of said notice.

9.2 Imposition for Sanctions

The **City** reserves the right to impose sanctions on the **Subrecipient** for the violation of any of the terms of this AGREEMENT, failure to comply with the terms of the Action Plan (Attachment A) or the Scope of Services outlined in Article I of this AGREEMENT, or failure to undertake the project in a timely manner.



9.3 Form of Sanctions

If the **City** elects to impose sanctions they may include, but are not necessarily limited to, withholding any and all project funds, termination of the AGREEMENT, requiring the **Subrecipient** to return funds already received, or barring the **Subrecipient** from future funding.

9.4 Close-out

The **Subrecipient's** obligation to the **City** shall not end until all close-out requirements are completed. Activities during the close-out period shall include, but are not limited to, making final payments, submitting final reimbursement request and final activity/progress report to the **City**, disposing of program assets (including the return of all equipment, program income balances, and receivable accounts to the **City**), and determining the custodianship of records. Grant close-out is not considered final until the **City** is fully satisfied that project objectives have been met, at which point the **City** will issue a close-out/grant finalization letter to the **Subrecipient**.

9.5 Reversion of Assets

Upon expiration or termination of this AGREEMENT, including any amendments hereto, the **Subrecipient** shall transfer to the **City** any CDBG funds or Program Income on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG funds.

Any real property under the **Subrecipient's** control that was acquired or improved, in whole or in part, with CDBG funds in excess of \$25,000:

- (A) Shall continue for a period of not less than five years following the expiration of this AGREEMENT, including any amendments hereto, to be used to meet one of the CDBG national objectives cited in 24 CFR 570.208; or
- (B) If the property is not used in accordance with paragraph (A) above, the **Subrecipient** shall pay the **City** an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of or improvement to the property. The payment shall be considered Program Income to the **City**.

9.6 Property of the City

Any data or material furnished by the **City** to the **Subrecipient** shall remain the property of the **City**, and when said data or material is no longer needed by the **Subrecipient** for the performance of this AGREEMENT, it shall be returned to the **City**.

ARTICLE X - TAXES

10.1 Payment of Taxes

The **City** shall not be liable for the payment of any taxes levied by the **City**, State, or Federal Governments against the **Subrecipient**, and all such taxes shall be paid by **Subrecipient**; however, should the **City** nevertheless pay any such taxes, the **Subrecipient** shall immediately reimburse the **City**.

ARTICLE XI - OTHER SUBRECIPIENT COMPLIANCE REQUIREMENTS

11.1 Use of Article XI

The information in this Article is included for the convenience of the **Subrecipient** and to inform the **Subrecipient** of the diverse statutory and regulatory requirements to which the acceptance of CDBG funds makes them subject. For the actual regulatory or statutory requirements, the **Subrecipient** should consult the actual laws, regulations, and documents referenced in this



Article. In addition to the other requirements set forth herein, the **Subrecipient** shall likewise comply with the applicable provisions of Subpart K of 24 CFR 570 (found in Attachment C), in accordance with the type of project assisted.

Many of the referenced regulations are included in Attachment C or other Attachments to this AGREEMENT. All are available online, and upon request, the **City** may provide these materials to the **Subrecipient**.

11.2 Anti-Kickback Rules

Salaries of architects, draftsmen, technical engineers, and technicians performing work under this AGREEMENT shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Anti-Kickback Act of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 103; title 18 U.S.C., section 874; and Title 40 U.S.C., section 276c). The **Subrecipient** shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all third party contracts or subcontracts covering work under this AGREEMENT to ensure compliance by subcontractors with such regulations. Furthermore, the **Subrecipient** shall be responsible for the submission of affidavits required of subcontractors thereunder, except as the Secretary of Labor may specifically provide for variations of or exceptions from the requirements thereof.

11.3 Building and Zoning Regulations and Permits

The **Subrecipient** agrees to comply with all laws of City of Harrisonburg and the Commonwealth of Virginia. In particular, the **Subrecipient** shall comply with all applicable building and zoning regulations. In addition, the **Subrecipient** shall obtain all necessary permits for intended improvements or building activities.

11.4 Conflict of Interest

The **Subrecipient** hereby severally warrants that it will establish and adopt safeguards to prohibit members, officers, and employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties. Further, In accordance with 24 CFR 570.611, no member, officer, or employee of the **Subrecipient** who exercises any functions or responsibility with respect to the program during his or her tenure, or for one year thereafter, shall have any financial interest or benefit, direct or indirect, in any contract or subcontract, or the proceeds thereof, either for themselves or those with whom they have family or business ties, for work to be performed in connection with the program assisted under this AGREEMENT.

11.5 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:
- The dangers of drug abuse in the workplace;
 - The **Subrecipient's** policy of maintaining a drug-free workplace;
 - 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) Making it a requirement that each employee to be engaged in the performance of this AGREEMENT be given a copy of the statement required by section (B);
- (F) Notifying all employees given the statement required by section (B) that, as a condition of participation in the project under this AGREEMENT, the employee will:
- Abide by the terms of the statement; and
 - Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (G) Notifying the **City** in writing, within ten calendar days, of any employee who is in violation of the Drug policy or convicted of drug use. Notice shall include the name of the employee and the identification number(s) of each affected project; and
- (H) 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.

11.6 Environmental Review

In accordance with 24 CFR 570.604, the activities under this AGREEMENT are subject to environmental review requirements. Such requirements may include, but are not necessarily limited to, activities related to historic districts and/or properties, floodplain management and wetland protection, coastal areas protection and management, sole source aquifers, endangered species, noise, wild and scenic rivers, air quality, farmlands protection, environmental justice, airports, site contamination, and hazardous facilities. There shall not be any costs incurred or funds obligated until such time as an Environmental Review Record (ERR) is completed for each project (generally one per project). The ERR shall be completed by the **City**, however the **City** may at its discretion charge any or all costs of completing the ERR against the **Subrecipient's** grant award, due to the time and resources required to prepare this document. Should necessity/alteration/change occur requiring a second, third, or other additional ERR, the **Subrecipient** shall also sustain such cost against the award. The **Subrecipient** also agrees to comply with the following regulations insofar as they apply to the use of CDBG funds:

- (A) Clean Air Act, 42 U.S.C., 1857, et seq.;
- (B) 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;
- (C) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended;
- (D) National Environmental Policy Act of 1969; and



(E) HUD Environmental Review Procedures (24 CFR Part 58).

Subrecipient should note that completion of the ERR is the **City's** responsibility. Nothing in this section or in any other part of this AGREEMENT should be construed as relieving the **City** of this responsibility or placing this responsibility on the **Subrecipient**.

11.7 Equal Employment Opportunity

The following provisions (A), (B), and (C) are applicable to all contracts and subcontracts; provisions (D) through (G) are applicable to all non-exempt construction contracts and subcontracts that exceed ten thousand dollars (\$10,000).

During the performance of this Contract, the **Subrecipient** agrees to the following:

- (A) The **Subrecipient** shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability, veteran or military status, national origin, marital status, or any other basis prohibited by applicable law, except where there is a bona fide occupational qualification (BFOQ) reasonably necessary to the normal operation of the **Subrecipient**. The **Subrecipient** agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- (B) The **Subrecipient**, in all solicitations or advertisements for employees placed by or on behalf of the **Subrecipient**, will state that such **Subrecipient** does not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability, veteran or military status, national origin, marital status, or any other basis prohibited by applicable law.
- (C) Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- (D) The **Subrecipient** will send to each labor union or representative of workers with which it has a collective bargaining contract or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the **Subrecipient's** commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (E) The **Subrecipient** will comply with all provisions of Executive Order 11246, Equal Employment Opportunity, of September 24, 1965, as amended by Executive Orders 11375 and 12086, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (F) The **Subrecipient** 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 its books, records, and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (G) The **Subrecipient** 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 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The **Subrecipient** will take



such action with respect to any subcontract or purchase order as HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a **Subrecipient** becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by HUD, the **Subrecipient** may request the United States to enter into such litigation to protect the interests of the United States.

11.8 Equal Opportunity in Participation

The **Subrecipient** will comply with Title VI of the Civil Rights Act of 1964 (PL 88-352, 42 U.S.C. 2000d et seq.). In accordance with **City** policy and Title VI of the Civil Rights Act of 1964 (PL 88-352), Section 109 of the Housing and Community Development Act of 1974, and in conformance with **City** policy and all requirements imposed by or pursuant to the Regulations of HUD (24 CFR Part 570.601 and 570.602) issued pursuant to Section 109, no person in the United States shall on the ground of race, color, religion, sex, age, disability, veteran or military status, national origin, marital status, or any other basis prohibited by applicable law be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this AGREEMENT. The **Subrecipient** shall not, on the grounds outlined in this section or any other basis prohibited by applicable law:

- (A) Deny to an individual or family any facilities, services, financial aid, or other benefits provided under the funded project;
- (B) Provide to an individual or family any facilities, services, financial aid, or other benefits which are different or are provided in a different form than that provided to others under the funded project;
- (C) Subject an individual or family to segregated or separate treatment in any facility or in any matter or process related to receipt of any service or benefit under the funded project;
- (D) Restrict in any way access to or the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid, or other benefits under the funded project;
- (E) Treat an individual or family differently from others in determining whether the individual or family satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which the individual or family must meet in order to be provided any facilities, services, or other benefit provided under the funded project;
- (F) Deny any person with the legal right to work an opportunity to participate in the funded project as an employee.

The above items A through F in this section serve only as examples of prohibited activities and should not be interpreted as a complete list. Any act or omission determined by the **City** or HUD to be in contravention to this section must be immediately remedied by the **Subrecipient**, and the **City** or HUD may impose any sanctions permitted by this AGREEMENT or by applicable law.

11.9 USERRA

The **Subrecipient** will comply with the Uniformed Services Employment and Reemployment Rights Act (USERRA) (38 USC Section 4301), as amended.



- 11.10 Fair Housing
The **Subrecipient** will comply with Title VIII of the Civil Rights Act of 1968 (PL 90-284, 42 U.S.C. 3601-20), as amended and will administer all funded projects related to housing and community development in a manner to affirmatively further fair housing.
- 11.11 Flood Disaster Protection
This Contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (PL 93-234). Use of any assistance provided under this AGREEMENT for acquisition or construction in an area identified as having special flood hazards shall be subject to the mandatory purchase of flood insurance in accordance with the requirements of Section 102(a) of said Act.
- 11.12 Findings Confidential
Except as provided by law, all reports, information, data, and documentation prepared or assessed by the **City** or the **Subrecipient** under this AGREEMENT are confidential. The **Subrecipient** agrees that the reports shall not be made available to any individual or organization without the prior written approval of the **City**.
- 11.13 Debarment and Suspension
In accordance with 24 CFR 24, the **Subrecipient** shall not employ or otherwise engage any debarred, suspended, or ineligible contractors or subcontractors to conduct any activities under this AGREEMENT. The **Subrecipient** will consult appropriate references, including but not limited to the Excluded Parties Listing Service website at www.epls.gov, to ascertain the status of any third parties prior to engaging their services. The **Subrecipient** will submit to the **City** the names of contractors and subcontractors selected under this AGREEMENT, including a certification by the **Subrecipient** that it has determined that none of these entities are presently debarred, suspended, or ineligible.
- 11.14 Uniform Administrative Requirements
The **Subrecipient** shall comply with the requirements and standards set forth in 24 CFR 570.502, and all applicable CDBG and other federal regulations pertaining to the activities performed under this AGREEMENT.
- 11.15 Property Standards and Lead-Based Paint
All housing assisted shall meet the Statewide Building Code, the International Building Code, and the lead-based paint requirements in 24 CFR 570.608. In accordance with regulations, the **Subrecipient** shall adhere to lead-based paint notification and abatement practices, as applicable, and in no case shall use lead-based paint in the construction or rehabilitation of the properties assisted under this AGREEMENT.
- 11.16 Labor Standards.
The **Subrecipient** and all subcontractors engaged in contracts in excess of \$2,000 for the construction, completion, rehabilitation, or repair of any building or work financed in whole or in part with assistance provided under this AGREEMENT are subject to the federal labor standards provisions which govern the payment of wages and the ratio of apprentices and trainees to journey workers. Under the terms of the Davis-Bacon Act, as amended, the **Subrecipient** is required to pay all laborers and mechanics employed on construction work wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor, and shall pay overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act (40 USC 327-332). The **Subrecipient** shall comply with all regulations issued pursuant to these Acts and with other applicable Federal laws and regulations pertaining to labor standards, including the Copeland "Anti-Kickback" Act. Provided, that if wage rates higher than those required under the regulations are imposed by



state or local laws, nothing thereunder is intended to relieve the **Subrecipient** of its obligation, if any, to require payment of the higher rates.

This section shall apply to the rehabilitation of residential property ONLY if such property contains eight or more units, as determined by the **City** using HUD guidelines.

Subrecipients MUST consult the City prior to soliciting bids for any work that must conform with Davis-Bacon requirements.

11.17 Lobbying Restrictions

The **Subrecipient** certifies that, to the best of its knowledge and belief:

- (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, the **City**, 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, the **City**, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this AGREEMENT or the federal contract, grant, loan, or cooperative agreement of which this AGREEMENT is a result, the **Subrecipient** will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (C) The **Subrecipient** will require that the language of this section be included in the award documents for all sub awards (including subcontracts, third party contracts, grants, loans, and cooperative agreements) and that all subcontractors or other third parties shall certify and disclose accordingly. 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, United States Code. Any person who fails to file the required certification shall be subject to the applicable penalties.

11.18 Religious Organizations

24 CFR Part 570 (Attachment C) has been amended by the federal government as outlined in Attachment E. Please note pages 56404-56405 of this attachment, "PART 570 – COMMUNITY DEVELOPMENT BLOCK GRANTS", as it pertains to Section 570.200, 570.503, and 570.607. **Subrecipient** shall follow federal regulations, as amended.

11.19 Section 104 (d) - Relocation and Replacement Requirements

In accordance with 24 CFR 570.606 (found in Attachment C), the **Subrecipient** shall take all reasonable steps to minimize displacement as a result of the activities funded under this AGREEMENT. Any persons displaced as a result of the activities funded under this AGREEMENT shall be provided relocation assistance to the extent permitted and required under applicable regulations.

If the **Subrecipient** conducts any acquisition, rehabilitation, or demolition of real property, and any negotiations for acquisition, rehabilitation, or demolition of real property with CDBG funds, it will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of



1970, as amended, and the implementing regulations at 49 CFR Part 24 and 24 CFR 570.606. The **Subrecipient** shall provide all notices, advisory assistance, relocation benefits, and replacement dwelling units as required by said regulations and documents. The **Subrecipient** hereby agrees to defend, to pay, and to indemnify the **City** from and against any and all claims and liabilities for relocation benefits or the provision of replacement dwelling units required by federal statutes and regulations in connection with projects undertaken pursuant to this AGREEMENT.

Further, the **Subrecipient** shall comply with the **City's** Anti-Displacement & Relocation Assistance Plan, which may be found on the **City's** website, www.ci.harrisonburg.va.us.

11.20 Section 106 - Historic Preservation Requirements

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 (Attachment G) insofar as they apply to the performance of this AGREEMENT. In general, this requires concurrence from the State Historic Preservation Officer for all acquisition, rehabilitation, and demolition of properties that are fifty years old or older, are located in or adjacent to a historic district, or that are included on a federal, state, or local historic property list, or that have been determined eligible for inclusion on such a list. The **Subrecipient** shall notify the **City's** Block Grant Coordinator immediately upon determining that a property may fall into this category.

11.21 Section 3 - Employment Opportunities for Area Residents

The **Subrecipient** and any authorized subcontractor shall be subject to all applicable provisions of the Housing and Community Development Act of 1974 (42 U.S.C. 5301), as amended, including but not limited to Executive Order 11246 and Section 3 of the Housing and Community Development Act of 1974, "Employment Opportunities for Business and Lower Income Persons in connection with Assisted Projects" (HUD 24 CFR Part 135). These require 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 businesses which are located in, or owned in substantial part by, persons residing in the area of the project. In all solicitations for bids, the contractor must, before signing the Contract, provide a preliminary statement of the work force needs and plans for possible training and employment of lower income persons. When a **Subrecipient** utilizes the bidding procedure to obtain bids, the invitation or solicitation for bids shall advise prospective contractors of the requirements of Section 3 and the clause shall be inserted as a component part of any contract or subcontract. If a **Subrecipient** solicits or requests an invitation for bids, every effort feasible will be made to contact minority-owned and women-owned business enterprises for a response to the solicitation or invitation for bidders. If utilizing a minority subcontractor, the **Subrecipient** shall summarize what portion of the project the minority subcontractor handled. At the end of the project, the **Subrecipient** shall submit a summary of all payments made to the minority subcontractor(s). The **Subrecipient** shall submit all necessary forms with quarterly reports to assure compliance with this requirement.

11.22 Section 504 - Persons with Disabilities

The **Subrecipient**, in the implementation of projects funded by this AGREEMENT and in all of its other operations, will comply with all requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794) (and the implementing regulations at 24 CFR 8), the Americans with Disabilities Act of 1990 (PL 101-336), and all state and local laws requiring physical and program accessibility to people with disabilities, and agrees to defend, hold harmless, and indemnify the **City** from and against any and all liability for any noncompliance on the part of the **Subrecipient**.



11.23 Training Required

It shall be the responsibility of the **Subrecipient** to participate in all appropriate training conducted by the City Manager’s Office or approved by the **City** of Harrisonburg. The **City** shall provide timely notice of all training.

11.24 Procurement Procedures

The **Subrecipient** agrees to comply with the City of Harrisonburg’s Procurement Procedures, attached to and made a part of this AGREEMENT by reference (Attachment F), provided that these procedures conform to applicable federal law and the standards identified in 24 CFR Part 85, Section 85.36 (b) (Attachment J).

ARTICLE XII SPECIAL & MISCELLANEOUS CLAUSES, NOTICES, AND AUTHORIZATION

12.1 Special Clauses

*****KIM TO ENTER SPECIAL CLAUSES HERE*****

12.2 Indemnification

The **City** shall not be responsible or liable for any debts, actions, obligations, negligence or liabilities committed or incurred by the **Subrecipient**, its staff, its subcontractors, or its clientele. Pursuant to the terms and conditions of this AGREEMENT, the **Subrecipient** agrees to defend, hold harmless, and indemnify the **City** from and against all claims for negligent acts or omissions in the performances of the services under this AGREEMENT.

Further, the **Subrecipient** agrees and binds itself and its successors and assigns to indemnify, keep, and hold the **City** and its officers, employees, agents, volunteers, and representatives free and harmless from any liability on account of any injury or damage of any type to any person or property growing out of or directly or indirectly resulting from any act or omission of the **Subrecipient** including, but not necessarily limited to:

- (A) The **Subrecipient’s** use of the streets or sidewalks of the **City** or other public property;
- (B) The performance under this AGREEMENT;
- (C) The exercise of any right or privilege granted by or under this AGREEMENT; or
- (D) The failure, refusal, or neglect of the **Subrecipient** to perform any duty imposed upon or assumed by **Subrecipient** by or under this AGREEMENT.

In the event that any suit or proceeding shall be brought against the **City** or any of its officers, employees, agents, volunteers, or representatives at law or in equity, either independently or jointly with the **Subrecipient** on account thereof, the **Subrecipient**, upon notice given to it by the **City** or any of its officers, employees, agents, volunteers, or representatives, will pay all costs of defending the **City** or any of its officers, employees, agents, volunteers, or representatives in any such action or other proceeding. In the event of any settlement or any final judgment being awarded against the **City** or any of its officers, employees, agents, volunteers, or representatives, either independently or jointly with the **Subrecipient**, then the **Subrecipient** will pay such settlement or judgment in full or will comply with such decree, pay all costs and expenses of whatsoever nature, and hold the **City** or any of its officers, employees, agents, volunteers, or representatives harmless therefrom.



12.3 Insurance

The **Subrecipient** shall furnish the **City** a copy of the insurance certificate that protects it under the Workmen's Compensation Act for claims for bodily injury, death, or property damage which may arise from the performance of services under this AGREEMENT.

The **Subrecipient** will provide a certificate of insurance coverage before approval of this AGREEMENT. Said insurance shall be in the form of a commercial general public liability policy, including contractual liability, issued by a company licensed to do business in the Commonwealth of Virginia. Said policy shall have limits of not less than \$500,000 (per occurrence) covering bodily injury, property damage, and personal injury. The **Subrecipient** will pay premiums. The policy will be kept in force during the terms of this AGREEMENT. The insurance policy shall contain a provision that it shall not be canceled or terminated or changed materially without sixty (60) days written notice to the **City**.

Additionally, the **Subrecipient** will provide the **City** with a certificate of insurance coverage (as described above) for all third parties or subcontractors before approval of any third party contract or subcontract.

The **Subrecipient** agrees to purchase necessary flood insurance, if a project is located in a flood hazard area and the nature of the project requires such insurance.

The **City** shall be named an additional insured party on all insurance policies.

12.4 Independent Contractor

Services performed under this AGREEMENT shall be performed on an independent contractor basis and under no circumstances shall this AGREEMENT be construed as establishing an employee/employer relationship. The **Subrecipient** shall be completely and solely responsible for its activities in performing services hereunder.

12.5 Overall Validity of Contract

It is agreed that the illegality or invalidity of any term or clause of this AGREEMENT shall not affect the validity of the remainder of the AGREEMENT, and the AGREEMENT shall remain in full force and effect as if such illegal or invalid term or clause was not contained herein.

12.6 Entire Agreement

This AGREEMENT, including all of its Attachments, represents the entire agreement/contract between the parties and shall not be modified, amended, altered, or changed, except by written agreement executed by both parties.

12.7 Amendments

The **City** may, from time to time, require changes in the obligations of the **Subrecipient** hereunder, or its City Council may appropriate further funds for the implementation of this project. In such event or events, such changes which are mutually agreed upon by and between the **City** and the **Subrecipient** shall be incorporated by written amendment to this AGREEMENT.

12.8 Governing Law

This Agreement shall be governed by laws of the Commonwealth of Virginia.

12.9 Notices

All notices and correspondence shall be given to the **City** at: Block Grant Coordinator, Office of City Manager, 345 South Main Street, Harrisonburg, Virginia 22801, and to the **Subrecipient** at



12.10 Authorization to Enter into Contract

The undersigned person signing as an officer on behalf of the **Subrecipient**, a party to this AGREEMENT, hereby severally warrants and represents that said person has authority to enter into this AGREEMENT on behalf of said **Subrecipient** and to bind the **Subrecipient** to this AGREEMENT, and further that said **Subrecipient** has authority to enter into this AGREEMENT and that there are no restrictions or prohibitions contained in any article of incorporation or bylaw against entering into this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year hereinabove written:

ATTEST:

FOR THE CITY:

By _____
Yvonne "Bonnie" Ryan, City Clerk

By _____
Roger Baker, City Manager

ATTEST:

FOR THE SUBRECIPIENT:

By _____

(type NAME, TITLE)

By _____

(type NAME, TITLE)

APPROVED AS TO CDBG ELIGIBILITY:

By _____
Kimberly Alexander, Block Grant Coordinator

APPROPRIATION AND FUNDS
FOR THIS CONTRACT CERTIFIED:

By _____
Lester Seal, Director of Finance

Date _____

Expenditure Code: 810721-45676
Project Code: 06CDBGXX
Amount: \$XXXXXXXX



ATTACHMENTS

- A. Subrecipient Action Plan
- B. Subrecipient Budget
- C. Federal Regulations – 24 CFR Part 570
Community Development Block Grants
- D. Special Terms & Conditions
- E. Federal Regulations – 24 CFR Part 92 et al. (amendments)
Participation in HUD Programs by Faith Based Organizations; Providing for Equal Treatment of all HUD Program Participants; Final Rule
- F. City of Harrisonburg Procurement Procedures
- G. Federal Regulations – 36 CFR Part 800
Protection of Historic Properties
- H. Reimbursement Request Form
- I. Volunteer Log
- J. Federal Regulations – 24 CFR Part 85, Section 85.36 (b)
Procurement
- K. City Quarterly Progress Report Form
- L. Standard Application for Assistance (for Subrecipient's clients)