THIS Agreement is made and entered into on this 1st day of October, 20__ by and between Subrecipient Name (hereinafter "SUBRECIPIENT"), and the CITY OF IRVING, TEXAS (hereinafter "CITY"). CITY and SUBRECIPIENT may be referred to individually as a “Party” and jointly as the “Parties”.

WHEREAS, the CITY has received grant from the United States Department of Housing and Urban Development ("HUD") through the Community Development Block Grant ("CDBG") Program, Catalog of Domestic Assistance No. 14.218, with which CITY desires to promote public service activities that benefit low- and moderate-income residents of the City of Irving and the development of partnerships amount CITY, local governments, private industry, and non-profit social services agencies; and

WHEREAS, CITY is the administrator of CDBG funds from HUD, the primary purpose of said program pursuant to the Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended ("Act"), 24 CFR §570 et seq. (the CDBG regulations or “Regulations”) is to benefit low and moderate income persons; and

WHEREAS, CITY, acting pursuant to the Act, heretofore adopted an Action Plan to carry out activities eligible under the CDBG program; and

WHEREAS, Subrecipient Name is a Texas non-profit corporation managed by a volunteer Board of Directors; and

WHEREAS, CITY has determined that SUBRECIPIENT’s PROJECT provides Project Description; and

WHEREAS, the CITY wishes to engage the SUBRECIPIENT to assist the CITY in utilizing such funds;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenant set forth herein, CITY and SUBRECIPIENT do agree, for themselves and for their respective successors and assigns, as follows:

1. PROJECT

1.1 Project Description

The SUBRECIPIENT shall utilize CITY CDBG funds for the provision of SUBRECIPIENT’S Program Name (“PROJECT”), whereby SUBRECIPIENT will provide Project Description. The scope and performance of the services of the PROJECT shall be in accordance with the Scope of work and schedule attached hereto as “Exhibit A: Scope of Work” and incorporated herein by reference.
Objectives to be met by SUBRECIPIENT within the Agreement period shall be as stated in “Exhibit B: Performance Objectives”. The PROJECT Budget shall be as set forth in the attached “Exhibit C: Budget/Authorized Reimbursable Costs”.

It is understood by all Parties hereto that this Agreement and the disbursement of funds pursuant to this Agreement are governed by the provisions of 24 CFR 570, regulations of the Community Development Block Grant (CDBG) Program, and any amendments thereto; that Parties hereto agree to abide by the applicable provision of CDBG to the extent that other sections which may be applicable are not specifically mentioned herein; and that in the event of any conflict between any provision herein and the requirements of 24 CFR 570, said federal requirements shall take precedence.

1.2 Term

The term of Agreement shall be from October 1, 20__, and shall run until September 30, 20__.

   1.2.1 Extension of Agreement
   This Agreement may not be extended.

1.3 Tasks and Schedule

To ensure that the PROJECT progresses adequately toward completion, SUBRECIPIENT must achieve the following benchmarks:

   1.3.1 Monthly Performance Reporting
   PROJECT performance reports will be submitted on a monthly basis, in a format developed and provided by the CITY. Performance reports will summarize PROJECT status in several areas including 1) Status of PROJECT expenditures, 2) Status of PROJECT performance against pre-determined measures, and 3) General status of PROJECT and any other information relevant to the completion of the PROJECT.

   1.3.2 Expenditure
   Unless alternative arrangements have been approved in writing by CITY staff in advance, grant expenditures shall be evenly expended (approximately 1/12 of the targeted performance achieved each month) over the contract term.

2. FORM OF ASSISTANCE AND DISBURSEMENTS

2.1 Form and Terms of Assistance

In consideration for PROJECT services, CITY shall pay SUBRECIPIENT as disbursement of Fiscal Year 20__-20__ Community Development Block Grant funds for eligible costs for the PROJECT in an amount not to exceed CDBG Allocation. Said disbursement is to be paid upon submission to the CITY of appropriate documentation and invoices as stipulated by the CITY. In order to qualify for
reimbursement, funds to be disbursed under this Agreement must be spent by SUBRECIPIENT during the term of the Agreement.

SUBRECIPIENT may not request disbursement of funds until the funds are needed for payment of eligible costs. The amount of each request must be equal to the proof of payment submitted for reimbursement and eligible expenditures. Funds allocated by CITY for this PROJECT which have not been invoiced by SUBRECIPIENT within thirty (30) calendar days after the ending date of this Agreement shall revert to the CITY to be allocated for other activities. Invoices shall not be submitted and payment shall not be made more often than once every thirty (30) days throughout the Agreement term. Payments may be contingent upon certification by the CITY that the SUBRECIPIENT’s financial management system is in accordance with the standards specified in this Agreement.

The obligations of the City in this Agreement are subject to the receipt of sufficient funding from the U.S. Department of Housing and Urban Development. If such funding is not provided by the U.S. Department of Housing and Urban Development, both parties to this Agreement are relieved of any further obligation to the other. These funds are considered formula grant funds with a Catalog of Federal Domestic Assistance number (CFDA) of 14.218.

2.2 Costs in Compliance with CDBG Regulations and Agreement

SUBRECIPIENT shall be reimbursed for eligible costs for the PROJECT with CDBG funds only if CITY determined in its sole discretion that:

A. Costs are eligible expenditures in accordance with the CDBG regulations;

B. Costs are in compliance with this Agreement and are reasonable and consistent with industry norms; and

C. Complete documentation, as applicable, is submitted to CITY by SUBRECIPIENT

2.3 Budget

SUBRECIPIENT agrees that the CDBG funds will be paid on a reimbursement basis in accordance with Exhibit B: Budget/Authorized Reimbursable Costs. SUBRECIPIENT agrees to utilize CBDG funds to supplement rather than supplant funds otherwise available for the PROJECT. Notwithstanding any provision in this Agreement to the contrary, SUBRECIPIENT's efforts to identify and secure alternative funding sources shall not delay the performance of any obligations of either CITY or SUBRECIPIENT under this Agreement.

2.3.1 Changes in Budget

SUBRECIPIENT may increase or decrease line-item amounts in the budget with CITY prior written approval, which approval shall be at CITY sole discretion. Any such increase or decrease in line items in the budget shall comply with Exhibit A: Scope of Work and shall not increase the total amount of CBDG funds.
2.4 Disbursement

CITY’s CDBG funding is intended as Public Service PROJECT assistance. SUBRECIPIENT may request disbursements no more than monthly during the term of the Agreement in accordance with the terms set forth in this section.

SUBRECIPIENT shall be paid up to a total amount not to exceed **CDBG Allocation in words ($CDBG Allocation)** in accordance with the proposed budget contained herein. Payment shall be made upon submission of proper documentation, provided that services have been satisfactory, and that any and all service delivery data requested by CITY has been furnished. SUBRECIPIENT shall submit to CITY requests for disbursement on forms acceptable to CITY, accompanied by appropriate source documentation, including copies of third-party invoices, statements of work performed, cancelled checks, payroll information, or other such verification as authorized by 2 CFR §200.405. SUBRECIPIENT may not request disbursement of funds until the funds are needed for reimbursement of payment of eligible costs.

2.4.1 Conditions of Reimbursement

CDBG funding will only be released to SUBRECIPIENT for actually incurred CDBG-eligible project costs. The obligation of CITY to approve any request or to make any disbursement of CDBG funds is subject to the satisfaction of the following conditions at the time of making such disbursement:

A. SUBRECIPIENT shall not be in default under the term of this Agreement and no events shall exist, which by notice, passage of time, or otherwise would constitute an event of default under this Agreement

B. CITY shall have received evidence satisfactory to CITY that all funded activities have been carried out in accordance with HUD regulation, the term of this Agreement, and SUBRECIPIENT’s proposed scope of work

C. SUBRECIPIENT shall have submitted on or before the tenth (10th) of the month following each month of service of the Agreement term a completed reimbursement request using such forms as deemed acceptable by CITY and other appropriate source documentation as may be required by CITY including, but not limited to:

   I. SUBRECIPIENT authorization of submittal
   II. Line Item budget information matching reimbursement request detail
   III. Population Served Report
   IV. Client Service Log(s) which match requested reimbursement amounts
   V. Completed performance measure report
   VI. Completed client data summary reports which align with requested reimbursement
   VII. Such other supporting evidence as may be requested by CITY to substantiate all payments which are to be made out if the relevant disbursement and/or to substantiate all payments then made with respect to the PROJECT

D. No determination shall have been made by CITY that the undisbursed amount of the PROJECT Agreement is less than the amount received to pay all costs and expenses of
any kind that reasonably may be anticipated in connection with the completion of the PROJECT.

2.4.2 Conditions of Final Disbursement
In addition to the requirement set forth in Section 2.4.1, CITY shall require the completion of a Year-end Report on CITY-approved documents, prior to the final disbursement of funds, the request for which shall not be submitted before completion of the PROJECT.

2.4.3 Limitations on Reimbursement Requests
The Parties covenant and agree that in the event that CITY discovers a misstatement in any affidavit, statement, or certificate furnished pursuant to this Agreement, it shall make no further disbursements until such misstatement has been corrected.

2.4.4 Acknowledgement of City Payment of CDBG Funds
Within fifteen (15) calendar days after the payment of the final reimbursement request, SUBRECIPIENT shall sign an acknowledgement that CITY has paid all CDBG funds due under this Agreement.

3. INTENDED BENEFICIARIES

The intended beneficiaries of the CDBG-funded services in this Agreement are those persons in the City of Irving who are in need of the services provided by SUBRECIPIENT under this Agreement, at least 51% of whom shall be of low or moderate income as defined by the U.S. Department of Housing and Urban Development (HUD) or shall be of a clientele generally presumed by the U.S. Government to be principally low and moderate income. For the purposes of this Agreement, the definition of "low and moderate income" shall be as specified by the U.S. Department of Housing and Urban Development and may be subject to change without notice. SUBRECIPIENT is responsible for verifying such information prior to the determination of beneficiary eligibility, but CITY, where appropriate, shall advise SUBRECIPIENT of any changes to low- and moderate-income limits as established by HUD. SUBRECIPIENT shall establish, maintain and submit to City documentation concerning PROJECT beneficiaries in a form acceptable to CITY's Planning and Community Development Department.

3.1 Income Eligibility and Calculation

SUBRECIPIENT shall ensure that annual gross household income of at least 51% of its PROJECT clients does not exceed current income limits for low to moderate income households, as established and periodically revised by HUD. Any PROJECT providing direct financial assistance to clients such as for rental or educational assistance must ensure that 100% of all clients assisted through the PROJECT do not exceed current income limits for low to moderate income households. Income limits are established at eighty percent (80%) of the HUD-provided Area Median Income, adjusted for family size.
3.1.2 Documentation
SUBRECIPIENT shall ensure that all members of an applicant household provide documentation of assets and income. Such documentation, unless differently predetermined through CITY prior written approval, shall include but is not limited to:

A. Thirty (30) calendar days of employment or other income documentation, preferably in the form of paycheck stubs, for each working member of the household, aged eighteen (18) or older

B. Verification of any other sources of income for all family members (Social Security, SSI, Medicaid, Child Support (12-month history), Alimony (12 month history), retirement, etc.)

C. Verifiable documentation for any other sources of income and/or assets.

A letter of explanation, along with documentation supporting the explanation, shall be included in the client file for any unusual circumstances which impacts client income or assets.

3.1.2 Residency
SUBRECIPIENT shall obtain documentation of residency in the City of Irving, legal United States residency, and supporting information for all household members as part of the determination of PROJECT eligibility, including current government-issued photo identification from the head(s) of household.

4. GENERAL CONDITIONS

4.1 General Compliance
The SUBRECIPIENT agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The SUBRECIPIENT also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

4.2 Independent Contractor
Nothing contained in this Agreement is intended, nor shall it be construed in any manner, as to create or establish 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 CITY 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.
4.3 Worker’s Compensation

The SUBRECIPIENT shall provide Worker’s Compensation Insurance coverage for all of its employees and volunteers involved in the performance of this Agreement.

4.4 Insurance and Bonding

The SUBRECIPIENT shall carry insurance coverage, in accordance with the attached “Exhibit D: Insurance Requirements,” to protect any Agreement assets from loss due to theft, fraud and/or undue physical damage, and at a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to any cash advances from the CITY. The SUBRECIPIENT shall comply with the bonding and insurance requirements of 2 CFR 200.304, Bonding and Insurance, in addition to any other insurance required by CITY.

4.5 Amendments

CITY and SUBRECIPIENT may amend this Agreement by mutual agreement at any time provided that such Amendment(s) make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the Irving City Council. Such amendments shall not invalidate this Agreement, nor relieve or release the CITY or SUBRECIPIENT from its obligations under this Agreement.

The CITY may, in its sole discretion, amend this Agreement to conform with Federal, State or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendment(s) 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 the CITY and SUBRECIPIENT.

4.6 Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least sixty (60) days before the effective date of such termination. Partial terminations of activities contained in Exhibit A: Scope of Work may only be undertaken with the prior approval of CITY. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the SUBRECIPIENT under this Agreement shall, at the option of the CITY, become the property of the CITY, and the SUBRECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The CITY may also suspend or terminate this Agreement at its sole discretion, in whole or in part, if the SUBRECIPIENT materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the CITY may declare the SUBRECIPIENT ineligible for any further participation in the CITY’s contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the SUBRECIPIENT is not in compliance with any applicable rules and regulations, the CITY may withhold said Agreement funds until such time as the SUBRECIPIENT is found to be in compliance by the CITY, or is otherwise adjudicated to be in compliance.
4.7 Procurement

SUBRECIPIENT shall develop and implement procurement procedures which conform to any procurement guidelines issued by CITY. If SUBRECIPIENT is a unit of local government, it shall also comply with all applicable state and local laws relating to procurement. SUBRECIPIENT shall not procure supplies, equipment, materials or services except in accordance with such procurement procedures.

By signing this Agreement, SUBRECIPIENT certifies that it is not in a state of debarment. Furthermore, SUBRECIPIENT certifies that it will not award any funds provided under this contract to any party with is debarred, suspended, or otherwise excluded for or ineligible for participation in federal assistance programs under Executive Order 12549 and 24 CFR Part 24. SUBRECIPIENT shall receive the certification provided by the CITY from each proposed subcontractor under this contract and its principals.

4.8 Allowable Costs

For the term of this Agreement, CITY will reimburse SUBRECIPIENT for the Project Description as more specifically described in Exhibit A: Scope of Work and Exhibit C: Budget/Authorized Reimbursable Costs. SUBRECIPIENT shall be reimbursed by CITY's Planning and Community Development Department in a total amount not to exceed CDBG Allocation in words (CDBG Allocation). SUBRECIPIENT shall establish, maintain, and submit to CITY documentation concerning PROJECT budget and expenditures in a form acceptable to the Planning and Community Development Department. All PROJECT costs must be reasonable and consistent with policies and procedures of the City of Irving, SUBRECIPIENT, and the U.S. Department of Housing and Urban Development. All expenditures must be accorded consistent treatment, and must be determined to be in accordance with generally accepted accounting principles ("GAAP"). CITY reserves the right to audit all budgets, work schedules, and accounts. SUBRECIPIENT further agrees to comply with any applicable provisions of 24 CFR, Part 200.

SUBRECIPIENT shall be liable to the CITY for any costs disallowed by the U.S. Department of Housing and Urban Development pursuant to financial and compliance audit(s) of funds received under this Agreement. Reimbursement to the CITY of such disallowed costs shall be paid by SUBRECIPIENT from funds which were not provided or otherwise made available to SUBRECIPIENT under this Agreement.

4.9 Form 1295

SUBRECIPIENT shall complete the Certificate of Interested Parties form (Form 1295), as outlined in section 2252.908 of the State of Texas Government Code prior to the execution of this contract to ensure that SUBRECIPIENT discloses interested parties to the State. SUBRECIPIENT must use the application provided electronically by the Texas Ethics Commission and print a copy of the complete form, which will include a certification of filing that will contain a unique certification number. Such certification must be signed by an authorizing agent of the SUBRECIPIENT, and the form must be notarized. SUBRECIPIENT shall provide CITY with the completed Form 1295 prior to execution of the Agreement. CITY will acknowledge to the state the receipt of the certification of filing no later than the 30th day after the date the CITY receives the Form 1295. Agreement may
not be fully executed until receiving notice from the State, review by the State of which must occur within seven (7) business days from the date of acknowledgement of receipt from CITY.

4.10 Internal Controls

In compliance with the requirements of 2 CFR §200.303, SUBRECIPIENT shall:

4.10.1 Establish and maintain effective internal control over the CDBG funds that provides reasonable assurance that SUBRECIPIENT is managing the CDBG funds in compliance with Federal statutes, regulations, and the terms and conditions of this Agreement. These internal controls shall be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

4.10.2 Comply with Federal statutes, regulations, and the terms and conditions of this Agreement

4.10.3 Evaluate and self-monitor SUBRECIPIENT's compliance with statutes, regulations, and the terms and conditions of this Agreement

4.10.4 Take prompt actions when instances of noncompliance are identified including noncompliance identified in audit findings and inform CITY of corrective actions within thirty (30) days of identification of noncompliant action

4.10.5 Take reasonable measures to safeguard protected personally identifiable information and other information that HUD or CITY designates as sensitive or SUBRECIPIENT considers sensitive consistent with applicable Federal, State, local, or tribal laws regarding privacy and obligations of confidentiality.

4.11 Compliance with All Applicable Laws and Regulations

SUBRECIPIENT agrees to comply fully with all applicable laws and regulations that are currently in effect or that are hereafter amended during the performance of this Agreement. Those laws include, but are not limited to:

- Title 1 of the Housing and Community Development Act of 1974 as set out above
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Sections 2000d et seq.) including provisions requiring recipients of Federal assistance to ensure meaningful access by persons of limited English proficiency
- The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Sections 3601 et seq.)
- Executive Orders 11063, 11246 as amended by 11375 and 12086 and as supplemented by Department of Labor regulations 41 CFR, Part 60
- The Age Discrimination in Employment Act of 1967
• The Age Discrimination Act of 1975 (42 U.S.C. Sections 6101 et seq.)
• The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Sections 4601 et seq. and 49 CFR Part 24 (“URA”))
• Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sections 794 et seq.) and 24 CFR Part 8 where applicable
• The Clean Air Act, as amended (42 U.S.C. Sections 1251 et seq.) and the Clean Water Act of 1977, as amended (33 U.S.C. Sections 1251 et seq.), related Executive Order 11738 and Environmental Protection Subrecipient Regulations at 40 CFR Part 15. In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility that has given rise to a conviction under the Clean Air Act or the Clean Water Act.
• Immigrations Reform and Control Act of 1986 (8 U.S.C. Sections 1101 et seq.), specifically including the provisions requiring employer verifications of legal status of its employees
• Regulations at 2 CFR Part 200 related to lobbying, including the requirement that certifications and disclosures be obtained from all covered persons
• Executive Order 12549 and 24 CFR Part 5.105(c) pertaining to restrictions on participations by ineligible, debarred, or suspended persons or entities
• Regulations at 24 CFR Part 882.708(C) pertaining to site and neighborhood standards for new construction projects
• Regulations at 24 CFR Part 983.6 for Site and Neighborhood Standards Review
• Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act
• Guidelines of the Environmental Protections Subrecipient at 40 CFR Part 247
• For contracts and subgrants for construction or repair, Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in 29 CFR Part 5
• For construction contracts in excess of $2,000.00, and in excess of $2,500.00 for other contracts which involve the employment of mechanics or laborers, Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327A 300) as supplemented by 29 CFR Part 5
• Regulations at 24 CFR Part 570, Community Development Block Grant
• Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 et seq.
• Prohibition on Contracts with Companies Boycotting Israel (Texas Government Code Title
4.12 Copyright, Patent Rights, and Public Information Act

SUBRECIPIENT acknowledges that the City of Irving is subject to the provisions of the Texas Public Information Act as set forth in Chapter 552 of the Texas Government Code. If a public information request is made to the CITY for information regarding this Agreement, or for any other records provided by SUBRECIPIENT to CITY, the CITY may send a request to the Texas Attorney General for a decision as to whether or not such information may be withheld from disclosure in accordance with the Public Information act, and will release such information if required to do so by Texas of Federal law. In the event that a public information request is made to the CITY for items or documents that may be subject to copyright or patent protection, the CITY will notify SUBRECIPIENT that such public information request has been made so that SUBRECIPIENT can send any arguments to the Texas Attorney General concerning why the information is confidential and should not be released and so that SUBRECIPIENT can assert any other rights it may have under law to keep such information from being disclosed; and SUBRECIPIENT can notify the holder of copyright or patents rights to the requested documents that it can send any arguments to the Texas Attorney General concerning why the information is confidential and should not be released and so that the holder of said rights can assert any other rights it may have under law to keep such information from being disclosed. If pursuant to a court order, subpoena or summons, the CITY is required to make disclosure of information provided by SUBRECIPIENT to the CITY, the CITY shall notify SUBRECIPIENT to allow SUBRECIPIENT to assert whatever exclusions or exemptions maybe available to SUBRECIPIENT under applicable law; and, so that SUBRECIPIENT can notify the holder of copyright or patent rights so that it can assert whatever exclusions or exemptions may be available to it under applicable law. SUBRECIPIENT acknowledges that the CITY must comply with such court order, subpoena or summons unless otherwise determined by the applicable court. This provisions of this Section shall survive the termination of this Agreement.

4.13 Terms Applicable to Contractors, Subcontractors, and Vendors

SUBRECIPIENT understands and agrees that all terms of this Agreement, whether regulatory or otherwise, shall apply to any and all contractors, subcontractors, and vendors of SUBRECIPIENT which are in any way paid with CDBG funds or who perform any work in connection with the PROJECT. SUBRECIPIENT shall cause all applicable provisions of the Agreement to be included in and made a part of any contract or subcontract executed in the performance of its obligations hereunder, including its obligations regarding the CDBG Requirements and the CDBG Regulations. SUBRECIPIENT shall monitor the services and work performed by its contractors, subcontractors, and vendors on a regular basis for compliance with the CDBG Requirements, the CDBG Regulations, and Agreement provisions. SUBRECIPIENT is responsible to cure all violations of the CDBG Regulations committed by its contractors, subcontractors, or vendors pertaining to this Agreement. CITY maintains the right to insist on SUBRECIPIENT’s full compliance with the terms of this Agreement and the CDBG Regulations and SUBRECIPIENT is responsible for such compliance regardless of whether actions to fulfill the requirements of this Agreement or the CDBG Regulations are taken by SUBRECIPIENT or by SUBRECIPIENT’s contractors, subcontractors, or vendors. SUBRECIPIENT acknowledges that the provisions of this Section shall survive the earlier termination or expiration of this Agreement and be applicable for five (5) years after the termination of this Agreement.
4.14 Meaningful Access For Limited English Proficient Persons

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English (“Limited English Proficient persons” or “LEP”) may be entitled to language assistance under Title VI of the Civil Rights Act of 1964 (Title VI) in order to receive a particular service, benefit, or encounter. In accordance with Title VI and its implementing regulations, the SUBRECIPIENT agrees to take reasonable steps to ensure meaningful access to activities for LEP persons. Any of, but not limited to, the following actions could constitute “reasonable steps”, depending on the circumstances; acquiring translators to translate vital documents, advertisements and notices, acquiring interpreters for face-to-face interviews with PEP persons, placing advertisements and notices in newspapers that serve LEP persons, partnering with other organizations that serve LEP populations to provide interpretation, translation, or dissemination of information regarding the PROJECT, hiring bilingual employees or volunteer for outreach and intake activities, or contracting with a telephone line interpreter service.

4.15 Other Laws

The failure to list any Federal, State, or City ordinance, law, or regulation that is applicable to SUBRECIPIENT does not excuse or relieve SUBRECIPIENT from the requirements or responsibilities in regard to following the law, nor from the consequences or penalties for SUBRECIPIENT’s failure to follow the law, if applicable.

5. REPORTING, MONITORING, AND RECORDKEEPING

5.1 General Requirements

SUBRECIPIENT agrees to provide reports to CITY and to maintain records documenting compliance with this Agreement, the loan documents and regulatory agreements, the CDBG requirements, and all other applicable federal, state, and local laws and regulations. SUBRECIPIENT also agrees to provide CITY, HUD, HUD’s Inspector General, the Comptroller General of the United States (aka the U.S. Government Accountability Office or “GAO”), or their representatives, access to the PROJECT and its records for the purpose of monitoring SUBRECIPIENT’s compliance with applicable requirements.

5.2 Reporting Requirements

If SUBRECIPIENT fails to submit, in a timely and satisfactory manner, any report or response required by this Contract as specified in Exhibits "B" and "C", including responses to monitoring reports, CITY may withhold payments otherwise due to SUBRECIPIENT hereunder. If CITY withholds such payments, it shall notify SUBRECIPIENT in writing of its decision and the reasons therefor. Payments may be withheld by CITY until such time as the delinquent obligations for which funds are withheld are fulfilled by SUBRECIPIENT. If the delinquent report or response is not received within forty-five (45) days of its due date, CITY may suspend or terminate this Contract. If SUBRECIPIENT receives CDBG funds from CITY over two (2) or more Contract Periods,
funds may be withheld or this Contract suspended or terminated for SUBRECIPIENT's failure to submit a report or response (including a report of audit) past due under a prior Planning and Community Development Department contract.

SUBRECIPIENT shall submit a final Program Close-Out Report to the Planning and Community Development Department not later than October 31, 2020.

5.3 Reports

SUBRECIPIENT will submit to CITY all reports and documentation described in this Agreement in such form as CITY may prescribe. SUBRECIPIENT will be required to submit a final performance and/or final financial report as required by CITY at the termination of this Agreement in such form and within such times as CITY may prescribe. Failure to submit any report or documentation described in this Agreement to CITY shall be an event of default of this Agreement, and CITY may exercise all of its remedies for default under this Agreement.

5.3.1 Additional Information

SUBRECIPIENT shall provide CITY with additional information as may be required by State or Federal agencies to substantiate CDBG Program activities and/or expenditure eligibility.

5.3.2 Change in Reporting Requirements and Forms

CITY retains the right to change reporting requirements and forms at its discretion. CITY will notify SUBRECIPIENT in writing at least thirty (30) calendar days prior to the effective date or such change, where practicable, and the Parties shall execute an amendment to this Agreement reflecting such change if necessary.

5.3.3 City Reserves Right to Audit

CITY reserves the right to perform an audit of SUBRECIPIENT's operations and finances related to this Agreement at any time during the term of this Agreement and for five (5) years after the Agreement terminates if CITY determines that such audit is necessary for CITY's compliance with CDBG Regulations or other CITY policies, and SUBRECIPIENT agrees to allow access to all pertinent materials as described herein. If such audit reveals a questioned practice or expenditure, such questions must be resolved within fifteen (15) business days after notice to SUBRECIPIENT of such questioned practice or expenditure. If questions are not resolved within this period, CITY reserves the right to withhold further funding under this Agreement and/or other contracts with SUBRECIPIENT. If as a result of an audit it is determined that SUBRECIPIENT has falsified any documentation or misused, missapplied, or misappropriated CDBG funds or spent CDBG funds on any ineligible activities, SUBRECIPIENT agrees to reimburse CITY the amount of such monies plus the amount of any sanctions, penalty, or other charge levied against CITY by HUD because of such actions.

5.4 Monitoring

CITY will monitor and evaluate SUBRECIPIENT’s progress on project performance on an annual basis, or more frequently as required, against goals and performance standards established herein. Monitoring may take the form of desk review, virtual or on-site monitoring. SUBRECIPIENT shall establish and maintain appropriate documentation to verify stated performance objectives and shall submit such documentation to City's Planning and Community Development
Department staff on a monthly basis during the Agreement term as provided in Section 2, or more often if deemed necessary. SUBRECIPIENT further agrees to reasonable on-site monitoring by representatives of the City and the U.S. Department of Housing and Urban Development.

SUBRECIPIENT understands and agrees that it will be subject to monitoring by CITY for compliance with the CDBG Regulations and the terms of this Agreement until the PROJECT is closed in IDIS and for four (4) years thereafter. SUBRECIPIENT will provide reports and access to PROJECT files as requested by CITY during the term of the Agreement and for four (4) years after the PROJECT is closed in IDIS. In order to assist CITY with its monitoring, SUBRECIPIENT shall comply with all the reporting requirements set out in this Agreement.

5.4.1 Access
Representatives of CITY, HUD, HUD Office of Inspector General, and the United States Comptroller General shall have access during regular business hours, upon forty-eight (48) hours’ prior notice, to SUBRECIPIENT’s offices and records that are related to the use of the CDBG funds, and to SUBRECIPIENT’s officers, agents, employees, contractors, subcontractors, vendors, and records that are related to the use of CDBG funds for the purpose of such monitoring.

5.4.2 Frequency and Types of Monitoring
In addition to other provisions of this Agreement regarding frequency of monitoring, CITY reserves the right to perform desk reviews or on-site monitoring of SUBRECIPIENT’s compliance with the terms and conditions of this Agreement. CITY shall provide SUBRECIPIENT with a written report of the monitor’s findings after each on-site monitoring visit. If the monitoring report notes deficiencies in SUBRECIPIENT’s performance, the report shall include requirements for the timely correction of said deficiencies by SUBRECIPIENT. Failure by SUBRECIPIENT to take the action specified in the monitoring report may be cause for suspension or termination of this Agreement as provided herein or CITY may require repayment of all CDBG funds related to this Agreement. CITY will evaluate all funded agencies to determine the required frequency of on-site monitoring to be conducted.

5.4.3 Substandard Performance
Substandard performance as determined by City monitoring will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the SUBRECIPIENT within a reasonable period of time after being notified by the City, Agreement suspension or termination procedures will be initiated. In the event that the City makes a determination that the provisions of this Agreement have not been performed by the SUBRECIPIENT, City may, in accordance with 2 CFR 200.339(a)(1), suspend or terminate this Agreement by notice in writing to SUBRECIPIENT if the SUBRECIPIENT materially fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 2 CFR 200.339.
5.5 Audits

SUBRECIPIENT shall provide annually during the term of this Agreement, together with the twelve (12) month period prior to the Agreement period submitted to CITY within five (5) business days of Agreement execution, to CITY a copy of an independent financial audit. Such audits shall be completed by an independent auditor in accordance with generally accepted accounting and auditing principles and standards (GAAP) governing financial and compliance audits. Such audits should be completed no later than one hundred fifty (150) days following the end of the SUBRECIPIENT’s fiscal year. However, upon CITY approval of prior written request from SUBRECIPIENT, CITY will allow such audits to be completed no later than one hundred eighty (180) days following the end of the SUBRECIPIENT’s fiscal year. CITY reserves the right to approve this submittal date to mitigate professional charges to SUBRECIPIENT related to conducting such audits. Notwithstanding, all copies of completed audits, together with any management letters or accompanying documentation, shall be submitted to CITY within thirty (30) days of acceptance and review by SUBRECIPIENT. Should SUBRECIPIENT receive Federal funding in an amount exceeding $750,000.00, regardless of source, SUBRECIPIENT must complete an Independent Single Audit in accordance with 2 CFR 200 Subpart F. Such independent Single Audit is subject to the submittal requirements stated above.

In the event SUBRECIPIENT is allocated $750,000.00 or more in federal funds from any agencies of the U.S. Government, SUBRECIPIENT shall also comply with U.S. Government federal audit requirements, including the requirements contained in 2 CFR 200 Subpart F.

5.6 Form 990

SUBRECIPIENT shall provide annually during the term of this Agreement, together with the twelve (12) month period prior to the Agreement period submitted to CITY within five (5) business days of Agreement execution, to CITY a copy of its submitted Return of Organization Exempt From Income Tax (commonly referred to as IRS Form 990). Such forms shall be submitted to CITY within thirty (30) days of SUBRECIPIENT submittal to the Internal Revenue Service.

5.7 Depository and Record Keeping

Disbursed funds must be deposited in a depository having federal depository insurance. CITY shall require of SUBRECIPIENT that the Department of Housing and Urban Development of the United States Government, the Comptroller General of the United States or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Project, for the purpose of making audit examinations, excerpts and transcriptions. This Agreement and all records pertaining to such Agreement shall be maintained by both SUBRECIPIENT and the CITY for a period of four (4) years after final payment is made and all other pending matters are finalized.

CITY reserves the right to conduct additional financial and compliance audits of the funds received and performance rendered under this Agreement. SUBRECIPIENT agrees to permit CITY or its authorized representatives to audit SUBRECIPIENT’s records and to obtain any documents, materials or information necessary to facilitate such audit.
6 PROJECT INCOME

No PROJECT income, commonly referred to as Program Income, is anticipated. In the event there is program income derived from the use of CDBG funds disbursed under this Agreement such program income shall be returned to the Planning and Community Development Department for further reallocation.

7 ENFORCEMENT AND TERMINATION

If CITY determines that the required PROJECT elements have not been completed within the timelines of this Agreement or have been provided for ineligible activities or to a preponderance of ineligible persons, CITY shall have the right to terminate this Agreement effectively immediately upon written notice to SUBRECIPIENT of such intent with no penalty or liability to CITY after giving SUBRECIPIENT thirty (30) calendar days to cure. CITY shall also be entitled to demand repayment of the CDBG funds already disbursed to SUBRECIPIENT and enforce any of the provisions of this Agreement for default.

7.1 Failure to Submit Complete Documentation During PROJECT

7.1.1 Complete Documentation
If SUBRECIPIENT fails to submit complete documentation during PROJECT, or if any report or documentation submitted as part of complete documentation is not in compliance with this Agreement or CDBG Regulations as determined by CITY in its sole discretion, CITY will notify SUBRECIPIENT in writing and SUBRECIPIENT will have thirty (30) calendar days from the date of CITY’s written notice to submit or resubmit any such report or documentation. If SUBRECIPIENT fails to submit or resubmit any such report or documentation within such time, CITY shall have the right to withhold payments. If such failure continues for an additional thirty (30) calendar days (a total of sixty (60) calendar days), CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT with no penalty or liability to CITY. Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG funds to SUBRECIPIENT during the period that any such report or documentation is missing or otherwise not in compliance with this Agreement or the CDBG Regulations.

7.1.2 Incomplete or Noncompliant Reimbursement Requests
If any of SUBRECIPIENT’s Reimbursement Requests are incomplete or otherwise not in compliance with this Agreement or the CDBG Regulations as determined by CITY on its sole discretion, CITY will notify SUBRECIPIENT in writing of such default and SUBRECIPIENT will have fifteen (15) calendar days from the date of the written notice to resubmit any such Reimbursement Request to cure the default. If SUBRECIPIENT fails to cure the default within such time, SUBRECIPIENT shall forfeit any payments otherwise due under such Reimbursement Request. Is such failure to resubmit such Reimbursement Request continues for an additional fifteen (15) calendar days (for a total of thirty (30) calendar days), CITY shall have the right to terminate this Agreement effective immediately upon written notice of such
intent with no penalty or liability to CITY. Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG funds to SUBRECIPIENT during the period that any such Reimbursement Request is not in compliance with this Agreement or the CDBG Regulations.

7.1.3 Multiple Instances
In the event of more than two (2) instances of default, cured or uncured, CITY reserves the right at its sole option to terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT with no penalty or liability to CITY.

7.1.4 Payment of CDBG Funds to SUBRECIPIENT
Notwithstanding anything to the contrary herein, CITY will not be required to pay any CDBG Funds to SUBRECIPIENT pursuant to this Agreement during the period that any Reimbursement Request, report, or other documentation is missing, past due, or is not in compliance with this Agreement or the CDBG Regulations, or during any period during which SUBRECIPIENT is in default of this Agreement.

7.1.5 Unpaid Funds
In the event of termination under this Section, all CDBG Funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately forfeited and SUBRECIPIENT shall have no further right to such funds. If CITY determines that a repayment of CDBG funds paid to SUBRECIPIENT must be repaid, any CDBG funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination under this Section. Failure to repay such CDBG funds will result in CITY exercising all legal remedies available to CITY under this Agreement.

7.2 Failure to Maintain or Submit Required Reports and Documentation
If SUBRECIPIENT fails to maintain all records and documentation as required in Section 6, or fails to submit any report or documentation required by this Agreement after the PROJECT is completed, or if the submitted report or documentation is not in compliance with this Agreement or the CDBG Regulations as determined by CITY in its sole discretion, CITY will notify SUBRECIPIENT in writing and SUBRECIPIENT will have fifteen (15) calendar days from the date of the written notice to obtain or recreate the missing records or documentation, or submit or resubmit any such report or documentation to CITY. If SUBRECIPIENT fails to maintain the required reports or documentation, or submit or resubmit any such report or documentation within such time, CITY shall have the right to terminate this Agreement effective immediately upon written notice of such intent with no penalty or liability to CITY.

7.3 Additional Time to Cure
Unless specifically provided otherwise in this Agreement, SUBRECIPIENT shall be in default under this Agreement if SUBRECIPIENT breaches any term or condition of this Agreement. In the event that such a breach remains uncured after thirty (30) calendar days following written notice by CITY (or other such notice period as may be specified herein), or if SUBRECIPIENT has diligently and continuously attempted to cure following receipt of such written notice but reasonably required more than thirty (30) calendar days to cure, as determined by both Parties mutually and in good faith, CITY shall have the right to elect, in CITY’s sole discretion, to (i) extend
SUBRECIPIENT’s time to cure, (ii) terminate this Agreement effective immediately upon written notice of such intent to SUBRECIPIENT, or (iii) pursue any other legal remedies available to CITY under this Agreement.

7.4 Remedies
City’s remedies may include:

A. Direct SUBRECIPIENT to prepare and follow a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities.

B. Direct SUBRECIPIENT to establish and follow a management plan that assigns responsibilities for carrying out the remedial activities.

C. Cancel or revise activities likely to be affected by the performance deficiency, before expending CDBG funds for the activities

D. Reprogram CDBG funds that have not yet been expended from the affected activities to other eligible activities or withhold CDBG funds.

E. Direct SUBRECIPIENT to reimburse CITY in any amount of CDBG funds not used in accordance with the HOME regulations.

F. Suspend reimbursement of CDBG funds for affected activities.

G. Suspend or terminate this Contract.

H. Any other appropriate action including but not limited to any remedial action legally available such ad declaratory judgement, specific performance, damages, temporary or permanent injunctions, termination of this Agreement or any other Agreements with SUBRECIPIENTS, and any other available remedies.

7.5 Repayment

In the event of termination under this Section, all CDBG funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds and, as determined by CITY, any CDBG funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination. Failure to repay such CDBG funds will result in CITY exercising all legal remedies available to CITY under this Agreement.

7.6 No Funds Disbursed While in Breach

SUBRECIPIENT understands and agrees that no CDBG funds will be paid to SUBRECIPIENT until all defaults are cured to the satisfaction of CITY.
7.7 No Compensation after Date of Termination

SUBRECIPIENT will not receive any CDBG funds for work undertaken after the date of termination.

7.8 Rights of CITY Not Affected

Termination shall not affect or terminate any of the existing rights of CITY against SUBRECIPIENT, or which may thereafter accrue because of such default, and this provision shall be in addition to any and all other rights and remedies available to CITY under the law including, but not limited to, compelling SUBRECIPIENT to complete the PROJECT in accordance with the terms of the Agreement. Such termination does not terminate any applicable provisions of this Agreement that have been expressly noted as surviving the term of termination of this Agreement. No delay or omission by CITY in exercising any right or remedy available to it under this Agreement shall impair such right or remedy or constitute a waiver or acquiescence in any SUBRECIPIENT default.

7.9 Waiver of Breach Not Waiver of Subsequent Breach

The waiver of a default of breach of any term, covenant, or condition of this Agreement shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition hereof or thereof.

7.10 Civil, Criminal, and Administrative Penalties

Failure to perform all Agreement terms may result in civil, criminal, or administrative penalties, including, but not limited to those set out in this Agreement.

7.11 Termination for Cause

CITY may terminate this Agreement in the event of SUBRECIPIENT’s default, inability, or failure to perform subject to notice, grace, and cure periods. In the event CITY terminates this Agreement for cause, all CDBG funds awarded but unpaid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds, and any CDBG funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination. Failure to repay such CDBG funds will result in exercising all legal remedies available to City under this Agreement. SUBRECIPIENT acknowledges and agrees that if CITY terminates this Agreement for cause, neither SUBRECIPIENT nor any affiliates of SUBRECIPIENT will be considered for any other CITY contract for CDBG funds for a minimum of five (5) years from the date of termination.

7.11.1 Loss of Nonprofit Status

This Agreement shall be terminated immediately in the event SUBRECIPIENT loses its nonprofit certification or status after the cure period stated in this Section.

7.11.2 No Available CDBG Funds

SUBRECIPIENT may terminate this Agreement if CITY does not provide the CDBG funds substantially in accordance with this Agreement.
7.12 Termination for Convenience

In terminating in accordance with 2 CFR 200, Appendix II, this Agreement may be terminated in whole or in part only as follows:

7.12.1
By CITY with the consent of SUBRECIPIENT in which case the Parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

7.12.2
By SUBRECIPIENT upon written notification to CITY setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. In the case of a partial termination, CITY may terminate the Agreement in its entirety if CITY determines in its sole discretion that the remaining portion of the Agreement to be performed or CDBG funds to be spent will not accomplish the purposes for which this Agreement was made.

7.13 Dissolution of SUBRECIPIENT Organization Terminates Contract

This Agreement shall terminate in the event SUBRECIPIENT organization is dissolved or ceases to exist. In the event of termination under this Section, all CDBG funds are subject to repayment and/or CITY may exercise all of its remedies under this Agreement.

7.14 REPAYMENT OF CDBG FUNDS

All CDBG funds are subject to repayment in the event the PROJECT does not meet the requirements of this Agreement or of the CDBG Regulations. If SUBRECIPIENT takes any action that results in CITY being required to repay all or any portion of the CDBG funds to HUD, SUBRECIPIENT agrees it will reimburse CITY for such repayment.

7.15 MATERIAL OWNERSHIP CHANGE

If ownership of SUBRECIPIENT materially changes after the date of this Agreement, CITY may, but is not obligated to, terminate this Agreement. CITY has thirty (30) calendar days to make such determination after receipt of written notice from SUBRECIPIENT, and failure to make such determination will constitute a waiver. In the event of termination by CITY under this Section, all CDBG funds awarded but not yet paid to SUBRECIPIENT pursuant to this Agreement shall be immediately rescinded and SUBRECIPIENT shall have no further right to such funds. Any CDBG funds already paid to SUBRECIPIENT must be repaid to CITY within thirty (30) calendar days of termination under this Section.
8 REVERSION OF ASSETS/DISPOSITION OF EQUIPMENT

Upon expiration of this Agreement, SUBRECIPIENT shall transfer to the CITY any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds, except as provided in Section VII herein. In addition, 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 shall either be:

A. Used to meet one (1) of the national objectives listed in 24 CFR 570.208 (benefit at least 51% low and moderate income persons, aid in the prevention or elimination of slums or blight or meet community development needs having a particular urgency because they pose a serious and immediate threat to the health or welfare of the community) until five (5) years after expiration of the Agreement; however, in compliance with 24 CFR 570.505, should the SUBRECIPIENT propose to change the use of the property/equipment from that for which it was originally intended, affected citizens must be provided with reasonable notice of and opportunity to comment on the proposed change; or

B. Disposed of in a manner that results in the CITY being reimbursed in the amount of the current fair market value of the property/equipment less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of or improvement to the property. Such reimbursement shall not be required if disposition occurs more than five (5) years after expiration of this Agreement. In all cases in which property/equipment is sold, the proceeds shall be program income, the use of which shall be recorded in compliance with 24 CFR 570.504 and Section VII herein.

To document this requirement, SUBRECIPIENT shall maintain appropriate written records as approved by CITY’s Planning and Community Development Department regarding use of the property for the five (5) year period following expiration of this Agreement.

9. CONDITIONS FOR RELIGIOUS ORGANIZATIONS

The SUBRECIPIENT agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, in accordance with the Federal regulations specified in 24 CFR 570.200 (j).

10. INDEMNIFICATION

SUBRECIPIENT SHALL INDEMNIFY AND HOLD HARMLESS THE CITY OF IRVING, ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEYS FEES FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH SUBRECIPIENT’S OPERATION, THE PROJECT, OR THE EXPENDITURE OF FUNDS AUTHORIZED BY THIS AGREEMENT, OR ANY SERVICES PROVIDED BY SUBRECIPIENT FUNDED OR PARTIALLY
Funded by this agreement. Such indemnification shall apply where the claims, losses, damages, cause of action, suits or liability arise in whole or in part from the negligence of subrecipient or city, their officers, officials, agents and employees.

It is the express intention of the parties hereto, both subrecipient and city, that the indemnity provided for in this section includes indemnity by subrecipient to indemnify and protect city from the consequences of city's own negligence, whether that negligence is alleged to be the sole or concurring cause of the injury, death, or damage.

11. Personnel and Participant Conditions

11.1 Civil Rights

11.1.1 Compliance
The subrecipient agrees to comply with all applicable state and local laws and with title VI of the Civil Rights Act of 1964 as amended, title VIII of the Civil Rights Act of 1968 as amended, section 104(b) and section 109 of title I of the Housing and Community Development Act of 1974 as amended, section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, executive order 11063, and with executive order 11246 as amended by executive orders 11375 and 12086, and E.O. 13279.

11.1.2 Nondiscrimination
The subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The subrecipient will take affirmative action to 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 subrecipient setting forth the provisions of this nondiscrimination clause.

11.1.3 Land Covenants
This Agreement is subject to the requirements of title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the city 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.

11.1.4 Section 504
The SUBRECIPIENT agrees to comply with any Federal regulations issued pursuant to
compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits
discrimination against the handicapped in any Federally assisted program. The CITY shall
provide the SUBRECIPIENT with any guidelines necessary for compliance with that portion of
the regulations in force during the term of this Agreement.

11.2 Employment Restrictions

11.2.1 Prohibited Activity
The SUBRECIPIENT is prohibited from using any funds provided herein or personnel employed
in the administration of the program for: political activities; sectarian or religious activities;
lobbying, political patronage, and nepotism activities.

11.2.2 Labor Standards
The SUBRECIPIENT agrees to comply with the requirements of the Secretary of Labor in
accordance with the Davis-Bacon Act as amended, the provisions of the Contract Work Hours
and Safety Standards Act, the Copeland “Anti Kickback” Act (40 U.S.C. 276a-5; 40 USC 327 and
40 USC 276) 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 CITY for review upon request.

The SUBRECIPIENT agrees that, except with respect to the rehabilitation or construction of
residential property containing less than eight (8) units, all contractors engaged under
contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole
or in part with assistance provided under this Agreement, shall comply with Federal
requirements adopted by the CITY pertaining to such contracts and with the applicable
requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and
7, governing the payment of wages and ratio of apprentices and trainees to 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 contracts subject to such regulations, provisions meeting the
requirements of this paragraph.

11.3 "Section 3" Clause

11.3.1 Compliance
Compliance with the provisions of Section 3 of the Housing and Urban Development Act of
1968, as amended, 12 USC 1701, the regulations set forth in 24 CFR 135, and all applicable
subsequent 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 CITY, the SUBRECIPIENT and any of the SUBRECIPIENT’s subcontractors. Failure to
fulfill these requirements shall subject the CITY, the SUBRECIPIENT and any of the SUBRECIPIENT's subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The SUBRECIPIENT certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

11.3.2 Subcontract Language

SUBRECIPIENT agrees to comply with these "Section 3" requirements: 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 CITY. 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 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.

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and very low income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low and very low income persons residing in the metropolitan area in which the project is located."

11.3.3 Training and Employment

SUBRECIPIENT 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 of 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 are given 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 which 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.

11.3.4 Non Incapacity

The SUBRECIPIENT certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.
11.4 Conduct

11.4.1 Subcontracts

A. Approvals
   The SUBRECIPIENT shall not enter into any subcontracts with any Subrecipient or individual in the performance of this Agreement without the written consent of the CITY prior to the execution of such agreement.

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

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

11.4.2 Hatch Act
   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 United States Code.

11.4.3 Conflict of Interest
   SUBRECIPIENT agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. SUBRECIPIENT further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the SUBRECIPIENT hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the CITY, or of any designated public agencies or SUBRECIPIENTS which are receiving funds under the CDBG Entitlement program.

   SUBRECIPIENT further agrees to execute an Affidavit Against Prohibited Acts, in the form attached as Exhibit F: Affidavit Against Prohibited Acts, certifying that it will adhere to the provisions of the Texas Penal Code, attached as Exhibit E: Texas Penal Code Title 8: Offenses Against Public Administration, which prohibits bribery and gifts to public servants.

11.4.4 Lobbying
   SUBRECIPIENT hereby certifies, attached as Exhibit D: Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements, that:

   A. No Federal appropriated funds have been 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 Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal
contract, the making of any Federal 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 to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

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 Subcontractors or subgrantees shall certify and disclose accordingly; and

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. 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.

12. APPLICABLE LAW

SUBRECIPIENT shall comply with all applicable local, State and Federal laws and shall carry out each activity hereunder in compliance with all Federal laws and regulations described in Subpart K of 24 CFR Chapter V, as described in Section 570.503(b)(5) of 24 CFR Chapter V.

13. ASSIGNMENT

No assignment or delegation of duties under this Agreement shall be effective without the written consent of CITY.
14. NOTICES

All notices required or permitted by this Agreement must be in writing and shall be effective upon receipt when (i) sent by United States postal service with proper postage, certified mail return receipt requested or by a nationally recognized overnight delivery service; and (ii) addressed to the other Party at the address set out below or as such other address as the receiving Party designates by proper notice to the sending Party.

SUBRECIPIENT:  
Executive Director Name, Title  
Subrecipient Name  
Subrecipient Street Address  
City, State Zip Code

CITY:  
Insert Name, Director  
Planning and Community Development Department  
City of Irving  
825 W. Irving Blvd.  
Irving, Texas 75060

When applicable, copies shall be sent to:  
Chris Hillman  
Subrecipient Board Chair  
City of Irving  
Subrecipient Name  
825 W. Irving Blvd.  
Subrecipient Street Address  
Irving, Texas 75060  
City, State Zip Code
In Witness Whereof, the parties have hereunto set their hands by the representatives hereunto duly authorized on the date first stated above.

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<thead>
<tr>
<th>CITY OF IRVING, TEXAS</th>
<th>SUBRECIPIENT NAME</th>
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<tr>
<td>BY: Richard H. Stopfer, Mayor</td>
<td>By: Board President</td>
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</table>

DATE SIGNED: ____________________________

ATTEST:
Shanae Jennings
City Secretary

APPROVED TO AS FORM:
Kuruvilla Oommen
City Attorney
EXHIBIT A
SCOPE OF WORK

SUBRECIPIENT INFORMATION

SUBRECIPIENT Name: [enter Subrecipient name]
Federal Tax ID Number: [enter tax ID number]
DUNS Number: [enter DUNS Number]
Activities funded by this grant will be carried out at address of funded activities.

SUBRECIPIENT will be responsible for administering PROJECT in a manner consistent with the federal requirements governing the provision of Community Development Block Grant funds. SUBRECIPIENT will provide the following activities eligible under the Community Development Block Grant Program.

PROGRAM DESCRIPTION:

*CDBG Funds will be used for (several sentences detailing the description of the program and services that will be provided in this contract. Note any data requirements, certifications to be followed, etc. Note allowable length of stay and any other details that explain the program.)*

PROGRAM ACTIVITIES:

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<th>Activity #1</th>
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<td>Activity #2</td>
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<tr>
<td>Activity #3</td>
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<tr>
<td>Activity #4</td>
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<tr>
<td>Activity #5</td>
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</tbody>
</table>

National Objective

SUBRECIPIENT certifies that the activities carried out with funds provided under this Agreement will meet the Department of Housing and Urban Development's National Objective of **benefit to at least 51% low/moderate income persons** as defined in 24 CFR Part 570.208.

SUBRECIPIENT is responsible for maintaining and reporting to the Planning and Community Development Department PROJECT records documenting the income eligibility of each participant.

The Planning and Community Development Department will monitor the performance of the SUBRECIPIENT against the National Objective stated above.
EXHIBIT B
PERFORMANCE OBJECTIVES

In addition to meeting the administrative requirements included in this Agreement, the SUBRECIPIENT agrees to provide the following levels of program services:

A. Number of Persons To Be Assisted: ___

B. Number of Households To Be Assisted: ___

C. Number of Service Units to be Provided:

<table>
<thead>
<tr>
<th>Services</th>
<th>Total Units Per Year</th>
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</table>

City staff will monitor the performance of the Subrecipient against the goals and performance objectives stated above.  
(insert results/outcomes here)

D. Evaluation Results Regarding Quality/Outcome of Services Provided
   1. 
   2. 
   3. 

E. SUBRECIPIENT will submit monthly Performance Reports to the Planning and Community Development Department by the 10th of the month following each month of service of the Contract term.

F. SUBRECIPIENT will submit a final Program Close-Out Report to the Planning and Community Development Department no later than October 31, 20__.

G. The Planning and Community Development Department requires that all grant performance, including evaluation performance, be reflected in monthly Performance Objectives Reports.
EXHIBIT C
BUDGET/AUTHORIZED REIMBURSABLE COSTS

<table>
<thead>
<tr>
<th>Line Item</th>
<th>Amount</th>
<th>Leverage Funds</th>
</tr>
</thead>
<tbody>
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<tr>
<td><strong>TOTALS</strong></td>
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</tbody>
</table>

Total reimbursement for eligible expenses will not exceed the amount specified and will be contingent upon City receipt of source documentation of expenditures (time sheets, copies of direct deposit notices, copies of canceled checks, bank statements, etc.).

The Planning and Community Development Department requires that, unless alternative arrangements have been approved by Planning and Community Development Department staff in advance, funds be evenly expended (approximately 1/12 of the funds each month) for the contract term in order to meet HUD’s timeliness requirements.

Unless alternative arrangements have been made, at least 40% of grant allocation will be expended by the end of the second quarter (March 31, 20__).
EXHIBIT D
INSURANCE REQUIREMENTS

At his own expense, Sub-Recipient shall procure and maintain for the duration of the proposed Sub-Recipient, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by the Sub-Recipients, his agents, representatives, employees, volunteers or subcontractors. Said insurance shall be in the type(s) and minimum(s) listed below. Required limits may be satisfied by a combination of primary and umbrella or excess liability policies upon approval of the City’s Risk Manager.

Workers’ Compensation and Employers’ Liability
Workers’ Compensation Insurance with statutory limits as required by the Labor Code of the State of Texas and Employers’ Liability Insurance with minimum limits of $100,000 per each accident, $500,000 disease policy limit, and $100,000 occupational disease per employee.
Workers’ Compensation coverage shall be based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements which meet the statutory requirements of the Texas Labor Code and shall apply to all employees and volunteers of the Sub-Recipient providing services under the proposed contract. Sole Proprietors may request a waiver of this requirement if they have no employees. If services under this contract will not be performed on city property, the Sub-Recipient may submit a written request for exemption from this requirement.

Commercial General Liability
Commercial General Liability Insurance with a minimum limit of $1,000,000 per occurrence for bodily injury, personal injury, and property damage. Aggregate Policy minimum limit of $1,000,000 will include coverage for, but is not limited to, Premises-Operations, Broad Form Contractual Liability, Broad Form Property Damage, Products and Completed Operations, Personal Injury, and Independent Contractors and Contractual Liability. Coverage under this policy shall be on an “occurrence” basis.

Business Automobile Liability Insurance
Automobile Liability Insurance with a minimum is of $1,000,000-Combined Single Limit. Coverage shall include all owned, hired, and non-owned vehicles used in performance of the proposed contract. The combined coverage limits of this insurance shall include bodily injury (including death) and property damage. If the performance of services under this contract will not require the use of vehicle(s) Sub-Recipient may request, in writing, exemption from this requirement.

Professional Liability
Professional Liability Insurance for the rendering of or failure to render professional services with minimum limit of $1,000,000 per occurrence. Aggregate Policy minimum limit is $1,000,000. A “claims made” policy is acceptable coverage which must be maintained during the course of the project and up to three (3) years after completion and acceptance of the project by the City. Coverage including any renewals shall have the same retroactive date that is applicable to the policy.

Other Coverages
To be determined based on proposed program.
By submitting a proposal without previously approved exceptions, SUBRECIPIENT agrees to the following general provisions. Requests for exceptions to general provisions and/or coverages must be submitted at least one week prior to agreement submission due date. Exceptions must be approved in writing by City’s representative prior to agreement submission. The City will not accept requests for exceptions after signed agreements have been received.

General Provisions

1. **SCOPE** – These provisions apply to all SUBRECIPIENTS unless specifically exempted in the grant agreement. Coverage shall state that the SUBRECIPIENT’s insurance shall apply separately to each insured against whose claim is made, or suit is brought, except to the limits of the insured’s liability.

2. **COVERAGE APPLICATION** – SUBRECIPIENT’s insurance must be primary as respect to the City, its officers, employees, elected officials, appointees, and volunteers and noncontributory with any other insurance, including self-insurance, maintained by the City for its benefit. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City.

3. **DEDUCTIBLES AND SELF-INSURED RETENTIONS** – Any deductibles or self-insured retentions must be disclosed to the City. The City reserves the right to review the insurance obtained by the SUBRECIPIENT, in comparison to the requirements specified in this section.

4. **ADDITIONAL INSURED** – The City of Irving, including its officers, officials, employees, Boards and Commissions, and volunteers shall be named as an additional insured by endorsement to the coverage listed herein, excluding Workers’ Compensation and Employers’ Liability (for which a waiver of subrogation is required to be issued in favor of the City), with regard to the insured’s activities as required by written contract. The coverage shall contain no special limitations on the scope of protection afforded to the City, and all premiums arising from the coverage herein shall be the responsibility of the insured.

5. **COVERAGE CONTINUATION AND CANCELLATION** -- In the event any insurance policy shown on the certificate(s) of insurance has an expiration date prior to the completion of the agreement, SUBRECIPIENT shall furnish the City proof of identical continued coverage no later than thirty days prior to the expiration date shown on the certificate. Failure to maintain continuous coverage during the term of the proposed agreement, or failure to provide proof of coverage at any time during the term of the agreement, may result in cessation of work and/or termination of the agreement. Coverage shall not be canceled, non-renewed, or materially altered except after thirty days prior written notice by certified mail (return receipt requested) to the Planning and Community Development Department, 825 W. Irving Blvd., Irving, Texas 75060.

6. **SUBROGATION** – SUBRECIPIENT must waive all rights of subrogation against the City of Irving for bodily injury (including death), property damage, or any other loss arising from work performed by the SUBRECIPIENT for the City.

7. **RESPONSIBILITY** – Approval, disapproval, or failure to act by the City regarding any insurance supplied by the SUBRECIPIENT or its subcontractors shall not relieve the SUBRECIPIENT of full responsibility or liability for damages and accidents as set forth in the grant agreement documents.

8. **ACCEPTABILITY** – The City retains the right to approve the acceptability of insurers. As a general rule, the City will accept insurers authorized to transact business in the State of Texas with an A.M. Best rating of “A- VI “or better.

9. **PAYMENT OF PREMIUMS** – Companies issuing insurance policies shall have no recourse against the City for payment of any premiums or assessments for any deductibles which are the sole responsibility and liability of the SUBRECIPIENT.
10. INDEMNIFICATION – The SUBRECIPIENT agrees to defend, indemnify, and hold harmless the City of Irving, its officers, agents, employees, appointees, and volunteers against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage, or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by SUBRECIPIENT’s breach of any of the terms or provisions of this grant agreement, or by any negligent or strictly liable act or omission of SUBRECIPIENT, its officers, agents, employees, volunteers, or subcontractors, in the performance of this grant agreement; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of the City, its officers, agents, or employees, and in the event of joint and concurrent negligence or fault of SUBRECIPIENT and City, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without waiving any governmental immunity available to the City under Texas law and without waiving any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

Proof of Insurance

1. Upon notice of award, awarded SUBRECIPIENT must submit to the City of Irving, within fifteen business days, proof of all insurance coverages required by this grant agreement.

2. If requested by the City, the SUBRECIPIENT must provide copy of the Declaration Page of the policy with all relevant policy endorsements, including endorsement showing City of Irving as additional insured, within fifteen days of request. Copy must be signed by the SUBRECIPIENT’s authorized agent and notarized.

3. Required proof of insurance must be provided by awarded SUBRECIPIENT before the City will authorize funded activities to be performed under this grant agreement.

4. The City reserves the right to request a complete copy of all insurance policies at any time.

I further affirm that I will adhere to such rules and instruct and require all agents, employees, and subcontractors to do the same. I am further aware that any violation of these rules subjects this agreement to revocation, my removal from solicitation lists, prohibiting future contract/subcontract work, revocation of permits, and prosecution.

SUBRECIPIENT

By: ______________________________
    Signature

________________________________
    Typed or Printed Name

________________________________
    Title

Date signed: _____________________
EXHIBIT E
Certification Regarding Lobbying
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 Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal 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 any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned 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, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients 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, 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.

SUBRECIPIENT

By: ______________________________

Signature

________________________________
Typed or Printed Name

________________________________
Title

________________________________
Date
Chapter 36. Bribery and Corrupt Influence

36.02 Bribery
   (a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:
      (1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;
      (2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
      (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or
      (4) any benefit that is a political contribution as defined by Title 15, Election Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subdivision.
   (b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
   (c) It is no defense to prosecution under this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:
      (1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or
      (2) the public servant ceases to be a public servant.
   (d) It is an exception to the application of Subdivisions (1), (2), and (3) of Subsection (a) of this Section that the benefit is a political contribution accepted as defined by Title 15, Election Code.
   (e) An offense under this section is a felony of the second degree.

36.08 Gift to Public Servant by Person Subject to His Jurisdiction
   (a) A public servant in an Subrecipient performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his Subrecipient.
   (b) A public servant in an Subrecipient having custody of prisoners commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be in his custody or the custody of his Subrecipient.
   (c) A public servant in an Subrecipient carrying on civil or criminal litigation on behalf of government commits an offense if he solicits, accepts, or agrees to accept any benefit
from a person against whom the public servant knows litigation is pending or contemplated by the public servant or his Subrecipient.

(d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

(e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decisions, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.

(f) A member of the legislature, the governor, the lieutenant governor, or a person employed by a member of the legislature, the governor, the lieutenant governor, or an Subrecipient of the legislature commits an offense if he solicits, accepts, or agrees to accept any benefit from any person.

(g) A public servant who is a hearing examiner employed by an Subrecipient performing regulatory functions and who conducts hearings in contested cases commits an offense if the public servant solicits, accepts, or agrees to accept any benefit from any person who is appearing before the Subrecipient in a contested case, who is doing business with the Subrecipient, or who the public servant knows is interested in any matter before the public servant. The exception provided by Section 36.10(b) of this code does not apply to a benefit under this subsection.

(h) An offense under this section is a Class A misdemeanor.

36.09 Offering Gift to Public Servant

(a) A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.

(b) An offense under this section is a Class A misdemeanor.

36.10 Non-Applicable

(a) Sections 36.08 (Gift to Public Servant) and 36.09 (Offering Gift to Public Servant) of this code do not apply to:

1. a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;

2. a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

3. a benefit to a public servant required to file a statement under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:

   A the benefit and the source of any benefit in excess of $50 is reported in the statement; and

   B the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non-reimbursable by the state or political subdivision;
(4) a political contribution as defined by Title 15, Election Code; or
(5) a gift, award, or memento to a member of the legislative or executive branch
that is required to be reported under Chapter 805, Government Code.

(b) Section 36.08 (Gift to Public Servant) of this code does not apply to food, lodging,
transportation, or entertainment accepted as a guest and, if the donee is required by
law to report those items, reported by the donee in accordance with that law.

(c) Section 36.09 (Offering Gift to Public Servant) of this code does not apply to food,
lodging, transportation, or entertainment accepted as a guest and, if the donor is
required by law to report those items, reported by the donor in accordance with that
law.
EXHIBIT G

THE STATE OF TEXAS
COUNTY OF DALLAS

AFFIDAVIT AGAINST PROHIBITED ACTS

My name is __________________________________________________________. I hereby
affirm that I am aware of the provisions of Texas Penal Code Title 8, Sections 36.02, 36.08, 36.09,
and 36.10 (a copy of which is attached hereto), dealing with Bribery and Gifts to Public Servants.

I further affirm that I will adhere to such rules and instruct and require all agents, employees, and
subcontractors to do the same. I am further aware that any violation of these rules subjects this
agreement to revocation, my removal from bid lists, prohibiting future contract/subcontract
work, revocation of permits, and prosecution.

SUBRECIPIENT

By: ____________________________________________

Signature

__________________________________________

Typed or Printed Name

____________________________

Title

Date signed: _____________________