

Subgrantee Review	
Key Official(s)	_____
DC Staff	_____
Date of Review	_____
Initials	_____
Douglas County	Subgrantee

2013 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM SUBGRANTEE AGREEMENT

THIS AGREEMENT, entered this ____ day of _____, 2013 (“Execution Date”) by and between the Board of County Commissioners of the County of Douglas, State of Colorado (the “County”), whose address is 100 Third Street, Castle Rock, Colorado 80104, and _____, located in _____ County, State of Colorado, whose address is _____ (the “Subgrantee”) (collectively “Parties”).

WHEREAS, the primary objective of Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended, (the “Act”) and the Community Development Block Grant (“CDBG”) Program under the Act is the development of viable urban communities, by providing decent housing and a suitable living environment, and expanding economic opportunities, principally for persons of low and moderate income; and

WHEREAS, the County has received CDBG Funds from the U.S. Department of Housing and Urban Development (“HUD”) under the Act; and

WHEREAS, the County wishes to engage the Subgrantee to assist the County in utilizing such CDBG Funds in order to accomplish the purposes of the Act, and the Subgrantee is an agency of the County, a quasi-governmental agency, a town or a city government or a nonprofit organization selected by the County to administer all or a portion of the County’s CDBG Funds for that year.

NOW, THEREFORE, for and in consideration of the monies to be received, covenants and conditions set forth herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. Definitions.

“Affordability Period” shall mean the period of time, not to exceed twenty (20) years, that a developer, owner or non-profit organization must maintain the rent at a discounted price to ensure the availability of affordable housing for Moderate, Low, and Very Low Income households.

“Agency Audit” shall mean the examination of an organization's financial documents in order to

determine whether the records and reports are valid and the information is fairly presented. An independent audit is usually conducted by a Certified Public Accountant ("CPA") who then issues an opinion as to whether the statements accurately and fairly represent the organization's operations and financial position.

"Agreement Period" shall mean the period of time described in Section III.A.2.

"Annual Action Plan" shall mean a one (1) year portion of the CDBG Consolidated Plan. An Annual Action Plan includes the Subgrantee's annual application for CDBG Funds.

"Annual Property Report" shall mean an ongoing report of CDBG Funds in excess of \$1,000 during the Project Year spent for acquisition of or improvements to buildings used by the Subgrantee for CDBG Purposes. Annual Property Reports must be submitted to the County by August 15 of each year and must continue to be submitted each year until the Reporting Termination Date. The report shall document the Subgrantee is maintaining sufficient records regarding the affordability of the units to Moderate, Low, and Very Low Income households, and that Moderate, Low, and Very Low Income residents are the primary beneficiaries of the designated units, in accordance with CFR 570.506(b)(4)(iv)(A) and (B).

"Annual Report" shall mean a report of work accomplished by the Subgrantee during the Project Year specified, including any documentation necessary to support the reported accomplishments. Annual Reports must be submitted to the County by August 15 of each year.

"Audit Report" shall mean a report documenting the Agency Audit. The County will tell the Subgrantee whether a CPA needs to prepare an Audit Report, or whether a bookkeeper who is not a CPA will suffice.

"Cash Flow Termination Date" shall mean the last date on which the Subgrantee receives CDBG Funds on a continuous year-to-year basis.

"CDBG Asset" shall mean assets purchased in whole or in part with CDBG Funds or improved in whole or in part with CDBG Funds, and having a unit fair market value of \$1,000 or greater.

"CDBG Funds" shall mean funding or monies received by the County from HUD under the CDBG Program and then subsequently distributed by the County to the Subgrantee under this Agreement for the purpose of advancing the goals of the CDBG Program. The Subgrantee must use CDBG Funds solely for CDBG Purposes.

"CDBG Program Administrator" shall mean the person employed by the County who provides CDBG administrative support in the areas of processing competitive grants applications, distribution of CDBG Funds, program monitoring, and a variety of day-to-day operational support needs. The CDBG Program Administrator as of the date of this Agreement is Tina Dill, who can be reached at 303-660-7460 (ext. 4380). Her business address is 100 Third Street, Castle Rock, Colorado, 80104.

"CDBG Purposes" shall mean the purposes described in the Exhibit A Scope of Services, to the

extent that those purposes are consistent with the HUD CDBG National Objectives.

“CDBG Consolidated Plan” shall mean document written by the County, adopted in 2009 and approved by HUD with a term of five (5) years, describing the housing needs of the low- and moderate-income residents in the County, outlining strategies to meet the needs and listing all resources available to implement the strategies. This document is required to receive CDBG Funds from HUD.

“Drawdown Request” shall mean a written request from a Subgrantee to the County for CDBG Funds for the direct benefit of the Subgrantee’s Project.

"End User Beneficiary" shall mean a natural person who, either directly or indirectly, receives monetary or nonmonetary benefits from a project or program financed in whole or in part with CDBG Funds. The term does not include a person who is employed by, or performs volunteer work for, a Subgrantee.

“Federal Program Year” shall mean August 1 through July 31.

“Indirect Cost” shall mean a cost that is not directly related to a specific program or activity, but that is indirectly related to the success of that program or activity.

“Indirect Cost Allocation Report” shall mean a report documenting any Indirect Costs incurred by the Subgrantee during a three (3) month period.

“Integrated Disbursement and Information System” (“IDIS”) shall mean the drawdown and reporting system for the four (4) HUD Office of Community Planning and Development (“CPD”) formula grant programs, including the CDBG Program.

“Moderate, Low, and Very Low Income” shall mean eighty percent (80%) or less, fifty percent (50%) or less, and thirty percent (30%) or less, of the Area Median Income (“AMI”), respectively, as defined by HUD in effect on the first day of the Federal Program Year. Note that the Area Median Income is recomputed by HUD from time to time. The AMI is computed for the entire Denver metropolitan area, and not just for Douglas County, whose mean and median income is higher than that of the Denver metropolitan area as a whole.

"Program Income" shall mean gross income received by the Subgrantee directly generated from the use of CDBG Funds. When Program Income is generated by a Project that is only partially assisted with CDBG Funds, the income shall be prorated to reflect the percentage of CDBG Funds used. Program Income includes, but is not limited to, the following:

1. Any proceeds received from the disposition by sale or long term lease of real property purchased or improved with CDBG Funds;
2. Proceeds received from the disposition of equipment bought with CDBG Funds;
3. Gross income from the use or rental of real property acquired by the Subgrantee with CDBG Funds, less costs incidental to generation of the income;
4. Gross income from the use or rental of real property owned by the Subgrantee, that was

constructed or improved with CDBG Funds, less costs incidental to generation of the income;

5. Payments of principal and interest on loans made using CDBG Funds;
6. Proceeds received from the sale of loans made with CDBG Funds;
7. Proceeds received from the sale of obligations secured by loans made with CDBG Funds;
8. Interest earned on CDBG Funds held in a revolving fund account;
9. Interest earned on Program Income pending its disposition; and
10. Funds collected through special assessments that are made against properties owned and occupied by households not of low and moderate income, where the assessments are used to recover all or part of the CDBG Fund portion of a public improvement.

“Progress Report” shall mean a report of work accomplished during the time period specified in the Drawdown Request.

“Project” shall mean the activity described in the Scope of Service, Section II. of this Agreement.

“Project Completion Report” shall mean a report of total Project accomplishments, including initial expected outcomes and documentation necessary to support final accomplishments.

“Project Year” shall mean August 1 through July 31. The Project Year and the Federal Program Year both cover the period August 1 through July 31.

“Reporting Termination Date” shall mean the [_____].

“Revolving Loan Fund” shall mean a separate fund (with a set of accounts that is independent of other program accounts) established by the Subgrantee or the County for the purpose of carrying out specific activities, which, in turn, generate payments to the fund for use in carrying out the same activities.

II. Scope of Service.

A. Project.

1. Project Name: _____
2. Project Address or Location: _____
3. Project Category: _____
4. National Objective: _____
5. Project Purpose: _____
6. Subgrantee Contact and Phone: _____
7. Subgrantee Address: _____
8. Grant Amount: _____

9. Office of Community Development Contact Person (if different from the CDBG Program Administrator): _____

B. Project Description. Exhibit A, Scope of Service, outlines the scope of the Project, which exhibit is incorporated herein by reference.

III. **Subgrantee's Obligations.**

A. Timeline for Performance.

1. The Subgrantee may proceed to incur costs for this Project upon receipt of the Notice to Proceed from the County ("Project Start Date"). The Project's timetable shall begin on the Project Start Date.

2. The term of this Agreement shall run from the ___ day of _____, 2013 to the ___ day of _____, 2014. Subgrantee shall continue to comply with all reporting requirements until the Reporting Termination Date. The term of this Agreement shall extend to cover any additional time period during which the Subgrantee remains in control of CDBG Funds, CDBG Assets, or Program Income.

3. The Subgrantee has submitted to the County a proposal; a Scope of Services to be performed, attached as Exhibit A; and Project Expenditures, attached as Exhibit B. The Subgrantee shall comply with the proposal as submitted, and shall legally expend CDBG Funds accordingly through the end of the Project Year. The Subgrantee understands that failure to comply with the timetable will lead to cancellation of the activity and a loss of all unexpended CDBG Funds unless the County determines that there are extenuating circumstances beyond the Subgrantee's control and that the activity will proceed within a reasonable length of time.

4. Subgrantees who fail to meet the timely expenditure requirements established in this Agreement will also have corrective measures imposed that can include reduction of future funding proportionate to HUD's policy on timeliness.

B. Payment. It is expressly agreed and understood that the total amount to be paid by the County under this Agreement **shall not exceed \$_____**. The Parties expressly recognize that the Subgrantee is to be paid with CDBG Funds received from the HUD, and that the obligation of the County to make payment to Subgrantee is contingent upon receipt of such funds from HUD. In the event that said funds, or any part thereof, are, or become, unavailable, then the County may immediately terminate or amend this Agreement.

C. Program Income. This Project [is or is not] expected or planned to generate Program Income. If Program Income is generated it will be retained by the Subgrantee for the duration of the term of this Agreement and shall be used for the Project. Any Program Income generated shall be used by the Subgrantee for the Project before additional CDBG Funds are disbursed to the Subgrantee. Upon the occurrence of the Reporting Termination Date, Program Income will be returned to the County or if the Subgrantee has established a Revolving Loan Fund any Program Income will be placed into the fund.

D. CDBG Assets.

1. Describe all CDBG Assets to be obtained as a result of this activity:
Applies or Does Not Apply.

2. The County shall have a security interest in any and all CDBG Assets. Once the CDBG Assets have been obtained, the County's security interest in the CDBG Assets will be shown by means of: (a) a deed of trust for real estate, encumbering the Subgrantee's equity in the real estate; (b) a lien notation on the certificate of title for motor vehicles; (c) a security agreement and financing statement for personal property; or (d) an assignment of accounts receivable for accounts receivable. The deed of trust will be recorded with the Douglas County Clerk and Recorder, the certificate of title will be recorded with the Division of Motor Vehicles, and the financing statement and assignment of accounts receivable will be recorded with the Colorado Secretary of State. The account debtors will be notified in writing of the assignment of accounts receivable. All of the foregoing instruments will be prepared by the office of the County Attorney. Subgrantee will pay all of the recording fees and mailing costs out of monies other than CDBG Funds.

3. Where the Subgrantee ceases to use a CDBG Asset for CDBG Purposes, the County may, in its discretion, direct the Subgrantee to convey the CDBG Asset to the County or have the Subgrantee repay the CDBG Funds that went into the purchase of the CDBG Asset. The office of the County Attorney will draft all of the legal documents necessary to effectuate such conveyance.

4. In accordance with 24 C.F.R. § 570.503(b)(7), Reversion of Assets, any real property under the Subgrantee's control that was acquired or improved, in whole or in part, with CDBG Funds (including CDBG Funds provided to the Subgrantee in the form of a loan) will, at the option of the County, either:

a) Be used for an eligible CDBG activity, as determined by the County for a period of at least 5 years after the expiration of this Agreement or such longer period as the County may require. This will require entering into a legal instrument, as determined and drafted by County, to secure the interest; or

b) Be disposed of in a manner that results in the County's being reimbursed in the lesser of the amount of CDBG Funds that were

expended on the real property or the current fair market value of the property, less any portion of the value attributable to the expenditure of non-CDBG Funds for acquisition of or improvements to the property.

E. Expenditure Restrictions.

1. All CDBG Funds that are identified for the Subgrantee's Project shall only be used and allocated only for the Project described and listed in the Scope of Service.
2. The Subgrantee agrees that the CDBG Funds allocated for any approved Project shall be sufficient to complete said Project without any additional CDBG funding.
3. The County's fiscal year is the calendar year. The County and Subgrantee acknowledge and agree that all payment obligations under this Agreement are current expenditures of the County, payable in the calendar year for which funds are appropriated for the payment thereof. The County's obligations under this Agreement shall not constitute a multiple-fiscal year direct or indirect debt or other financial obligation of the County within the meaning of Article X, Section 20 of the Colorado Constitution.

F. CDBG Funds Termination. After the Cash Flow Termination Date, the Subgrantee must continue to account for its use of each CDBG Asset until that CDBG Asset has reached the Reporting Termination Date. For each CDBG Asset, the County will determine the CDBG Asset's useful life and will establish a Reporting Termination Date that is at least one (1) year after the end of the CDBG Asset's useful life.

G. Performance Measures. The reports the Subgrantee is required to file under this Agreement contain performance measures that the Subgrantee shall describe and report to the County.

H. Direct Activity Supervision and Administration. The Subgrantee shall be responsible for the direct supervision and administration of the Project. This task shall be accomplished through the use of the Subgrantee's staff, volunteers, and/or employees. The Subgrantee shall be responsible for any injury to persons or damage to property resulting from the negligent acts or errors and omissions of its staff, agents, volunteers, or employees. The Subgrantee agrees that the County shall have the ultimate supervisory and administrative control, but the Subgrantee shall be responsible for the expenditure of the CDBG Funds allocated for its Project. Moreover, the County's ultimate control does not relieve the Subgrantee of any of its responsibility under this Agreement and as a fiduciary and prudent manager of taxpayer funds.

I. Funding and Financial Management. Because the Subgrantee is responsible for the direct supervision and administration of its Project, the County shall not be liable or responsible for cost overruns by the Subgrantee on the Project. The County shall have no duty or obligation to provide any additional funding to the Subgrantee if its Project cannot be completed with the funds allocated by the County to the Subgrantee. Any cost overruns shall be the sole responsibility of the Subgrantee. At the County's sole discretion, the Subgrantee's failure to complete any of its Project with the CDBG Funds allocated to it by the County, in addition to the funds that the Subgrantee obtains from other sources (whether by grant or by loan), shall constitute an event of default under this Agreement.

1. The County will review the Subgrantee's actions to determine if the Project is being carried out in a timely manner.

2. The County and Subgrantee may agree to revise the Project Expenditures from time to time in accordance with existing County policies for amendments. The Subgrantee shall adhere to the Project Expenditures to the fullest practicable extent, but is not precluded from making minor changes, provided the total amount to be paid does not change or exceed the total amount budgeted, and provided the expenditure is eligible for reimbursement.

3. The County will pay to the Subgrantee funds available under this Agreement based upon information submitted by the Subgrantee and consistent with any approved Project Expenditures and County policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subgrantee, and not to exceed actual cash requirements. Payments will be adjusted in accordance with advance fund and Program Income balances available. In addition, the County reserves the right to be reimbursed out of CDBG Funds that would otherwise be paid to the Subgrantee for costs incurred by the County on behalf of the Subgrantee. The County will be so reimbursed by withholding CDBG Funds in a sufficient amount to compensate the County for the County general revenues that it expends on behalf of the Subgrantee.

4. CDBG Funds will only be reimbursed on expenses incurred after this Subgrantee Agreement is fully executed. Drawdown Requests are submitted to the Department of Community Development after the Subgrantee expends CDBG Funds. Drawdowns for the payment of eligible expenses shall be made against the Project Expenditures and in accordance with performance. Appropriate documentation (copies of invoices, billings, etc.) must be attached to Drawdown Requests. Reimbursements may be held up for monitoring of activities and incomplete or missing reports. The County shall have thirty (30) working days to approve the request. Upon approval of the request, the County will distribute the requested funds to the Subgrantee or directly to the appropriate subcontractor or vendor within forty-five (45) days.

5. All CDBG Funds that are approved by HUD for expenditure under the County's grant agreement, including those that are identified for the Subgrantee's

projects and activities, shall be allocated to the specific projects and activities described and listed in the Scope of Service. The allocated funds shall be used and expended only for the project and activity to which the funds are identified. Accordingly, the Subgrantee agrees that as to its project or activity performed or conducted under any CDBG contract, the County shall have the necessary administrative control required to meet HUD requirements.

6. The Subgrantee agrees to comply with the accounting principles and procedures required Attachment F of OMB Circular A-110, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred. In addition, the Subgrantee is required to comply with the other provisions of OMB A-110 and OMB Circulars A-87, A-122, A-21, A-128, and A-133 to the extent that those OMB Circulars apply to the Subgrantee.

J. Reporting Requirements. The Subgrantee shall file all reports and other information necessary to comply with applicable Federal laws and regulations as required by the County and HUD. This shall include providing to the County the information necessary to complete the Consolidated Annual Performance and Evaluation Report, (“CAPER”), due to HUD on October 30th of each year, in a timely fashion.

1. The Subgrantee shall submit regular reports to the County on dates listed below, using the forms provided by the County:

a) The Subgrantee shall submit a Progress Report each time the Subgrantee submits a Drawdown Request for the period that payment is being requested.

b) Project Completion Reports are due 45 days after completion of any activity. The reporting period covered by a Project Completion Report may be several months or several years.

c) Reports of Program Income are due quarterly. If the Subgrantee has received no Program Income during the quarter, it does not need to submit a Report of Program Income for that quarter.

d) Indirect Cost Allocation Reports are due quarterly. If the Subgrantee did not incur any Indirect Costs during the quarter, it does not need to submit an Indirect Cost Allocation Report for that quarter.

e) Annual Reports are due annually on August 15. At the County’s discretion, CDBG Funds may be withheld until the Subgrantee has submitted a satisfactory Annual Report. Until the Reporting Termination Date, the Subgrantee must submit the Annual Reports to the County certifying that each CDBG Asset has continued to be used for CDBG Purposes. Annual reports must include the following information:

(1) Inventory of all tangible assets with a unit value in excess of \$1,000 purchased in whole or in part with CDBG Funds, including a listing of all serial numbers on items bearing a serial

number and a list of all Vehicle Identification Numbers on all motor vehicles;

(2) Inventory of all real property under the Subgrantee's control that was acquired or improved, in whole or in part, with CDBG Funds, including the street address and legal description of the real property;

(3) Inventory of all real property leases where the lease payments were made in whole or in part with CDBG Funds, including the street address and legal description of the real property and a copy of the lease;

(4) List of all employment contracts for employees of the Subgrantee, where all or a portion of the employee's salary or fringe benefits was paid for in whole or in part with CDBG Funds, including a copy of the employment contract;

(5) List of all contracts for independent contractors of the Subgrantee, where all or a part of the independent contractor's compensation was paid for in whole or in part with CDBG Funds, including a copy of the contract;

(6) List of all equipment leases with annual lease payments of \$500 or more, where all or a part of the lease payments were made in whole or in part with CDBG Funds, including a copy of the equipment lease;

(7) List of all other contracts in the amount of \$1,000 or more, where all or a part of the contract payments were made in whole or in part with CDBG Funds, including a copy of the contract;

(8) Listing and aging of any accounts receivable that are attributable to the use of CDBG Funds; and

(9) List of inventory and any other CDBG Assets.

f) Audit Reports, if any, completed by or for a third party, and any accompanying management letters, are due annually within thirty (30) days of receipt by the Subgrantee from the third party. The Subgrantee hereby agrees to have an annual Agency Audit conducted at the discretion of the County. There is no standard form for an Audit Report.

g) Annual Property Reports are due August 15, for acquisition of or improvements to buildings used by the Subgrantee for CDBG Purposes in amounts of \$1,000 or more. Annual Property Reports must be filed each year until the Reporting Termination Date.

K. Documentation and Recordkeeping. The Subgrantee shall maintain a complete

set of books and records documenting its use of CDBG Funds and its supervision and administration of the Project. Records are to include documentation verifying project eligibility, compliance with CDBG Objectives, and financial and other administrative aspects involved in performing the Project.

1. **Records to Maintain.** The Subgrantee shall maintain all records required by the Federal regulations specified in 24 C.F.R. § 570.502, OMB Circular A-110, 24 C.F.R. § 570.506, and Subpart K of 24 C.F.R. Part 570 that are pertinent to the Project.
2. **Retention.** The Subgrantee shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the completion date shown in IDIS, or after the resolution of all Federal audit findings, whichever occurs later. Records for non-expendable property acquired with CDBG Funds under this Agreement shall be retained for five (5) years after the completion date shown in IDIS. Records for any displaced person must be kept for five (5) years after he/she has received final payment.
3. **Client Data.** The Subgrantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: client name, address, income level, or other basis for determining eligibility, and description of service provided. Such information shall be made available to County monitors or their designees for review upon request. Client data pertaining to loans generating Program Income will also be transferred, along with the CDBG Asset, to the County upon activity closeout. The Subgrantee's records, which will be available for inspection by the County and HUD, shall contain the client's full Social Security Number. However, the reports, which the Subgrantee submits to the County, shall contain only the last four (4) digits of the client's Social Security Number.
4. **Disclosure.** The Subgrantee understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the County's or Subgrantee's responsibilities with respect to the Project, is prohibited unless written consent is obtained from such persons receiving service and, in the case of a minor, that of a responsible parent/guardian.
5. **Property Records.** The Subgrantee shall submit real and personal property inventory records, which clearly identify properties purchased, improved, or sold annually until the completion date shown in IDIS and shall retain those records for five (5) years after the completion date shown in IDIS. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 C.F.R. § 570.503(b)(8).
6. **National Objectives.** The Subgrantee agrees to maintain documentation that demonstrates that the activities carried out with funds provided under this Agreement meet one or more of the CDBG Purposes.

7. Close-Outs. Subgrantee obligations to the County shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to: making final payments, disposing of CDBG Assets (including the return of all unused materials, equipment, Program Income balances, copies of transferred records, and receivable accounts to the County upon close-out or upon the County's request), determining the custodianship of records, and submitting final reports.

8. Source Documentation. All Subgrantee costs, expenditures, and obligations hereunder must be supported by such source documentation as canceled checks, paid bills, payrolls, time and attendance records, contract and subgrant documents, or other documents showing in detail the nature of such costs and obligations.

9. Audits and Inspections. All Subgrantee records with respect to any matters covered by this Agreement shall be made available to the County, HUD, their designees, any third party auditors, and any of the agencies of the Federal government or Colorado state government at any time during normal business hours, as often as the County or HUD deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in Audit Reports must be fully cleared by the Subgrantee within thirty (30) days after receipt by the Subgrantee. The Subgrantee further agrees to provide to the County, upon request, a copy of any Audit Reports pertaining to the Subgrantee's financial operations until the Reporting Termination Date. Failure of the Subgrantee to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments.

10. Access to Records.

a) Access for Compliance. The Subgrantee shall, upon request and during normal business hours, provide full access to these books and records to the County, the Secretary of HUD or his or her designee, the HUD Office of Inspector General, and the General Accounting Office, so that compliance with Federal laws and regulations may be confirmed.

b) Public Access. Subgrantee shall provide citizens with reasonable access to records regarding the past use of CDBG Funds, consistent with applicable State and local laws regarding privacy and obligations of confidentiality.

L. Travel. The Subgrantee shall obtain written approval from the County for any travel outside the metropolitan area with CDBG Funds.

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

Agreement.

N. Subcontracts. If subcontracts are authorized and used on this activity, the Subgrantee agrees that the provisions of this Agreement shall apply to any subcontract.

O. Ownership of Documents. Drawings, specifications, guidelines, and any other documents prepared by Subgrantee in connection with this Agreement shall be the property of the County.

P. Assignment of Copyrights. Subgrantee assigns to County the copyrights to all works prepared, developed, or created pursuant to this Agreement, including the right to: (a) reproduce the work; (b) prepare derivative works; (c) distribute copies to the public by sale, rental, lease, or lending; (d) perform the works publicly; and (e) to display the work publicly. Subgrantee waives its rights to claim authorship of the works, to prevent its name from being used wrongly in connection with the works, and to prevent distortion of the works.

Q. Conflict of Interest.

1. The Subgrantee agrees that no official, officer, or employee of the County shall have any personal or beneficial interest whatsoever in the services or property described herein, and the Subgrantee further agrees not to hire, pay, or contract for services of any official, officer, or employee of the County. A conflict of interest shall include transactions, activities, or conduct that would affect the judgment, actions, or work of the Subgrantee by placing the Subgrantee's own interests, or the interest of any party with whom the Subgrantee has a contractual arrangement, in conflict with those of the County.

2. The Subgrantee and its employees, agents, consultants, officers, or appointed officers who exercise or have exercised any functions or responsibilities with respect to the County's CDBG activities, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may not obtain a personal or financial interest in, or benefit from, this Agreement (except for the use of CDBG Funds to pay salaries and other related administrative or personnel costs), or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for two years thereafter. Exceptions may only be made with written approval from the County and HUD pursuant to 24 C.F.R. § 570.611.

R. Anti-Nepotism. The Subgrantee shall not hire or subcontract with any person who is related to any other employee, subcontractor, or independent contractor of the Subgrantee. The term related shall mean the spouse, domestic partner, brother, sister, mother, father, aunt, uncle, nephew, niece, or other blood relative.

S. Grant Close Out Procedures. Upon the earlier of forty-five (45) days after completion of any activity funded by CDBG funds and forty-five (45) days after the Subgrantee's ceasing continuous participation in the CDBG program, the Subgrantee

shall complete and file with the County a Project Completion Report.

IV. Responsibilities of the County.

A. Performance and Compliance Monitoring. The County's supervisory and administrative obligations to the Subgrantee shall be limited to the performance of the administrative tasks necessary to make CDBG Funds available to the Subgrantee and to provide a CDBG Program Administrator, whose job it will be to monitor the various activities funded with CDBG Funds.

B. Administrative Control. The Parties recognize and understand that the County will be the governmental entity required to execute all grant agreements received from HUD pursuant to the County's requests for CDBG funds. Accordingly, the Subgrantee agrees that as to its projects or activities performed or conducted under any CDBG agreement, the County shall have the necessary administrative control required to meet HUD requirements.

C. Reporting to HUD. The County will be responsible for seeing that all necessary reports and information required of the County are filed with HUD and other applicable Federal agencies in a timely fashion.

V. Compliance with Federal, State and Local Law. The Subgrantee agrees to comply with all applicable Federal, state, and local laws and regulations governing the CDBG Funds provided under this Agreement. All responsibilities of the Subgrantee enumerated herein shall also be subject all applicable County ordinances, resolutions, rules, and regulations.

A. Federal Compliance. The Subgrantee shall comply with all applicable Federal laws, regulations, and requirements, and all provisions of the grant agreements received from HUD by the County. These include, but are not limited to, compliance with the all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG Program. The applicable laws, regulations, guidelines, executive orders and circulars are listed in Exhibit C.

1. Environmental Review. This Subgrantee Agreement shall not be fully executed until the appropriate environmental review has been completed. The Subgrantee agrees that no reimbursable expenses will be incurred for any activity before all environmental reviews by both the Subgrantee and the County have been completed, as required by 24 C.F.R. Part 58, and this Subgrantee Agreement has been fully executed and provided to the Subgrantee. "Environmental review of this activity has been conducted. It has been determined that no other action is needed and this activity is clear to proceed." **OR** "Environmental review of this activity has been conducted. It has been determined that site-specific reviews are required. The Subgrantee is required to provide an address to the CDBG Program Administrator once the site has been identified." The Subgrantee does not assume the County's environmental responsibilities outlined in 24 C.F.R. § 570.604.

2. National Flood Insurance Program. No funds shall be expended under this Agreement for the purpose of either acquisition or construction activities within 100 - year floodplain area and floodway, as shown on the floodplain maps kept on file at the Planning and Engineering Divisions of the County, unless flood insurance has been obtained in accordance with section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. §4001.
3. System for Award Management Database. The Subgrantee is required to enter organizational and financial information into the System for Award Management Database as established by the Office of Management and Budget concerning the Dun and Bradstreet Data Universal Numbering System, and the Federal Funding Accountability and Transparency Act. Compliance includes successful entry or renewal of organizational information in the database. The Subgrantee is required to submit complete organizational information into the System for Award Management Database before the Subgrantee Agreement can be fully executed.
4. Minimization of Displacement. Subgrantee shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of the Project.
5. Debarred Subgrantees and Contractors. 24 C.F.R. § 570.609 prohibits grantees from entering into contracts with debarred, suspended, or ineligible Subgrantees for the purposes of implementing the Project.
6. Conditions for Religious Organizations. Pursuant to 24 C.F.R. § 570 Part J, neither the County nor the Subgrantee shall obligate or expend any funds under this Agreement that will be used for religious activities or provided to primarily religious entities for any activities, including secular activities unless written approval is obtained from the County pursuant to 24 C.F.R. §570.200(j). However, HUD funds may be contracted and/or committed to acquire housing from a primarily religious organization.
7. Political Activities. Political activities are prohibited under 24 C.F.R. § 570.207(a)(3) Ineligible Activities. CDBG Funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. The Subgrantee certifies that:

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

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

c) The Subgrantee 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 referenced shall certify and disclose accordingly.

8. Civil Rights.

a) **Nondiscrimination.** The Subgrantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, veteran status, disability or other handicap, age, marital status, or status with regard to public assistance. The Subgrantee 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 Subgrantee agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the County, setting forth the provisions of this nondiscrimination clause.

b) **Covenant Prohibiting Discrimination.** In regard to the sale, lease, or other transfer of land acquired, cleared, or improved with assistance provided under this Agreement, the Subgrantee shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined in the sale, lease, or rental, or in the use of occupancy of such land, or in any improvements erected or to be erected thereon. Such clauses and covenants will allow the County and the United States to enforce such covenants against discrimination. The Subgrantee, in undertaking its obligation to carry out

the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenants, and will not itself so discriminate.

9. Fair Housing. The Subgrantee shall comply with the Fair Housing Act, which prohibits discrimination on the basis of race, color, creed, religion, ancestry, sex, national origin, disability or other handicap, or family status in all activities involving the sale, rental, or financing of housing. The Subgrantee shall not discriminate on the basis of sexual orientation in any activity involving the sale, rental, or financing of housing.

10. Affirmative Action.

a) Approved Plan. The Subgrantee agrees that it shall be committed to carry out an Affirmative Action Plan. The County shall be provided with the Subgrantee's Affirmative Action Plan if one is currently required by court order.

b) Minority and Women Business Enterprise. The Subgrantee will take actions to secure participation of firms owned and controlled by minority, women, and residents of labor surplus areas. The Subgrantee will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. The Subgrantee may rely on written representations by contractors regarding their status as minority and female business enterprises in lieu of an independent investigation, provided that such reliance is made in good faith.

c) EEO/AA Statement. The Subgrantee will, in all solicitations or advertisements for employees placed by or on behalf of the Subgrantee, state that it is an Equal Opportunity/Affirmative Action employer.

11. Subcontract Provisions. The Subgrantee will include the provisions of Subsection V. A. 8., Civil Rights, and Subsection V.A.10., Affirmative Action, in every contract or purchase order issued in use of these CDBG Funds, specifically or by reference, so that such provisions will be binding upon each contractor or vendor.

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

13. Davis Bacon and Related Acts Compliance. The Subgrantee will certify in writing to the County whether it is covered by, and must comply with the labor standards outlined in the David Bacon Act. The Subgrantee shall orchestrate cooperation among subcontractors, itself, and the County in complying with these requirements. The current wage rates applicable to this activity will be forwarded under separate cover if required. The Subgrantee shall cause or require to be

inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

B. State Law Compliance. All of the work performed under this contract by the Subgrantee shall comply with all applicable laws and regulations of the State of Colorado.

1. **Illegal Aliens - Public Contracts for Services:** If the Subgrantee has any employees or subcontractors, the Subgrantee shall comply with C.R.S. §8-17.5-101, *et seq.*, regarding Illegal Aliens - Public Contracts for Services, and this Agreement. By execution of this Agreement, the Subgrantee certifies that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that the Subgrantee will participate in either the E-Verify Program or Department Program in order to confirm the eligibility of all employees who are newly hired for employment to perform work under this Agreement.

a) The Subgrantee shall not:

(1) Knowingly employ or contract with an illegal alien to perform work under this Agreement; or

(2) Enter into a contract with a contractor that fails to certify to the Subgrantee that the contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

b) The Subgrantee has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

c) The Subgrantee shall not use either the E-Verify Program or Department Program to undertake pre-employment screening of job applicants while this Agreement is in effect.

d) Within twenty (20) days after hiring an employee who is newly hired for employment to perform work under this Agreement, the Subgrantee shall affirm to the County that the Subgrantee has examined the legal work status of such employee, retained copies of the documents required by 8 U.S.C. § 1324a, and not altered or falsified the identification documents for such employees. The Subgrantee shall provide a written, notarized copy of the affirmation to the CDBG Project Administrator. Such written, notarized affirmation shall identify each of the specific CDBG Subgrantee contract(s) on which such newly hired employee of the Contractor is performing, or will perform, work.

e) If the Subgrantee obtains actual knowledge that a contractor performing work under this Agreement knowingly employs or contracts

with an illegal alien, the Subgrantee shall:

(1) Notify the contractor and the CDBG Administrator within three (3) days that the Subgrantee has actual knowledge that the contractor is employing or contracting with an illegal alien; and

(2) Terminate the contract with the contractor if within three (3) days of receiving the notice required pursuant to the preceding sub-subparagraph of this subparagraph, the contractor does not stop employing or contracting with the illegal alien; except that the Subgrantee shall not terminate the contract with the contractor if during such three (3) days the contractor provides information to establish that the contractor has not knowingly employed or contracted with an illegal alien.

f) The Subgrantee shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

g) If the Subgrantee violates this provision of this Agreement, the County may terminate the Agreement for a breach of contract. If the Agreement is so terminated, the Subgrantee shall be liable for actual and consequential damages to the County as required by law.

h) The CDBG Administrator will notify the Office of the Secretary of State if the Subgrantee violates this provision of this Agreement and the CDBG Administrator terminates the Agreement for such breach.

2. Illegal Aliens - Restrictions on Public Benefits.

a) “As an organization which does not provide federal public benefits, Subgrantee shall verify the immigration status in accordance with C.R.S. §24-76.5-103.” **OR** “As a non-profit charitable organization providing federal public benefits, the Subgrantee is exempted from the requirement to verify and document the lawful presence of its end user beneficiary clients. However, the Subgrantee may choose to verify immigration eligibility in accordance with the Welfare Reform Act and the Department of Justice Interim Guidance at 62 Fed. Reg. 61345, and not according to the provisions of C.R.S. § 24-76.5-101, *et seq.*” **OR** “As a provider of federal public benefits and services that are necessary for the protection of life or safety, the Subgrantee shall not under any circumstances verify and document the lawful presence of its end user beneficiary clients in accordance with the Welfare Reform Act and the Department of Justice Interim Guidance at 62 Fed. Reg. 61345 or C.R.S. §24-76.5-103.” **OR** “The Subgrantee is exempt from the requirements to verify immigration status with respect to benefits conferred on an end user beneficiary client all of the reasons listed in C.R.S. § 24-76.5-103(3).” **OR**

“As an Organization which does provide federal public benefits and which is not exempted from the requirement to verify immigration status and shall verify immigration eligibility in accordance with the Welfare Reform Act and the Department of Justice Interim Guidance at 62 Fed. Reg. 61345, and not according to the provisions of C.R.S. § 24-76.5-101, *et seq.*”

C. County Law Compliance. The Subgrantee shall also comply with all applicable ordinances, regulations, and resolutions of the County, including fire safety code regulations, and shall commit no trespass on any public or private property in the performance of any of the work embraced by this Agreement.

VI. **Bonding; Insurance; Procurement.**

A. Bonding (For Construction Activities).

1. If any portion of this Agreement is for construction activities in the amount of one hundred thousand dollars (\$100,000) or more, the Subgrantee and/or its construction contractor shall provide the following:

a) a bid guarantee in the amount of five percent (5%) of the Agreement price, and

b) per OMB Circular A-110, Attachment B and Attachment O, Paragraph 4.C, a performance bond and a payment bond in the amount of one hundred percent (100%) of the contract price, with a corporate surety approved by the County and licensed to do business in the State of Colorado, said bonds to be released at the sole direction of the County.

B. Insurance (For Construction Activities).

1. The Subgrantee shall be required to maintain the insurance requirements provided in Exhibit D, attached hereto and incorporated herein by reference. The Subgrantee shall provide evidence that such requirements have been met and shall provide updated information to the County in the event any changes are made to the Subgrantee's insurance coverage during the term of this Agreement.

2. Retaining Professionals; Professional Liability (Errors & Omissions). The County reserves the right to require the Subgrantee to hire licensed professionals (such as architects, design engineers, CPAs) for all or any part of the activities that Subgrantee proposes to undertake with CDBG Funds. Where the Subgrantee hires a licensed professional, regardless of whether the County required the Subgrantee to hire the licensed professional, the Subgrantee must provide proof of professional liability coverage for such licensed professional. Liability insurance indemnifying for loss and expense resulting from errors, mistakes, or malpractice is acceptable written on a claims-made basis. The County may also require that proof of professional liability coverage be provided for up to two (2) years after the completion of a project.

3. **Pollution Liability.** This coverage is required whenever work under the contract involves pollution risk to the environment. The coverage must include sudden and gradual coverage for third party liability, including defense costs and completed operations.

4. **Builder's Risk.**

a) The Subgrantee, prior to notice to proceed or commencement of work, agrees to maintain an Island Marine Builder's Risk coverage form providing coverage to protect the interests of the County, the Subgrantee, the Subgrantee's contractor, sub-contractors, sub-subcontractors, architects, and design consultants; including property in transit, and property on or off-premises, that will become part of the building, building improvements, or project that is financed in whole or in part with CDBG Funds. Coverage will be written on an All-Risk, Replacement Cost, and Completed Value Form basis in an amount at least equal to one hundred percent (100%) of the projected completed value of the Project, as well as subsequent modifications of that sum. The Subgrantee agrees to maintain a wind and flood sub limit of not less than twenty-five percent (25%) of the projected completed value of the project. The Subgrantee agrees any flat deductible(s) shall not exceed TWENTY-FIVE THOUSAND DOLLARS (\$25,000).

b) The Subgrantee agrees to endorse the policy with a manuscript endorsement eliminating the automatic termination of coverage in the event the building built or improved with CDBG Funds in whole or in part is occupied or put to its intended use. The manuscript endorsement shall amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, or the building is accepted or insured.

c) The Subgrantee agrees to be fully and solely responsible for any costs or expense as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, self-insurance retention, or coverage exclusion or limitation.

d) The Subgrantee agrees to provide the County with Certificate(s) of Insurance that clearly evidence the Subgrantee's insurance contains the minimum coverage, limits, and endorsements set forth herein. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be identified on each Certificate(s) of Insurance.

5. Failure of the Subgrantee to obtain and/or maintain any required insurance shall not relieve the Subgrantee from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with the obligations of the Subgrantee concerning indemnification.

6. The Subgrantees is required to either ensure that all subcontractors and

sub-subcontractors are insured under the Subgrantee's policies or to forward separate mandatory certificates of insurance and endorsements for same to the County. All subcontractors and sub-subcontractors are required to comply with the coverage and limit requirements outlined in this Agreement.

C. Insurance (Non-Construction).

1. The Subgrantee shall be required to maintain the insurance requirements provided in Exhibit D, attached hereto and incorporated herein by reference. The Subgrantee shall provide evidence that such requirements have been met and shall provide updated information to the County in the event any changes are made to the Subgrantee's insurance coverage during the term of this Agreement.

2. In its discretion on a case by case basis, the County may reduce the amount of insurance required under this Section.

D. Procurement Standards and Methods.

1. Compliance. Purchase of equipment is an unallowable activity except when it is an integral part (such as part of a structure or built into a structure) of the Project. Equipment purchases must have prior approval by the County before any expense is incurred. The Subgrantee shall comply with its own current policies concerning the purchase of equipment and shall maintain an inventory record of all non-expendable personal property as defined by such policy as may be procured with funds provided herein.

2. OMB Standards. The Subgrantee shall procure materials in accordance with the requirements of Attachment O of OMB Circular A-110, Procurement Standards, and shall subsequently follow Attachment N, Property Management Standards, covering utilization and disposal of property.

E. If any of the said policies shall be, or at any time become, unsatisfactory to the County as to form or substance, or if the company issuing any such policy shall be or at any time becomes unsatisfactory to the County, the Subgrantee shall promptly obtain a new policy, submit the same to the County for approval and thereafter submit a Certificate(s) of Insurance as hereinabove provided.

F. Upon failure of the Subgrantee to furnish, deliver, and maintain such insurance as provided herein, this Agreement, at the election of the County, may be immediately declared suspended, discontinued, or terminated. Failure of the Subgrantee in obtaining and/or maintaining any required insurance shall not relieve the Subgrantee from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with the obligations of the Subgrantee concerning indemnification.

VII. Miscellaneous Provisions.

A. Indemnification. The County cannot, and by this Agreement does not, agree to indemnify, hold harmless, exonerate, or assume the defense of the Subgrantee or any

other person or entity whatsoever, for any purpose whatsoever. Unless Subgrantee is a unit of local government, the Subgrantee shall defend, indemnify, and hold harmless the County, its commissioners, officials, officers, directors, agents, and employees from any and all claims, demands, suits, actions, or proceedings of any kind or nature whatsoever, including Workers' Compensation claims, in any way resulting from or arising from this Agreement; provided, however, that the Subgrantee need not indemnify or save harmless the County, its officers, agents, and employees from damages resulting from the sole negligence of the County's commissioners, officials, officers, directors, agents, and employees. The Subgrantee also agrees to defend and hold harmless the County with respect to any and all claims and losses caused by its failure to comply with the CDBG Program requirements or the requirements of applicable Federal, state, and local law.

B. No Waiver of Governmental Immunity. The Parties understand and agree that the County, its commissioners, officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 through 120, or otherwise available to the County.

C. Governing Law; Venue. This Agreement shall be deemed to have been made in, and construed in accordance with the laws of the State of Colorado. Venue for any action hereunder shall be in the District Court, County of Douglas, State of Colorado. Subgrantee expressly waives the right to bring any action in or to remove any action to any other jurisdiction, whether state or Federal.

D. Severability. In the event any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining provisions shall not be affected. Should either party fail to enforce a specific term of this Agreement, it shall not be a waiver of a subsequent right of enforcement, nor shall it be deemed a modification or alteration of the terms and conditions contained herein.

E. No Third Party Beneficiaries. The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the County and the Subgrantee, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement.

F. Disallowance. If it is determined by HUD or other Federal agency that the expenditure, in whole or in part, for the Subgrantee's project or activity was improper, inappropriate, or ineligible for reimbursement, then the Subgrantee shall reimburse the County to the full extent of the disallowance.

G. Independent Contractor. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the Parties. The Subgrantee shall at all times remain an independent contractor with respect to the services or activity to be performed under this Agreement. The County shall be exempt from payment of all Unemployment

Compensation, FICA, retirement, life, and/or medical insurance and Worker's Compensation Insurance as the Subgrantee is an independent contractor. Pursuant to C.R.S. § 8-40-202(2)(b)(IV), Subgrantee understands that Subgrantee and Subgrantee's employees/agents are not entitled to workers' compensation benefits from Douglas County. Subgrantee further understands that Subgrantee is solely obligated for the payment of Federal and state income tax on any moneys earned pursuant to this Agreement.

H. Non-Appropriations Clause. This Subgrantee Agreement involves funds from a Federal grant. The Subgrantee shall include in every contract it enters, which relies upon CDBG Funds for funding, a non-appropriation clause that will protect itself and the County from any and all claims, demands, suits, actions, or proceedings of any kind or nature whatsoever which might result from the discontinuance of CDBG funding for any reason. To the extent there is a conflict with the funding provisions of this Subgrantee Agreement, the Federal grant and the Federal statutes control, rather than the provisions of C.R.S. § 24-91-103.6.

I. Amendments.

1. No Project, nor the amount allocated therefore, may be changed without concurrence by the County and acceptance of the revised Annual Action Plan by HUD, if required. Changes must be requested by the County or the Subgrantee in writing and may not begin until an amendment to this Agreement is fully executed. There may also be addenda issued that periodically updates regulations governing this Project.

2. The County or Subgrantee may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the County. Such amendments shall not invalidate this Agreement, nor relieve or release the County or Subgrantee from its obligations under this Agreement.

3. The County may, in its discretion, amend this Agreement to conform with Federal, state, or local governmental guidelines, policies, and available funding amount, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the County and Subgrantee. The Subgrantee shall be obligated to sign any amendment under this subsection.

J. Modification or Waiver of Certain Agreement Provisions. Notwithstanding the provisions contained in this subsection, the County reserves the right to modify or waive said provisions for projects or activities for which these provisions would prove prohibitive. The Subgrantee understands, however, that the decision to waive or modify those provisions is fully within the discretion of the County.

K. Suspension or Termination. This Agreement may be suspended or terminated by the County if the Subgrantee materially fails to comply with any term of this Agreement, a provision of 24 C.F.R. § 85.43, or Colorado common law. This Agreement may also be terminated by the County with or without cause (per 24 C.F.R. § 85.44) by giving written notice to the Subgrantee of such termination and specifying the effective date of such termination. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Subgrantee pursuant to this Agreement shall become the County's property. The Subgrantee shall be entitled to receive compensation in accordance with this Agreement for any satisfactory work required under this Agreement and completed pursuant to the terms of this Agreement prior to the date of notice of termination. Notwithstanding the above, the Subgrantee shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Agreement by Subgrantee.

L. Subgrantee Debar. The County may also debar a Subgrantee if Subgrantee materially fails to comply with any terms of this Agreement, or with any of the rules, regulations, or provisions referred to herein. In the event there is probable cause to believe the Subgrantee is in non-compliance with any applicable rules or regulations, the County may withhold up to fifteen percent (15%) of said CDBG Funds until such time as the Subgrantee is found to be in compliance by the County or is otherwise adjudicated to be in compliance.

M. Breach of Contract.

1. Remedies. Administrative, contractual, and legal remedies may be implemented in instances of breach of contract, including sanctions and penalties.

2. Attorney's Fees. If the County uses counsel to enforce its rights under any section or subsection of this Agreement, the Subgrantee will pay all of the County's reasonable attorney's fees, regardless of whether the County uses outside counsel or the office of the County Attorney. If the County uses the office of the County Attorney, the Subgrantee will pay the County Attorney at his or her market hourly in the downtown Denver, Colorado market, with due regard for the County Attorney's experience, credentials, and seniority as a member of the bar.

N. Advertising, Marketing and Promotional Materials. The Subgrantee shall not include any reference to this Agreement or services performed under this Agreement in any of Subgrantee's advertising or public relations materials without first obtaining the written approval of the County's Public Affairs Director.

O. Notices. All applicable invoices, statements, notices, inquiries, and replies shall be addressed and served upon the respective representatives at the addresses below. Said notices shall be delivered personally during normal business hours to the appropriate office below, or by prepaid first class U.S. mail, via facsimile, via email, or other method authorized in writing by the Parties. Mailed notices shall be deemed effective upon receipt or three (3) days after the date of mailing, whichever is earlier. The Parties may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until

actual receipt of written notification. The following individuals are designated for the purposes of this Agreement as representatives of the County and the Subgrantee (or their successors or assigns), respectively:

To the County: Tina Dill
100 Third Street
Castle Rock, CO 80104
Phone: (303) 660-7460
Email: tdill@douglas.co.us

To the Subgrantee: _____

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed on the day, month, and year first above written.

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS**

By: _____

APPROVED AS TO CONTENT:

Terence T. Quinn
Director of Community Development

Date: _____

APPROVED AS TO LEGAL FORM:

Meredith P. Van Horn
Assistant County Attorney

Date: _____

APPROVED AS TO CONTENT:

Jennifer Eby
Community and Resource Services Manager

Date: _____

APPROVED AS TO FISCAL CONTENT:

Andrew Copland
Director of Finance

Date: _____

SUBGRANTEE

Name

Title

STATE OF COLORADO)

COUNTY OF _____)

ss.

The foregoing instrument was acknowledged before me this ____ day of _____, _____ by _____.

My commission expires: _____

Witness my hand and official seal

Notary Public

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT B
PROJECT EXPENDITURES

EXHIBIT C
APPLICABLE FEDERAL LAWS AND REGULATIONS

Statutes:

18 U.S.C. §894

Title VI of the Civil Rights Act of 1964

Title VIII of the Civil Rights Act of 1968

Housing and Community Development Act of 1974, 42 U.S.C. §§5301 to 5321

Sections 104(b) and 109 of the Housing and Community Development Act of 1974, 42 U.S.C. §5304(b) and §5309

Copeland "Anti-Kickback" Act of 1934, 40 U.S.C. §§276, 327-333

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §793, as amended

The Energy Policy and Conservation Act (Public Law 94-163)

Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. §1701u

The Davis-Bacon Act, 40 U.S.C. §§3141 to 3148

Lead-based Paint Poisoning Prevention Act of 1971, 42 U.S.C. §4831

The Contract Work Hours and Safety Standards Act, 40 U.S.C. §327, *et seq.*, as amended

The Americans with Disabilities Act, 42 U.S.C. §12101, *et seq.*, as amended

Fair Housing Act, Public Law 90-284, 42 U.S.C. §3601 to §3620, as amended

National Environmental Policy Act of 1969, 42 U.S.C. §4321 *et seq.*, as amended

National Historic Preservation Act of 1966, 16 U.S.C. §470 *et seq.*, as amended

The Archaeological and Historical Data Preservation Act of 1974, amending the Reservoir Salvage Act of 1960, 16 U.S.C. §469 *et seq.*, as amended

Safe Drinking Water Act of 1974, 42 U.S.C. §201, §300 *et seq.*, §7401 *et seq.*, as amended

Endangered Species Act of 1973, 16 U.S.C. §1531, *et seq.*, as amended

Wild and Scenic Rivers Act of 1968, 16 U.S.C. §1271 *et seq.*, as amended

Clean Air Act of 1970, 42 U.S.C. §1857 *et seq.*, as amended

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Titles II and III, 42 U.S.C. §4601 *et seq.*

Drug Free Workplace Act of 1988, 20 U.S.C. §6301, *et seq.*, as amended

Fire Administration Authorization Act of 1992, Pub. L. 102-522

Regulations:

2 C.F.R. Part 170, Reporting Subaward and Executive Compensation Information

24 C.F.R. Part 35, Lead-Based Paint

24 C.F.R. Part 39, Energy Policy

24 C.F.R. Part 58, Displacement, Relocation Assistance, and Real Property Acquisition for HUD and HUD-Assisted Programs

24 C.F.R. Parts 84 and 85, Administrative Requirements for Grants

24 C.F.R. Part 135, Economic Opportunities for Low- and Very Low-Income Persons

24 C.F.R. Part 570, Community Development Block Grants

24 C.F.R. Part 570.904, Equal employment opportunity and minority business enterprise

29 C.F.R. Parts 1,3,5,6, and 7, Labor standards

29 C.F.R. § 1910.1001 (non-construction), §1926.58 (construction), Asbestos

40 C.F.R. Part 61, Subpart M, Asbestos removal

40 C.F.R. Part 763, Asbestos

40 C.F.R. Parts 1500-1508, Council on Environmental Quality

49 C.F.R. Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs

Executive Orders:

Exec. Order No. 11063, (1962) as amended by Executive Order 12259, Equal Opportunity Housing

Exec. Order No. 11246, Non-discrimination in Employment

Exec. Order No. 11375, Equal Employment Opportunity

Exec. Order No. 11593, Protection and Enhancement of the Cultural Environment

Exec. Order No. 11988, Floodplain Management

Exec. Order No. 11990, Protection of Wetlands

Exec. Order No. 12086, Contract Compliance with Equal Employment Opportunity

Exec. Order No. 12372, Intergovernmental Review of Federal programs

Office of Management and Budget Circulars:

OMB Circular A-87 “Cost Principles for State and Local Governments

OMB Circular A-110 “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations”

OMB Circular A-122 “Cost Principles for Non-Profit Organizations”

OMB Circular A-21 “Cost Principles for Educational Institutions”

OMB Circular A-128 “Audits of State and Local Governments”

OMB Circular A-133 "Audits of Institutions of Higher Education and Other Non-Profit Institutions"

Other Guidance:

CPD Notice 90-44, Asbestos Guidelines

Uniform Federal Accessibility Standards

EXHIBIT D
INSURANCE LEVELS FOR CONTRACTS

1. The Subgrantee agrees to procure and maintain with insurers with an A- or better rating as determined by Best's Key Rating Guide, at its own expense, the following policies of insurance:

(a) Workers' Compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this Agreement, and Employers' Liability insurance with the following limits:

Workers' Compensation:	Statutory
Employers' Liability:	\$1,000,000

(b) Commercial General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy will be applicable to all premises and operations. The policy will include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy will include coverage for explosion, collapse and underground hazards. The policy will contain a severability of interests provision.

(c) Commercial Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence with respect to each of Subgrantee 's owned, hired and non-owned vehicles assigned to or used in performance of the services. The policy will contain a severability of interests provision.

(d) Professional Liability Insurance Coverage in an amount not less than One Million Dollars (\$1,000,000.00), and Subgrantee shall maintain such coverage for at least two (2) years from the termination of this Agreement.

2. The required Commercial General Liability and Commercial Automobile Liability policies will be endorsed to include Douglas County as a Certificate Holder and name Douglas County, its officers and employees as additional insureds. The required Workers' Compensation policy will be endorsed to include Douglas County as a Certificate Holder. Douglas County reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

3. The certificates of insurance will be attached to this Agreement as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect. The completed certificates of insurance and any notices, within twenty (20) days of cancellation, termination, or material change will be sent to:

Sheryl D. Monroe
Douglas County
Risk Management
100 Third Street
Castle Rock, Colorado 80104

4. The Subgrantee will not be relieved of any liability, claims, demands, or other obligations assumed by its failure to procure or maintain insurance, or its failure to procure or maintain insurance in sufficient amounts, durations, or types.

5. Failure on the part of the Subgrantee to procure or maintain policies providing the required coverages, conditions and minimum limits will constitute a material breach of contract upon which Douglas County may immediately terminate this Agreement.

6. The parties hereto understand and agree that Douglas County is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 *et seq.* as from time to time amended, or otherwise available to Douglas County, its officers, or its employees.

Approved by: _____
Sheryl D. Monroe
Risk Manager

