

SUBRECIPIENT AGREEMENT BETWEEN THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AND LEXINGTON HOUSING AUTHORITY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG-CV)

THIS AGREEMENT, made and entered into on ____ day of _____, 2020, by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government pursuant to KRS Chapter 67A, and located at 200 East Main Street, Lexington, Fayette County, Kentucky 40507 (hereinafter referred to as "GOVERNMENT"), and **LEXINGTON HOUSING AUTHORITY**, a Kentucky city housing authority created pursuant to KRS Chapter 80, and whose post office address is 300 New Circle Road, Lexington, KY, 40505 (hereinafter referred to as "SUBRECIPIENT");

WHEREAS, the GOVERNMENT has been awarded federal funds from the U.S. Department of Housing and Urban Development's (hereinafter referred to as "HUD") Community Development Block Grant Program (CFDA 14.218) under The Coronavirus Aid, Relief, and Economic Security (CARES) Act;

WHEREAS, the GOVERNMENT'S 2019 Consolidated Plan/Annual Action Plan has been amended to allocate \$251,803.33 in funds to the SUBRECIPIENT to provide housing stabilization emergency grant payments and related expenses for people facing homelessness in Lexington-Fayette County;

WHEREAS, the SUBRECIPIENT has agreed to be responsible for the provision of these services;

WHEREAS, this project will serve to prevent, prepare for, and respond to the coronavirus.

WHEREAS, the GOVERNMENT's responsibility for ensuring compliance with all grant requirements necessitates a written agreement with the SUBRECIPIENT;

NOW, THEREFORE, in consideration of the foregoing and mutually agreed upon promises, conditions, and covenants hereinafter set forth, pursuant to grant requirements, the parties hereto agree as follows:

I. STATEMENT OF WORK

A. Activities

The SUBRECIPIENT will be responsible for operating an emergency housing voucher program to provide emergency grant payments on behalf of individuals and families whose income has been reduced due to the COVID-19 pandemic.

1. The SUBRECIPIENT may use CDBG-CV funds for security deposit assistance, up to two (2) months of contracted rent, application fees, utility deposit assistance, utility arrears, owner incentives up to \$500, and essential household items.
2. Payments must be made directly to the provider of the service.
3. The services shall be operated in a manner satisfactory to the GOVERNMENT and in compliance with all local, state, and federal laws and regulations.

B. National Objectives

The SUBRECIPIENT certifies that the activities carried out with funds provided under this Agreement will benefit low- and moderate-income persons.

C. Performance Monitoring

The GOVERNMENT shall monitor the performance of the SUBRECIPIENT as necessary and in accordance with regulations on SUBRECIPIENT Monitoring and Management, 2 CFR § 200.330 – 2 CFR § 200.332, to ensure SUBRECIPIENT compliance with all of the requirements of this agreement, including the timeframes and performance goals associated with the activities. Substandard performance as determined by the GOVERNMENT will constitute noncompliance with this agreement. If action to correct such substandard performance is not taken by the SUBRECIPIENT after being notified by the GOVERNMENT, the GOVERNMENT may impose additional conditions on the SUBRECIPIENT and its use of CDBG funds consistent with 2 CFR § 200.207, suspend or terminate this agreement, or initiate other remedies for noncompliance as appropriate and permitted under 2 CFR § 200.338. SUBRECIPIENT expects to assist 76 households facing homelessness with these funds.

D. Budget and Use of Funds

Funds in the amount of \$251,803.33 shall be used exclusively for salaries, fringe benefits, and client assistance necessary for housing stabilization. The approved budget is below:

Salaries	\$ 60,000
Fringe	\$ 35,958
<u>Assistance</u>	<u>\$155,845.33</u>
Total	\$251,803.33

The SUBRECIPIENT may only carry out the activities described in this Agreement. The SUBRECIPIENT is prohibited from charging to the subaward the costs of CDBG ineligible activities, including those described at 24 CFR § 570.207, and from using funds provided herein or personnel employed in the administration of activities under this agreement for political activities, inherently religious activities, or lobbying.

E. Payment

It is expressly agreed and understood that the total amount to be paid by the GOVERNMENT under this Agreement shall not exceed \$251,803.33. The SUBRECIPIENT shall invoice the GOVERNMENT on a monthly basis for the reimbursement of actual expenditures incurred. SUBRECIPIENT's invoice must be for the services and eligible expense specified in Paragraph D above. SUBRECIPIENT's invoice must include copies of employee timesheets, payroll reports, documentation of payment of payroll taxes and fringe benefits, and copies of competitive quotations for all expenses as applicable. SUBRECIPIENT also agrees that no payments shall be made for any cost incurred before July 1, 2021.

The SUBRECIPIENT agrees that it shall use spend the entire amount of funds provided under this Agreement during the Time of Performance specified in Section I.F of this Agreement. If the SUBRECIPIENT fails to use any amount of funds provided under the Agreement within that Time of Performance, then the SUBRECIPIENT agrees to return the balance of the funds to the GOVERNMENT within 30 days of the termination of this

Agreement.

F. Schedule – Time of Performance

The term of this Agreement shall be July 1, 2021, through December 31, 2023.

G. Timeliness

SUBRECIPIENT must invoice the GOVERNMENT for funds expended at least quarterly beginning no later than three months from the effective date of this agreement. Failure to submit an invoice in two or more consecutive quarters may result in termination of the agreement and reallocation of unspent funds at the discretion of the GOVERNMENT.

II. RECORDS AND REPORTS

A. Records to be Maintained

The SUBRECIPIENT shall maintain all records required by the federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. The SUBRECIPIENT also agrees to create and maintain all records necessary to document that all funds were used to prevent, prepare for, or respond to the COVID-10 pandemic.

1. Records providing a full description of each activity undertaken;
2. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
3. Records required to determine the eligibility of activities;
4. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
5. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program;
6. Financial records as required by 24 CFR Part 570.502, and 24 CFR § 84, and
7. Other records necessary to document compliance with Subpart K of 24 CFR § 570.

B. Client Data and Other Sensitive Information

The SUBRECIPIENT shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to government monitors or their designees for review upon request.

The SUBRECIPIENT must develop and implement written procedures to ensure:

- i) All records containing personally identifying information (as defined in the U.S. Department of Housing and Urban Development's standards for participation, data collection, and reporting) of any individual or family who applies for and/or receives rental assistance will be kept secure and confidential;
- ii) The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project assisted under this Agreement will not be made public, except

- with written authorization of the person responsible for the operation of the shelter;
and
- iii) The address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of the GOVERNMENT or SUBRECIPIENT and consistent with state and local laws regarding privacy and obligations of confidentiality.

The confidentiality procedures of SUBRECIPIENT must be in writing and must be maintained in accordance with this section.

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

C. Retention

The SUBRECIPIENT shall retain all records pertinent to expenditures incurred under this Agreement for a period of four (4) years after the termination of all activities funded under this Agreement. Records of non-expendable property acquired with funds under this Agreement shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

D. Reporting

1. Quarterly Reports

The SUBRECIPIENT shall submit to the GOVERNMENT quarterly reports for each quarter during which these federal funds are used for program operations. Quarterly reports are due as follows:

Quarter	Due
July-September	October 30
October-December	January 30
January-March	April 30
April-June	July 30

Quarterly reports shall provide information on the activities accomplished. Specifically, quarterly reports shall provide information on the number of households served and demographics of those households.

2. Annual Reports

An annual report is required and shall provide the following information about the employees of the SUBRECIPIENT'S organization: race, age, sex, and disability. Additional annual reports required are the "Unserviced" and the "Program Participant" reports. Annual reports shall be submitted to the GOVERNMENT no later than July 30th.

E. Project Close-out

The SUBRECIPIENT's obligation to the GOVERNMENT shall not end until all close-out requirements are completed in accordance with 2 CFR 200.343. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials), equipment, unspent cash advances, program income balances, and accounts receivable to the GOVERNMENT and determining the custodianship of records.

F. Audits, Inspections and Monitoring

1. Single Audit

The SUBRECIPIENT must be audited as required by 2 CFR part 200, subpart F when it is expected that the SUBRECIPIENT's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

SUBRECIPIENT shall submit a copy of the audit report to the Federal Audit Clearinghouse within 30 days after receipt of the audit report, but not later than nine months after the end of the audit period. Concurrently with the submission of the audit report to the Federal Audit Clearinghouse, SUBRECIPIENT shall submit a copy of the audit report to the GOVERNMENT'S Division of Grants and Special Programs. Any deficiencies noted in audit reports must be fully cleared by the SUBRECIPIENT within 30 days after receipt by the SUBRECIPIENT. Failure of the SUBRECIPIENT to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of the future payments.

2. Inspections and Monitoring

All SUBRECIPIENT records with respect to any matters covered by this Agreement shall be made available to the GOVERNMENT, grantor agency, their designees or the federal government, at any time during normal business hours, as often as the grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data to meet the requirements of 2 CFR part 200.

The SUBRECIPIENT must submit to monitoring of its activities by the GOVERNMENT as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this agreement.

G. Access to Records

The SUBRECIPIENT shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by GOVERNMENT, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

III. PROGRAM INCOME

“Program Income” means gross income received by SUBRECIPIENT that was generated from the use of CDBG funds. Program income includes, but is not limited to, the following:

- a. Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;
- b. Proceeds from the disposition of equipment purchased with CDBG funds;
- c. Gross income from the use or rental of real or personal property acquired by SUBRECIPIENT with CDBG funds, less the costs incidental to the generation of such income;
- d. Gross income from the use or rental of real property owned by SUBRECIPIENT that was constructed or improved with CDBG funds, less the costs incidental to the generation of such income;

Pursuant to the requirements set forth in § 570.504(c), the GOVERNMENT will require remittance of all program income balances (including investments thereof) held by the SUBRECIPIENT to the GOVERNMENT.

IV. SUSPENSION AND TERMINATION

This Agreement, in accordance with 24 CFR § 85.43 can be terminated if SUBRECIPIENT fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 24 CFR § 85.44 upon written notice by the GOVERNMENT.

Either party may terminate this Agreement with thirty (30) days written notice to the other party, in which case the Agreement shall terminate on the thirtieth day. In the event of termination, the SUBRECIPIENT shall be entitled to that portion of total compensation due under this Agreement as the services rendered bears to the services required. Either party may terminate this Agreement for good cause shown with forty-five (45) days written notice, which shall explain the party’s cause for the termination. If the parties do not reach a settlement before the end of the 45 days, then the Agreement shall terminate on the forty-fifth day.

V. REVERSION OF ASSETS

When the Agreement ends, the SUBRECIPIENT must transfer to the GOVERNMENT any CDBG funds on hand, any Program Income, and any accounts receivable attributable to the use of CDBG monies within thirty (30) days after the end of the Agreement term. Any funds held by the GOVERNMENT at the end of the Agreement term or refunded to the GOVERNMENT shall be reallocated by the GOVERNMENT.

Pursuant to 24 CFR § 570.503, if property is either acquired or improved with CDBG funds

in excess of \$25,000, the use of that property for the approved purpose must continue; in the case of personal property, generally for if the SUBRECIPIENT owns it and the property is needed for the CDBG activity, and in the case of real property (acquired or improved with CDBG funds in excess of \$25,000), generally for at least 5 years following the expiration of the SUBRECIPIENT Agreement.

VI. UNIFORM ADMINISTRATIVE REQUIREMENTS

The SUBRECIPIENT shall comply with the applicable provisions in 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200. These provisions include:

A. Financial & Program Management

The SUBRECIPIENT shall expend and account for all CDBG funds received under this agreement in accordance with 2 CFR part 200, including 2 CFR part 200, subpart D, which covers Standards for Financial and Program Management and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Cost Principles

Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with 2 CFR part 200, subpart E. All items of cost listed in 2 CFR part 200, subpart E, that require prior Federal agency approval are allowable without prior approval of the GOVERNMENT to the extent they comply with the general policies and principles stated in 2 CFR part 200, subpart E and are otherwise eligible under this Agreement.

C. Procurement and Contractor Oversight

The SUBRECIPIENT shall comply with the procurement standards in 2 CFR § 200.318 - §200.326 when procuring property and services under this Agreement and shall subsequently follow property management standards as provided by 2 CFR § 200.344.

1. Equipment

The SUBRECIPIENT shall comply with current GOVERNMENT policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein.

2. Debarment Certification

The SUBRECIPIENT must comply with CDBG regulations regarding debarred or suspended entities at (24 CFR § 570.489(l)). CDBG funds may not be provided to excluded or disqualified persons.

3. Contractor Oversight

The SUBRECIPIENT shall maintain oversight of all activities under this Agreement

and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this Agreement. The SUBRECIPIENT shall impose the SUBRECIPIENT'S obligations under this Agreement on its contractors, specifically or by reference, so that such obligations will be binding upon each of its contractors.

4. Subcontracts

The SUBRECIPIENT shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the GOVERNMENT prior to the execution of such agreement. The SUBRECIPIENT will monitor all subcontracted services on a regular basis to assure compliance with this Agreement. 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. 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. The SUBRECIPIENT shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the GOVERNMENT along with documentation concerning the selection process.

VII. COMPLIANCE WITH FEDERAL LAW

A. General

The SUBRECIPIENT agrees and understands that it is responsible for complying with the Coronavirus Aid, Relief, and Economic Security Act ("CARES" Act) and for reviewing all applicable federal laws and regulations, as well as any interpretive guidance issued by the Department of Housing and Urban Development and/or the U.S. Treasury, and any other applicable federal agency, and agrees that it shall comply with the requirements of any of these agencies' interpretive guidance, all applicable federal statutes, regulations, and executive orders. SUBRECIPIENT shall also provide for such compliance in any agreements it enters with other parties relating to this subaward. Federal statutes and regulations that apply to this Agreement include, but are not limited to the following:

- 8 U.S.C. 1324a, *et. seq.*
- 42 U.S.C. 12708
- 2 CFR part 200
- 24 CFR 91
- 24 CFR part 570

B. Nondiscrimination

1. 24 CFR Part 6

The SUBRECIPIENT will comply with 24 CFR part 6, which implements the provisions of section 109 of Title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied

the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance.

The SUBRECIPIENT will adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG funds. Thus, the SUBRECIPIENT shall comply with regulations of 24 CFR part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 146, which implement the Age Discrimination Act for HUD programs.

In accordance with 24 CFR § 5.105 and section 2-33 of the Code of Ordinances of the Lexington-Fayette Urban County Government, the SUBRECIPIENT shall ensure that HUD-assisted housing or other services being provided pursuant to this Agreement shall be made available without regard to actual or perceived sexual orientation, gender identity or marital status. Neither SUBRECIPIENT nor any of its agents will inquire about the sexual orientation or gender identity of any applicant for or person receiving HUD-assisted housing or other services.

2. Architectural Barriers Act and the Americans with Disabilities Act

The SUBRECIPIENT shall ensure that its activities are consistent with requirements of Architectural Barriers Act and the Americans with Disabilities Act. The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of "residential structure" as defined in 24 CFR § 40.2 or the definition of "building" as defined in 41 CFR § 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

3. Title VI of the Civil Rights Act of 1964 (24 CFR part 1)

The SUBRECIPIENT shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352), as amended. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this agreement. The specific nondiscrimination provisions at 24 CFR § 1.4 apply to the use of these funds. The SUBRECIPIENT shall not intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by Title VI of the Civil Rights Act of 1964 or 24 CFR part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under 24 CFR part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 24 CFR part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

4. Affirmative Action

a. Approved Plan

During the performance under this Agreement, the SUBRECIPIENT shall not discriminate against any employee or applicant for employment based on race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, sexual orientation, or any other basis prohibited by applicable law.

The SUBRECIPIENT shall take affirmative action to ensure that all applicants and employees are treated without regard to race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, and sexual orientation.

The SUBRECIPIENT shall comply with all provisions of Executive Order 11246, Equal Employment Opportunity, as amended by Executive Orders 11375 and 12086. The SUBRECIPIENT will, in all solicitations or advertisements for employees placed or on behalf of the SUBRECIPIENT, state that it is an Equal Opportunity or Affirmative Action employer.

b. W/MBE

The SUBRECIPIENT will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The SUBRECIPIENT may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

c. EEO/AA Statement

The SUBRECIPIENT will, in all solicitations or advertisements for employees placed or on behalf of the SUBRECIPIENT, state that it is an Equal Opportunity or Affirmative Action employer.

C. Duplication of Benefits

SUBRECIPIENT agrees that the funds provided under this Agreement are intended to supplement, not supplant any other form of federal assistance. SUBRECIPIENT agrees that it shall develop and maintain adequate procedures to prevent a duplication of benefits to assess whether the funds received under this Agreement duplicate any other federal benefit. SUBRECIPIENT agrees that it shall develop and maintain adequate procedures to ensure that all assistance the SUBRECIPIENT provides using funding under this Agreement shall not exceed any person's total need.

The SUBRECIPIENT further agrees that it shall maintain records showing how the SUBRECIPIENT prevented Duplication of Benefits, as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5155) and in

accordance with Section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115-254; 132 Stat. 3442), which amended section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5155).

If the SUBRECIPIENT at any time uses funds provided under this Agreement in any manner that results in a duplication of any other federal benefit, it shall repay to the GOVERNMENT an amount equal to the amount of funds it received under this Agreement that were used in duplication of any other federal benefit.

D. Labor and Employment Restrictions

The SUBRECIPIENT shall comply with the in labor standards in Section 110 of the Housing and Community Development Act of 1974, as amended and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 3141, et seq.), and 29 CFR part 1, 3, 5, 6, and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

The SUBRECIPIENT further agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The SUBRECIPIENT shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall be made available to the GOVERNMENT for review upon request.

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

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR § 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the federal financial assistance provided under this Agreement and binding upon the SUBRECIPIENT and any of the SUBRECIPIENT'S subrecipients and subcontractors. Failure to fulfill these requirements shall subject the GOVERNMENT, the SUBRECIPIENT and any of the SUBRECIPIENT'S subrecipients and 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.

The SUBRECIPIENT further agrees to comply with these "Section 3" requirements and to include the following language in all subcontractors executed under this Agreement:

"The work to be performed under this contract 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."

The SUBRECIPIENT further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project 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.

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

b. Notifications

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

F. Conduct

1. Hatch Act

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

2. Conflict of Interest

In the procurement of supplies, equipment, construction, and services pursuant to this agreement, the SUBRECIPIENT shall comply with the conflict of interest provisions in 2 CFR § 200.317 and 200.318. In all cases not governed by 2 CFR § 200.317 and § 200.318, the SUBRECIPIENT shall comply with the conflict of

interest provisions in 24 CFR § 570.611, 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. The 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.

3. Lobbying

The SUBRECIPIENT hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and
- d. 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.

G. Religious Activities

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

H. Drug Free Workplace

The SUBRECIPIENT shall administer a policy designed to ensure that the facilities providing services under the terms of this agreement are free from the illegal use, possession, or distribution of drugs or alcohol by its employees and beneficiaries.

I. Insurance & Bonding

The SUBRECIPIENT shall comply with the bonding and insurance requirements of 24 CFR §200.325 and §200.310.

J. FFATA

The SUBRECIPIENT shall comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). The SUBRECIPIENT must have an active registration in SAM in accordance with 2 CFR part 25, appendix A, and must have a Data Universal Numbering System (DUNS) number. The SUBRECIPIENT must also comply with provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, and 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

K. Environmental Conditions

1. Prohibition on Choice Limiting Activities Prior to Environmental Review

The SUBRECIPIENT must comply with the limitations in 24 CFR § 58.22 even though the SUBRECIPIENT is not delegated the requirement under Section 104(g) of the HCD Act for environmental review, decision-making, and action (see 24 CFR part 58) and is not delegated the GOVERNMENT'S responsibilities for initiating the review process under the provisions of 24 CFR Part 52. 24 CFR § 58.22 imposes limitations on activities pending clearance, and specifically limits commitments of HUD funds or non-HUD funds by any participant in the development process before completion of the environmental review. A violation of this requirement may result in a prohibition on the use of Federal funds for the activity.

L. Relocation, Real Property Acquisition and One-for-One Housing Replacement

The SUBRECIPIENT agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR § 570.606(b); (b) the requirements of 24 CFR § 570.606 (c) governing the Residential Antidisplacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in §570.606(d) governing optional relocation policies. The SUBRECIPIENT shall provide relocation assistance to persons (families, individuals, businesses, non-profit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The SUBRECIPIENT also agrees to comply with applicable GOVERNMENT policies concerning the displacement of persons from their residences.

VI. **GENERAL CONDITIONS**

- A. The SUBRECIPIENT shall not assign or transfer any interest in this Agreement without the prior written consent of the GOVERNMENT thereto; provided, however, that claims for money due or to become due to the GOVERNMENT under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the GOVERNMENT.
- B. GOVERNMENT and the SUBRECIPIENT each binds himself and his partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to

all covenants, agreements, and obligations of the Agreement.

- C. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon receipt, when sent by email (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); or (iii) when delivered or mailed by certified mail, postage prepaid, or return receipt requested. The addresses for such communications shall be to the respective addresses or of the parties as set forth in the Agreement, or at such other address as such parties shall have furnished in writing.
- D. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.
- E. If the SUBRECIPIENT breaches any term of this Agreement or any addendum hereto, then GOVERNMENT is entitled to pursue legal action against SUBRECIPIENT to the fullest extent of the law, including but not limited to: termination of the Agreement; disgorgement of all funds provided to SUBRECIPIENT pursuant to this Agreement; specific performance; injunctive relief; and a civil action for monetary damages. The parties agree that any waiver of a term in this Agreement shall not constitute an ongoing waiver of that term, nor shall it be interpreted as a waiver of any other terms of this Agreement. Further, the GOVERNMENT's failure to act with respect to a breach by the SUBRECIPIENT does not waive its right to act with respect to subsequent or similar breaches. The failure of the GOVERNMENT to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.
- F. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally to the individuals identified in paragraph J below; (ii) upon receipt, when sent by email (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party) to the email addresses identified in paragraph J below; or (iii) when delivered or mailed by certified mail, postage prepaid, or return receipt requested to the addresses set forth in paragraph J below.
- G. Notices required by this Agreement shall be sent to:
 - a. Charlie Lanter
Director, Grants & Special Programs
200 E. Main Street, Lexington, KY 40507
clanter@lexingtonky.gov
GOVERNMENT

Austin Simms
Executive Director
300 W. New Circle Road
Lexington, KY 40505
simmsa@lexha.org
 - b. SUBRECIPIENT

- H. All headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any provision of this Agreement.
- I. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.
- J. This Agreement constitutes the entire agreement between the Parties for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Parties relating to the Government's allocation of funding to SUBRECIPIENT. This Agreement is subject to availability of federal assistance. The Government has no legal requirement to provide funding to SUBRECIPIENT.
- K. If this Agreement results in any copyrightable material or inventions, the GOVERNMENT and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.
- L. This Agreement, or any part hereof, may be amended from time to time hereafter only in writing executed by the GOVERNMENT and the SUBRECIPIENT.
- M. SUBRECIPIENT shall indemnify, save, hold harmless and defend the GOVERNMENT and its elected and appointed officials, employees, agents, volunteers, and successors in interest from and against all liability, damages, and losses, including but not limited to, demands, claims, liens, suits, notices of violation from Governmental agencies, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by SUBRECIPIENT's performance or breach of the agreement and/or the provision of goods or services provided that: (a) it is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property (including the loss of use resulting therefrom), or to or from the negligent acts, errors or omissions or willful misconduct of the SUBRECIPIENT; and (b) not caused solely by the active negligence or willful misconduct of the GOVERNMENT. The parties understand and agree that the SUBRECIPIENT'S obligation to defend the GOVERNMENT includes the obligation to investigate, handle, respond to, resist, provide a defense for, and defend claims, at SUBRECIPIENT'S expense, using attorneys approved in writing by GOVERNMENT, which approval shall not be unreasonably withheld. The parties also understand and agree that the SUBRECIPIENT's obligation to indemnify includes, but is not limited to: attorney fees and expenses; costs of litigation; court and administrative costs; expert witness fees and expenses, judgments; fines; penalties; interest; all environmental cleanups and remediation costs of whatever kind; and any liability arising from death, injury, or damage of any kind, to any person, including employees and agents of SUBRECIPIENT and GOVERNMENT, and damage to, or destruction of, any property, including the property of GOVERNMENT.
- N. These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.

- O. GOVERNMENT is a political subdivision of the Commonwealth of Kentucky. SUBRECIPIENT acknowledges and agrees that the GOVERNMENT is unable to provide indemnity or otherwise save, hold harmless, or defend the SUBRECIPIENT in any manner.
- P. SUBRECIPIENT understands and agrees that it shall demonstrate the ability to assure compliance with the above indemnity provisions and other risk management provisions prior to final acceptance of its proposal and the commencement of any work or the provision of services.
- Q. SUBRECIPIENT shall procure and maintain for the duration of this contract the following or equivalent insurance policies at no less than the limits shown below and cause its subcontractors to maintain similar insurance with limits acceptable to the GOVERNMENT in order to protect the GOVERNMENT against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work or services hereunder by the SUBRECIPIENT. The cost of such insurance shall be included in any bid:

<u>Coverage</u>	<u>Limits</u>
General Liability (Insurance Services Office Form CG 00 01)	\$1 million per occurrence, \$2 million aggregate (or \$2 million combined single limit)
Worker's Compensation	Statutory
Employer's Liability	\$1 million

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky (DOI). The GOVERNMENT shall be named as an additional insured in the General Liability Policy using the Kentucky DOI approved forms.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by the GOVERNMENT.
- c. The General Liability Policy shall include Premises and Operations coverage unless it is deemed not to apply by the GOVERNMENT.
- d. The General Liability Policy shall include Employment Practices Liability coverage or an endorsement in a minimum amount of \$1 million unless it is deemed not to apply by LFUCG.
- e. The GOVERNMENT shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.
- f. Said coverage shall be written by insurers acceptable to the GOVERNMENT and shall be in a form acceptable to the GOVERNMENT. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed

automatically acceptable.

After insurance has been approved by the GOVERNMENT, evidence of renewal of an expiring policy must be submitted to the GOVERNMENT, and may be submitted on a manually signed renewal endorsement form. If the policy or carrier has changed, however, new evidence of coverage must be submitted in accordance with these Insurance Requirements.

Self-insurance programs, deductibles, and self-insured retentions in insurance policies are subject to separate approval by the GOVERNMENT's Division of Risk Management, upon review of evidence of SUBRECIPIENT's financial capacity to respond to claims. Any such programs or retentions must provide SUBRECIPIENT with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance coverage. If SUBRECIPIENT satisfies any portion of the insurance requirements through deductibles, self-insurance programs, or self-insured retentions, SUBRECIPIENT agrees to provide the GOVERNMENT's Division of Risk Management, the following data prior to the final acceptance of bid and the commencement of any work:

- a. Latest audited financial statement, including auditor's notes.
- b. Any records of any self-insured trust fund plan or policy and related accounting statements.
- c. Actuarial funding reports or retained losses.
- d. Risk Management Manual or a description of the self-insurance and risk management program.
- e. A claim loss run summary for the previous five (5) years.
- f. Self-Insured Associations will be considered.

SUBRECIPIENT agrees to furnish GOVERNMENT with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf prior to final award, and if requested, shall provide the GOVERNMENT copies of all insurance policies, including all endorsements. SUBRECIPIENT understands and agrees that GOVERNMENT may review, audit and inspect any and all of its records and operations to insure compliance with these Insurance Requirements.

SUBRECIPIENT shall comply with all applicable federal, state, and local safety standards related to the performance of its works or services under this Agreement and take necessary action to protect the life, health and safety and property of all of its personnel on the job site, the public, and the GOVERNMENT.

- R. SUBRECIPIENT understands and agrees that the failure to comply with any provision of this Agreement regarding indemnification, insurance, safety, or loss control shall constitute a material breach of this Agreement and that GOVERNMENT may elect at its option any remedy or penalty or any combination of remedies and penalties, as available, including but not limited to purchasing insurance and charging SUBRECIPIENT for any such insurance premiums purchased, or suspending or terminating the work.
- S. The SUBRECIPIENT agrees that any settlement the SUBRECIPIENT enters with a landlord will include provisions conditioning the landlord's receipt of the funds on the landlord's dismissal of any pending eviction proceedings against the tenant, and taking no action to negatively affect the credit reporting for any member of the tenant's household.

IN WITNESS WHEREOF, the parties executed this Agreement the day, month, and year above written.

**LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT**

Linda Gorton

Linda Gorton, Mayor

ATTEST:

Mackenzie Sommer

Deputy

Clerk of Urban County Council

LEXINGTON HOUSING AUTHORITY

Austin Simms

BY _____
Austin Simms, Executive Director

CDBG-CV SPECIFIC PROVISIONS

In addition to the terms and conditions in this Agreement, the following requirements apply to SUBRECIPIENT's receiving CDBG-CV funds in accordance with the Coronavirus Aid, Relief and Economic Security Act (CARES Act) (Pub. L. 116-136).

Additional CDBG-CV Requirements:

- 1) The SUBRECIPIENT agrees to comply with the requirements in the CARES Act that apply to CDBG-CV grants and must use the CDBG-CV grant funds to prevent, prepare for and respond to coronavirus.
- 2) The SUBRECIPIENT agrees to comply with the requirements of the Housing and Community Development Act of 1974 (42 USC 5301 et seq.) and implementing regulations at 24 CFR part 570, as now in effect and as may be amended from time to time, and as modified by the rules, waivers and alternative requirements published by HUD from time to time. Rules, waivers and alternative requirements of Federal Register notices applicable to CDBG-CV grants are hereby incorporated into and made a part of the grant agreement.
- 3) The SUBRECIPIENT may use CDBG-CV funds as reimbursement for previously incurred costs, provided that those costs are allowable and consistent with the CARES Act's purpose to prevent, prepare for and respond to coronavirus.
- 4) The SUBRECIPIENT agrees to establish and maintain adequate procedures to prevent any duplication of benefits as required by section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155), as amended by section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115-254; 132 Stat. 3442)
- 5) Subrogation; The SUBRECIPIENT hereby agrees to reimburse the GOVERNMENT from any grants or loans under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency (FEMA) or other program to the extent of proceeds paid to SUBRECIPIENT under this Agreement and that are determined in the sole discretion of the GOVERNMENT to be a duplication of benefits ("DOB"). Upon receiving any DOB proceeds, SUBRECIPIENT agrees to immediately notify the GOVERNMENT. If some or all of the proceeds are determined to be a DOB, the portion that is a DOB shall be paid to the GOVERNMENT forthwith.

By: _____



Date: _____

