

**AGREEMENT**

**THIS AGREEMENT**, made and entered into on this 25<sup>th</sup> day of April 2013, 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 **THE HOPE CENTER**, a Kentucky non-profit corporation pursuant to KRS Chapter 273, and whose post office address is 360 West Loudon Avenue, Lexington, KY 40508 (hereinafter referred to as "SUBRECIPIENT").

**WHEREAS**, the GOVERNMENT'S 2013 Consolidated Plan, provides for the allocation of funds to the SUBRECIPIENT for the rehabilitation of Hope Center Shelter located at 360 West Loudon Avenue;

**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. SCOPE OF SERVICES**

A. Activities

The SUBRECIPIENT will be responsible for the rehabilitation of the Hope Center Shelter located at 360 West Loudon Avenue for homeless persons. The facility shall be rehabilitated in accordance with state and local building codes and services provided therein shall be operated in a manner satisfactory to the GOVERNMENT and in compliance with all local, state, and federal laws and regulations.

B. Reporting

For the period July 1, 2013, through June 30, 2023, the Grantee shall submit annual reports providing information on the number of clients served and a narrative description of the programming provided. Report shall include the race and ethnicity of clients served.

For the period July 1, 2013, through June 30, 2023, the Grantee shall submit annual reports to the Government providing the following information about the employees of the grantee's organization: race, age, sex, and disability. All annual reports are due by July 31 of each year for which a report is required.

C. National Objectives

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

D. Performance Monitoring

The GOVERNMENT will monitor the performance of the SUBRECIPIENT under the terms of the Agreement. Substandard performance as determined by the GOVERNMENT will constitute noncompliance with the Agreement. If action to correct such substandard performance is not taken by the SUBRECIPIENT within a reasonable period of time after being notified by the GOVERNMENT, Agreement suspension or termination procedures will be initiated.

**II. TIME OF PERFORMANCE**

The SUBRECIPIENT agrees to complete the rehabilitation of the Hope Center Shelter located at 360 West Loudon Avenue no later than June 30, 2014. The SUBRECIPIENT

agrees to operate the facility as a shelter for homeless persons for a ten-year period through June 30, 2024.

### III. USE OF FUNDS

Community Development Block Grant funds in the amount of \$200,000 shall be used for rehabilitation of the Hope Center Shelter located at 360 West Loudon Avenue. Federal funds may be used for demolition of existing indoor and outdoor HVAC units and installation of new indoor and outdoor HVAC units. Funds may also be used for repair and/or replacement of concrete pads for outdoor HVAC units. Federal funds may not be used for any other construction/rehabilitation/remodeling activity without the written approval of the LFUCG Division of Grants and Special Programs.

It is expressly agreed and understood that the herein described Community Development Block Grant funds in the amount of \$200,000 shall not be used as match for any other federal funds received by the SUBRECIPIENT without the written consent of the GOVERNMENT.

### IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the GOVERNMENT under this Agreement shall not exceed \$200,000. The SUBRECIPIENT shall invoice the GOVERNMENT for the reimbursement of actual expenditures incurred. SUBRECIPIENT'S invoice must be for the eligible expenses specified in Paragraph III herein. SUBRECIPIENT'S invoice must include copies of invoices for services and goods purchased for the rehabilitation of this facility. GOVERNMENT will reimburse SUBRECIPIENT an amount not to exceed 90% of invoice total. Total amount is payable upon completion of the project.

### V. NOTICES

All notices hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified mail, postage prepaid, return receipt requested, to the parties at their respective addresses as first set out herein.

### VI. GENERAL CONDITIONS

- A. The SUBRECIPIENT agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants). The SUBRECIPIENT also agrees to comply with all other applicable federal, state, and local laws, regulations, and policies governing the funds provided under this Agreement. The SUBRECIPIENT further agrees to use funds available under this Agreement to supplement rather than supplant funds otherwise available.
- B. SUBRECIPIENT agrees to defend, indemnify, and hold harmless GOVERNMENT from any and all losses or claims of whatever kind, that are in any way incidental to, or connected with, or that arise or alleged to have arisen, directly or indirectly, in whole or in part, from the execution, performance, or breach of this contract by SUBRECIPIENT, including any environmental problems, including, without limitation, soil and/or water contamination, and remedial investigations and feasibility studies thereof, which exist at or prior to the contract commencement date, regardless of when such losses or claims are made or incurred. This indemnity agreement shall in no way be limited by any financial responsibility, or loss control requirements below, and shall survive the termination of this contract;

For the purposes of this Indemnity Provision:

- a. The word "defend" includes, but is not limited to, investigating, handling, responding to, resisting, providing a defense for, and defending claims, at SUBRECIPIENT'S expense, using attorneys approved in writing by GOVERNMENT, which approval shall not be unreasonably withheld.

- b. The word "claims" includes, but is not limited to, claims, demands, liens, suits, notices of violation from Governmental agencies, and other causes of action of whatever kind.
- c. The word "losses" includes, but is not limited to: attorney fees and expenses; costs of litigation; court or administrative costs; 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.
- C. This Agreement, or any part hereof, may be amended from time to time hereafter only in writing executed by the GOVERNMENT and the SUBRECIPIENT.
- D. 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.
- E. 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.

## VII. ADMINISTRATIVE REQUIREMENTS

### A. Financial Management

#### 1. Accounting Standards

The SUBRECIPIENT agrees to comply with OMB Circular A-110 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.

#### 2. Cost Principles

The SUBRECIPIENT shall administer its program in conformance with OMB Circular A-122, "Cost Principles for Non-Profit Organizations." These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

### B. Documentation and Record-Keeping

#### 1. 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. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meet one of the National Objectives of the CDBG Program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program;
- f. Financial records as required by 24 CFR Part 570.502, and OMB Circular A-110; and
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The SUBRECIPIENT shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) 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 three (3) years after final disposition of such property. Records for any displaced person must be kept for three (3) years after final disposition of such property. Records for any displaced person must be kept for three (3) 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 three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

3. Client Data

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.

4. Disclosure

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.

5. Close-outs

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

6. Audits and Inspections

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. 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. The SUBRECIPIENT hereby agrees to have an annual agency audit conducted in accordance with current GOVERNMENT policy concerning SUBRECIPIENT audits and, as applicable, OMB Circular A-133. Copy of Audit shall be submitted to the GOVERNMENT.

C. Procurement

OMB Standards

The SUBRECIPIENT shall procure all materials, property, or services in accordance with the requirements of OMB Circular A-110, Procurement Standards. Prior to advertising project for bid, SUBRECIPIENT shall obtain GOVERNMENT'S approval of all bid documents.

D. Debarment Certification

SUBRECIPIENT certifies, in accordance with Executive Order 12549 (Debarment and Suspension February 18, 1986) that to the best of its knowledge and belief, that it, its principals, and its subcontractors:

1. Are not presently debarred, suspended, proposed for debarment, declared negligible, or voluntarily excluded from covered transactions or contract by and Federal department or agency for noncompliance with the Federal Labor Standards, Title VI of the Civil Rights Act of 1964 as amended, Executive Order 11246 as amended or any other federal law;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (a) of this certification; and
4. Have not within a three-year period preceding this proposal had one or more public (Federal, State, or local) transactions or contracts terminated for cause or default.

D. Lead-based Paint

The SUBRECIPIENT agrees to comply with the Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), The Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR 35.

F. Federal Prevailing Wage Rate

The SUBRECIPIENT acknowledges that all laborers and mechanics, etc., employed in the construction of any project costing \$2,000 or greater and assisted with CDBG funds, whether employed by SUBRECIPIENT, contractors, or subcontractors, shall be paid wages complying with the Davis-Bacon Act (40 U.S.C. 3141-3144). The SUBRECIPIENT further agrees to comply with the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-333), and the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.). The SUBRECIPIENT shall submit all original certified payroll reports of all laborers and mechanics employed by SUBRECIPIENT, contractors, or subcontractors employed in this federally-funded contract to the Division of Grants and Special Programs on a weekly basis. First submission shall include copy(ies) of agreement between the SUBRECIPIENT and contractors/subcontractors. All agreements between SUBRECIPIENT and contractors/subcontractors shall include the applicable federal wage decision.

**VIII. 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.

## IX. PERSONNEL AND PARTICIPANT CONDITIONS

### A. Civil Rights

#### 1. Compliance

The SUBRECIPIENT agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968, as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

#### 2. Nondiscrimination

The SUBRECIPIENT will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The SUBRECIPIENT will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, rates of pay or other forms of compensation, and selection of training, including apprenticeship. The SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

#### 3. Section 504

The SUBRECIPIENT agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), which prohibits discrimination against the handicapped in any federally assisted program. The Grantee shall provide the SUBRECIPIENT with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

### B. Affirmative Action

#### 1. Approved Plan

The SUBRECIPIENT agrees that it shall be committed to carry out pursuant to the GOVERNMENT'S specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The GOVERNMENT shall provide Affirmative Action guidelines to the SUBRECIPIENT to assist in the formulation of such program.

#### 2. 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.

3. 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.

4. 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.

5. Subcontract Provisions

The SUBRECIPIENT will include the provisions of Paragraphs IX A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

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

2. Section 3 Clause

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.

3. Drug Free Workplace

The SUBRECIPIENT shall administer a policy designed to ensure that the organization is free from the illegal use, possession, or distribution of drugs or alcohol by its employees and beneficiaries.

D. Conduct

1. Assignability

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.

2. Subcontracts

a. Approvals

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.

b. Monitoring

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.



c. Content

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

d. Selection Process

The SUBRECIPIENT shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. 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.

4. Conflict of Interest

The SUBRECIPIENT agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. 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.

5. 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. Lobbying Certification - Paragraph 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.

6. Copyright

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.

7. Religious Organization

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).

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

LEXINGTON-FAYETTE URBAN COUNTY  
GOVERNMENT



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Jim Gray, Mayor

ATTEST:



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Mark Alley, Deputy  
Clerk of Urban County Council

HOPE CENTER



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Cecil Dunn, Executive Director