

**WV COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER RECOVERY
SUBRECIPIENT AGREEMENT BETWEEN
WEST VIRGINIA DEVELOPMENT OFFICE
AND
WEST VIRGINIA HOUSING DEVELOPMENT FUND
FOR
WV 2016 FLOOD EVENT
RESTORE RIVERVIEW OFFSITE PROJECT**

THIS AGREEMENT is entered this 29th day of January, 2021 by and between the West Virginia Development Office, a division of the West Virginia Department of Commerce (herein called the “Grantee”), and the West Virginia Housing Development Fund (herein called the “Subrecipient”) which is authorized to do business in the State of West Virginia.

I. RECITALS

WHEREAS, Pursuant to Public Law 114-223 and the *Federal Register* Notice dated, November 21, 2016, (81 FR 83254); and pursuant to Public Law 114-245 and the *Federal Register* Notice dated, January 18, 2017, (82 FR 5591) pursuant to Public Law 115-31 and the *Federal Register* Notice dated, August 7, 2017, (82 FR 36812); the U.S. Department of Housing and Urban Development (“HUD”) has awarded \$149,875,000 in Community Development Block Grant Disaster Recovery (“CDBG-DR”) funds (“Grant Funds”) to the Grantee for activities authorized under Title 1 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) and described in the West Virginia Disaster Recovery Action Plan Amendment 2 and any other amendments approved by HUD and relating to the activities described herein;

WHEREAS, the Grantee is the agency responsible for administering the Grant Funds on behalf of the State of West Virginia for the Restore Riverview Offsite Project (“Riverview Offsite”) in response to the WV 2016 flood event;

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing such funds to carry out part of the Grantee’s Federal CDBG-DR award by committing up to \$1,858,892 (the “Subaward”) of the Grantee’s Federal award, which includes \$1,747,897 for Riverview Offsite, an additional \$75,995 for approved administrative costs, and an additional \$35,000 for approved planning activities, pursuant to this Subrecipient Agreement (herein called the “Agreement”);

WHEREAS, the Grant Funds made available for use by the Subrecipient under this Agreement constitute a Subaward of the Grantee’s Federal award, the use of which must be in accordance with requirements imposed by Federal statutes, regulations, and the terms and conditions of the Grantee’s Federal award;

WHEREAS, Subrecipient’s engagement is to provide assistance in the relocation, acquisition, and construction of at least eight affordable multifamily rental units that will replace those damaged in the Riverview at Clendenin Building during the 2016 floods and severe storms;

WHEREAS, the Subrecipient has legal authority to enter this Agreement, and the Subrecipient’s governing body has duly adopted the Motion to grant signature authority to Erica L. Boggess, dated June 28, 2018, authorizing the Subrecipient to enter this Agreement with the Grantee, and by signing this Agreement, to assure the Grantee that it will comply with all the requirements of the Subaward described herein; and

NOW, THEREFORE, in consideration of the need for recovery from the West Virginia June 2016 floods responsible for the Presidential Declaration of Federal Disaster 4273 and the promises and mutual covenants described herein, the Parties mutually agree to the terms described in this Agreement.

II. GENERAL AWARD INFORMATION

The Subaward from the Grantee to the Subrecipient, which is described below, is for the purpose of carrying out a portion of a Federal award described in Section I of this Agreement and creates a Federal assistance relationship with the Subrecipient. This Agreement must be updated to reflect any changes to the federal award and the following award information.

Contact Information:

Grantee:

West Virginia Development Office
1900 Kanawha Boulevard, East
Building 3, Room 700
Charleston, WV 25305
Phone: (304) 558-2234
Fax: (304) 558-2246

Subrecipient:

West Virginia Housing Development Fund
5710 MacCorkle Avenue, SE
Charleston, WV 25304
Phone: (304) 391-8638
Fax: (304) 391-8671

Federal Award Identification Number: B-16-DL-54-0001

CFDA Number and Name: 14.228 Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii

Federal Award Date: September 15, 2017

Indirect Cost Rate for the Federal Award:

Grant Funds will not be used for payment of indirect costs pursuant to 2 CFR Part 200, Subpart E – Cost Principles.

Federal Award Project Description:

The West Virginia June 2016 flood event resulted in substantial damage throughout the state. The Grantee will use the CDBG-DR award to meet WV's most pressing unmet housing needs affected by the flooding through the following programs.

1. WV Housing Restoration – Provide grants for the repair, rehabilitation, or reconstruction of single-family owner-occupied homes to low- to moderate-income (LMI) households.
2. WV Rental Assistance – Provide grants for the reconstruction or rehabilitation of small rental properties (typically 1-4 units) that will assist renters earning less than 80% area median income.

3. Multifamily Rental Housing Program – Provide Grant Funds for the repair, rehabilitation, reconstruction, or new construction of housing units that will have at least 51% of the units occupied by LMI households.
4. Hazard Mitigation Grant/CDBG-DR Match – Combine FEMA’s Hazard Mitigation Grant Program with Grant Funds for use with resilience projects that reduce risk to future disasters to life, private property, and/or public infrastructure.
5. Bridge Home – Assist homeowners in the repair of their non-county-maintained bridge, damaged or destroyed by the floods, that is the only access point to their homes.
6. Restore Riverview Project Onsite (Clendenin) – Rehabilitate the first floor for training and office space and restore the rental units on the third floor.
7. Restore Riverview Project Offsite – Relocate the damaged first-floor rental units located in the Riverview (Clendenin) Building.
8. WV Clearance and Demolition – Remove structures damaged by or designated as slum and blight due to the 2016 floods.
9. WV Economic Development – Assist communities in promoting and supporting businesses and other economic development.

The Subrecipient will be responsible for assisting in the administration of the Riverview Offsite program as set forth in this Agreement.

Is this Award for Research and Development: No

Subrecipient’s Unique Entity Identifier: DUNS # 051205342

Subaward Period of Performance: Performance will begin upon execution of this agreement, to include eligible planning and administrative activities for Riverview Offsite from June 1, 2018 and will end on the earlier of the date that the Subrecipient completes its obligations under this Agreement or March 31, 2024.

Total Amount of the Federal Award Committed to the Subrecipient by the Grantee: \$1,858,892

Amount of Federal Funds Obligated by this Agreement: \$1,858,892

Total Amount of Federal Funds Obligated to the Subrecipient: \$1,858,892

Indirect Cost Rate Applicable to the Subaward to the Subrecipient: The Subaward will not include an indirect cost rate that can be utilized by the Subrecipient.

III. SCOPE OF SERVICES

A. Eligible Use of Funds

As a condition of receiving this Subaward, the Subrecipient shall assist in administering Riverview Offsite to include performing all the work described in this Section. The Subrecipient shall complete the activities in a manner satisfactory to the Grantee and consistent with the terms and conditions of this Agreement and applicable Federal statutes and regulations.

Prohibited Activities

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-DR ineligible activities, including those described at 24 CFR 570.207, and from using Grant Funds provided herein or personnel employed in the administration of activities under this Agreement for political activities, inherently religious activities, or lobbying.

Program Delivery for CDBG-DR Eligible Activities

Riverview Offsite – HCDA Sections I05(a)(1); I05(a)(4); 105(a)(6); 105(a)(11); 105(a)(15); Construction of New Replacement Housing, Construction of New Housing, Acquisition of Property for Replacement Housing; and, all applicable alternate eligibility categories set forth under 81 FR 83254 and 82 FR 5591

Grant Funds have been allocated to help preserve and create multifamily rental housing affordable for low-to moderate-income renters in the most impacted areas affected by the 2016 floods. Assistance will be provided through multiple housing activities to relocate the eight damaged first floor units of the Riverview at Clendenin Building.

To accomplish this activity, the Subrecipient will perform the following, not all inclusive:

- Create policies and procedures to ensure compliance with CDBG-DR guidelines,
- Review project specific environmental documentation to ensure compliance with 24 CFR Part 58 (see section IX. R. 1. Environmental Reviews),
- Develop and issue a Request for Proposal (RFP), application, and selection criteria,
- Review RFP applications and make selections based on selection criteria in the RFP,
- Perform underwriting and due diligence on selected project(s),
- Loan Grant Funds to projects and prepare all necessary loan documents,
- Review and approve project draw requests for compliance and accuracy and forward to the Grantee for approval. Within five business days of receipt, the Grantee shall review and forward the draw requests to the West Virginia Purchasing Division for final approval, and Grantee shall use its best efforts to forward requested draw funds to the Subrecipient within thirty (30) days of the Grantee's receipt of each draw request,
- Disburse Grant Funds to the project upon final approval and receipt of draw funds from the Grantee,
- Perform continuous oversight during the construction phases of the projects,
- Once each project reaches project completion, Subrecipient will assign all of its interests in that project's loan documents to the Grantee,
- Provide technical assistance, and
- Responsible for submitting Grantee's project close out reports to the Grantee once program requirements have been met.

Pre-Award Costs

Subrecipient may be granted CDBG-DR funds for eligible administrative and planning activities prior to this agreement from June 1, 2018 to the execution of this Agreement with requested support documentation. All Subrecipients are limited to pre-award costs permitted by the applicable Federal Register notices governing the CDBG-DR award.

General Administration of Subaward

Subrecipient will have general administrative costs to support activities listed in the Scope of Services. These costs are all in direct support of the production of and delivery of rental units for Riverview Offsite.

The Subrecipient will be reimbursed for administrative and planning activities from June 1, 2018 through the end of the term of this Agreement. The Subrecipient will be responsible for any administrative and planning activities in excess of this Agreement.

B. National Objectives

The Subrecipient certifies that the activities carried out under this Agreement shall meet CDBG-DR's national objective for activities benefiting low- and moderate-income persons through housing activities (24 CFR 570.208(a)(3)).

C. Levels of Accomplishment – Performance Goals and Timelines

Subrecipient expects to complete the activities required under this Agreement in accordance with the following estimated timeframes and performance goals associated with each of the activities. Grantee acknowledges that the timeframes set forth below are estimates only and could be impacted by several factors, including but not limited to, any approvals or reviews by the Grantee or HUD, any amendments to the Action Plan that impact the activities described herein, or any other changes to the CDBG-DR Program made by HUD. Notwithstanding anything to the contrary provided herein, this Agreement shall automatically terminate, without further notice, if a project is not selected to receive an award under the RFP, and the Subrecipient shall be paid for all authorized services properly performed prior to termination.

Activity	Performance Goal	Estimated Timeframe for Completion
Request for Proposals (RFP) - Broad outline	Begin communication with developers about program funds and target RFP dates	November 2020
Policies and Procedures	Finalization of program materials	February 2021
RFP Released to the Public	Official release of the RFP	February 2021
RFP Submissions	Receipt of all RFP submissions	June 2021
RFP Selections	Review, select, and announce awards	July 2021
Project Loan Closing	Developers and Subrecipient staff complete all work required for the selected projects to close on their CDBG-DR loans, including enhanced due diligence, the environmental review process, and receipt of HUD's Authority to Use Grant Funds	March 2022

Activity	Performance Goal	Estimated Timeframe for Completion
Project Complete	Construction and lease-up activities have been completed	September-October 2023
Project Close out Reports	All required project close out reports and any other required documents have been completed and submitted to the Grantee	March 2024

D. Staffing

The Subrecipient shall supervise and direct the completion of all activities under this Agreement. The percent time spent for each Key Personnel or other staff identified can and will fluctuate from month to month depending on what phase of the activity is in process. Additional staff, not listed, may be used throughout the process to help in the completion of this program. Any changes are subject to the prior approval of the Grantee.

Staff Member Title	Responsibilities	Percent Time
Executive Director	Oversees the Subrecipient’s responsibilities under this Agreement, approval & signature authority	Up to 20%
Deputy Director-Production	Oversees the Riverview Offsite program, including program development and execution	Up to 50%
Senior Division Manager-Multifamily Lending	In charge of program development; proposals; underwriting; projects from pre-construction to the completion, including close-out	Up to 50%
Federal Compliance Officer	Program development, program and project monitoring and reporting, assist processors when needed (see processors responsibilities below)	Up to 75%
Senior Program Managers	Oversees their specific program administration as it relates to the project	Up to 50%
Accounting Manager	Financial management, including billing of staff time	Up to 50%
Legal	Prepares and reviews program and project documents, clarifications of program regulations, contract reviews relating to Subrecipient’s obligations under this Agreement	Up to 25%
Inspectors	Review project plan & specifications, review all environmental related reports, perform all needed project inspections throughout the construction process	Up to 50%
Processors	Review & process project functions (including, but not limited to): applications, all underwriting, subsidy layering, loan closing preparation & due diligence, financial soundness reviews, federal regulatory compliance, draw processing, post construction document preparations, close-out preparations and reporting	Up to 75%
Asset Management Specialists	Monitoring and reporting on-going compliance of completed projects	Up to 15%

Staff Member Title	Responsibilities	Percent Time
Loan Servicing Staff	Servicing project loans	Up to 10%
Accounts Payable Specialist	Accounts payable, expense reports	Up to 5%
Senior Accountant	Financial statements, accounts receivable	Up to 5%

IV. PERFORMANCE MONITORING AND REPORTING

NOTE: All references in this Agreement pertaining to timelines and/or deadlines are in terms of calendar days unless otherwise noted.

A. Monitoring

The Grantee shall monitor the performance of the Subrecipient as necessary and in accordance with regulations of Subrecipient Monitoring and Management, 2 CFR 200.330 – 2 CFR 200.332, to ensure compliance with all the requirements of this Agreement. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within 30 days after being notified by the Grantee, the Grantee may impose additional conditions on the Subrecipient and its use of Grant 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.

B. Reporting

The Subrecipient shall submit regular quarterly progress and financial records to the Grantee.

V. PERIOD OF PERFORMANCE AND TERM

The period of performance for the Subrecipient, meaning the time during which the Subrecipient may incur new obligations to carry out activities under this Agreement, shall become effective upon the date this Agreement is signed by both Parties, and end no later than March 31, 2024. Notwithstanding the forgoing, the Subrecipient shall also be entitled to reimbursement for administrative and planning activities completed beginning June 1, 2018 through the date this Agreement is signed by both Parties.

The Subrecipient will provide a final performance and expenditure report, provided by the Grantee, to the Grantee within 90 days following project completion.

This Agreement and its terms and conditions shall remain in effect during any period that the Subrecipient has control over Grant Funds provided through this Agreement, including Program Income as defined in 24 CFR 570.500.

VI. BUDGET

The Subrecipient shall complete all activities in this Agreement in accordance with the Budget. Any amendments to the Budget must be approved in writing by both the Grantee and the Subrecipient. No funds will be disbursed prior to the Grantee receiving HUD’s Authorization to Use Grant Funds for this Program.

A. Budget

The Budget for this Agreement shall be as follows, as otherwise agreed to by both parties, with an amended budget table:

Activity	Approximate	Maximum Program Amount
Restore Riverview Offsite Project		
Project & Activity Delivery Costs		\$ 1,747,897
Administrative Costs		\$ 75,995
Planning Costs		\$ 35,000
Total Allocated Grant Funds		\$ 1,858,892

Project Costs

Grantee will, upon receipt of acceptable documentation from the Subrecipient, reimburse actual Project Costs related to Riverview Offsite in an amount up to \$1,519,911. Project costs are direct costs of undertaking a project. These include, but are not limited to, acquisition, demolition and site clearance, construction hard costs, and soft costs. Soft costs include, but are not limited to, appraisal, market study, environmental (completed by the developer for review and approval), engineering, architect, interest, bonds, licenses, taxes, insurance, fees, title and survey, and permits.

Activity Delivery Costs

Grantee will, upon receipt of acceptable documentation from the Subrecipient, reimburse actual reasonable Activity Delivery Costs related to Riverview Offsite in an amount up to \$227,986. Costs are directly related to the delivery of a project and includes, but is not limited to, the development of program policies and procedures, request for proposals, and project applications; conducting , project application review and selection; environmental reviews; and completing and reviewing work write-ups; review of project plan and specification; inspections; and preparing and reviewing of project documents.

Administrative Costs

Grantee will, upon receipt of acceptable documentation from the Subrecipient, reimburse actual reasonable administrative costs and charges related to Riverview Offsite in an amount up to \$75,995. Covered costs include, but is not limited to, general management, oversight, monitoring, compliance, federal audit, and general coordination of the program.

Planning Costs

Grantee will, upon receipt of acceptable documentation from the Subrecipient, reimburse actual reasonable planning charges related to Riverview Offsite in an amount up to \$35,000. Covered costs include, but are not limited to, the development of action plan amendments, data gathering for program planning and comprehensive plans.

B. Eligible Costs

Subrecipient shall receive and use Grant Funds for Eligible Costs, as defined herein. "Eligible Costs" for Grant Funds under this Agreement include those applied to eligible activities, including HUD approved Action Plan and Action Plan Amendment(s), that are recovery-related, and are otherwise in furtherance of the intent of this Agreement and the goals and objectives as set forth herein, when approved by the Grantee in accordance with eligibility rules under CDBG-DR guidelines and subject to limitations established by the Grantee.

C. Program Income (if applicable)

The Subrecipient agrees to return any Program Income received by the Subrecipient to the Grantee within ten business days upon receipt of any Program Income.

Program income, which is defined in 24 CFR 570.500(a) and further clarified in the 81 FR 83265 dated, November 21, 2016, (Applicable Rules, Statutes, Waivers, & Alternate Requirements), means any gross income received by the Subrecipient that was directly generated from the use of the Grant Funds. This includes, but is not limited to, payments of principal and interest on loans made by the Subrecipient, as well as, interest earned on program income pending disposition of the income, but including interest earned on Grant Funds held in a revolving fund account.

Per 81 FR 83265, program income received before or after close out of the Grant that generated the Program Income can be used to continue disaster recovery activities or transferred to the Grantee's annual CDBG program. In addition, State grantees may transfer program income before close out to any annual CDBG-funded activities carried out by a local government or tribe within the State. Program income received by a grantee, or received and retained by a subrecipient, after close out of the grant that generated the program income, may also be transferred to a grantee's annual CDBG award. In all cases, any program income received that is *not* used to continue the disaster recovery activity will not be subject to the waivers and alternative requirements of this notice. Rather, those funds will be subject to the Grantee's regular CDBG program rules.

VII. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed \$1,858,892 for all activity expenses.

The Subrecipient shall submit to the Grantee draw requests/requests for payments of activities under this Agreement and consistent with the approved budget (the "Request for Payment"). Each Request for Payment shall be broken down into requested draws against the budget line items as specified.

- A. The Subrecipient shall submit Request for Payment of Eligible Costs payable under this Agreement to the Grantee's CDBG-DR Project Manager and the Grantee's Executive Director, or his/her designee, for review and approval. Following review and approval of the Request for Payment by the Grantee's Executive Director, or his/her designee, approved Request for Payment shall be submitted to the Grantee's Finance Director, or his/her designee, for approval of payment. The Request for Payment submitted shall be approved in all cases, provided that such requests are deemed to be complete. The Request for Payment not approved by the Grantee's Executive Director or Finance Director, or their respective designees, shall not be paid, but returned to the Subrecipient for further processing, together with a written explanation as to why the request

was denied and what steps the Subrecipient must take to have the request rendered complete and eligible for payment.

- B. Upon approval of payment by the Grantee as provided for above, payment of Eligible Costs shall be provided to the Subrecipient via electronic funds transfer. Such transfer of payment shall be made by the Grantee likely within three business days from the Grantee's receipt of Grant Funds from HUD. Upon receipt of Grant Funds from the Grantee, Subrecipient will disburse such Grant Funds to the ultimate recipient within three business days.
- C. Staff time shall be reimbursed based on actual hours spent on this Agreement, per applicable hourly rates. The following fringe benefits will also be reimbursed based on staff charges: Employer's share of FICA expenses (7.65%) and retirement charges (based on the annual Public Employee Retirement System's contribution percentage in effect at time of staff performance).
- D. Any eligible travel expenses and direct expenses incurred shall be reimbursed in accordance with this Agreement.
- E. Administrative and Planning activities performed by the Subrecipient starting June 1, 2018 and prior to the execution of this agreement will be paid in accordance with this section.

Payment will be made upon submission by the Subrecipient of a properly executed Request for Payment form, together with all supporting invoices, bills, time sheets, and other documents necessary to justify the payment. The Request for Payment form must also be accompanied by documentation from the Subrecipient demonstrating that all procurements for which payment is requested have been made in accordance with this Agreement.

VIII. AMENDMENT AND TERMINATION

A. Amendments

Any amendments to the Action Plan that will affect the Subrecipient's duties will require an amendment to this Agreement with consent of both parties.

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, are approved by the Grantee's governing body, and are signed in writing by a duly authorized representative of the Grantee and the Subrecipient. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from any obligations under this Agreement not specifically amended. Amendments will generally be required when any of the following are anticipated: i) revision to the scope or objectives of the Program, including purpose or beneficiaries; ii) need to extend the availability of Grant Funds; iii) revision that would result in the need for additional funding; and iv) expenditures on items for which applicable cost principles require prior approval. The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons with Subrecipient's consent. Any amendments will be incorporated only by written amendment signed by both Grantee and Subrecipient.

B. Termination/Suspension for Cause

The Grantee may suspend or terminate this Agreement, in whole or in part, upon 30 days' prior written notice, whenever it determines that the Subrecipient has failed to comply with any term, condition, requirement, or provision of this Agreement. Failure to comply with any terms of this Agreement, include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of Grant Funds as provided under this Agreement; or
4. Submission by the Subrecipient to the Grantee of reports that are incorrect or incomplete in any material respect.

Notwithstanding anything hereinabove to the contrary, Grantee agrees that it shall not exercise its right to suspend or terminate this Agreement until it shall have given written notice to the Subrecipient of the alleged non-compliance and has given the Subrecipient a reasonable amount of time to correct and/or cure the alleged non-compliance. The Subrecipient shall be paid for all authorized services properly performed prior to termination.

The Grantee may apply 2 CFR 200.338 "Remedies for noncompliance" in place of suspension or termination until failure is resolved.

The Grantee or Subrecipient may apply 2 CFR 200.339 "Termination" and should observe 2 CFR 200.342 "Effects of Suspension and Termination".

C. Termination for Convenience

Either Party may terminate this Agreement in whole, or in part, upon 30 days' prior written notice, to the other Party.

The written notice shall set forth the reasons for termination, the effective date, and in the case of partial termination, the portion to be terminated. Upon receipt of notice by Subrecipient, the Subrecipient shall, unless the notice directs otherwise, immediately discontinue all activities hereunder, except as may otherwise be legally required pursuant to a binding commitment to perform. The Subrecipient shall cancel as many outstanding obligations as possible.

Upon termination, the Grantee retains the right to recover any improper expenditures from the Subrecipient and the Subrecipient shall return to the Grantee any improper expenditures no later than 30 days after the date of termination. The Grantee will allow the Subrecipient to retain or be reimbursed for costs reasonably incurred prior to termination, that were not made in anticipation of termination and cannot be canceled provided that said costs meet the provisions of this Agreement, 2 CFR Part 200, Subpart E, Cost Principles, and any other applicable state or Federal statutes, regulations or requirements.

When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in 2 CFR 200.343 Close out and 200.344 Post-close out adjustments and continuing responsibilities.

D. Termination Due to Unavailable Funds

The continuation of this Agreement is contingent upon the appropriation and release of sufficient Grant Funds to the Grantee to fulfill the requirements of this Agreement. Failure of the appropriate authorities to approve and provide an adequate budget to the Grantee for fulfillment of this Agreement shall constitute reason for termination of this Agreement by the Subrecipient. The Subrecipient shall be paid for all authorized services properly performed prior to termination, as well as be permitted to draw Grant Funds in an amount required to fund all commitments made by the Subrecipient to third parties for grants, loans, and/or procurement contracts prior to termination.

E. Obligations Governing Use of CDBG-DR Funds Survive Termination

Termination of this Agreement under any of the foregoing provisions shall not alter or diminish the Subrecipient's obligations governing the use of Grant Funds under applicable statutes and regulations or under this Agreement and/or terminate any of the Subrecipient's obligations that survive the termination of this Agreement. Such obligations and/or duties may include but are not limited to the following: (1) duty to maintain and provide access to records; (2) duty to monitor and report on the use of any Grant Funds expended or awarded to the Subrecipient in compliance with all terms, conditions and regulations herein; (3) the duty to enforce compliance with terms of grants or loans issued by the Subrecipient under this Agreement; and (4) the duty to monitor, collect and remit Program Income, if applicable.

F. Obligations Under Program Loan Documents

Notwithstanding anything to the contrary set forth herein, in the event of any termination of this Agreement under any of the foregoing provisions, the Grantee shall assume all responsibilities, liabilities, and obligations of the Subrecipient under any Riverview Offsite loan documents.

G. Payment Upon Termination

Except as in the event of termination or suspension for cause, the Subrecipient shall be entitled to payment on invoices submitted to the Grantee no later than 90 days from the date of termination contained within the notice, to the extent that requests represent eligible activities satisfactorily completed during the term of the Agreement and otherwise reimbursable under the terms of this Agreement. This includes time spent on any close out and post close out work performed that would not otherwise be completed by the Subrecipient, even if past the 90 days from the date of termination

IX. OTHER REQUIREMENTS TO COMPLY WITH FEDERAL STATUTES, REGULATIONS AND THE TERMS AND CONDITIONS OF THE FEDERAL AWARD

The Grant Funds available to the Subrecipient through this Agreement constitute a Subaward of the Grantee's Federal award under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200. This Agreement includes terms and conditions of the Grantee's Federal award that are imposed on the Subrecipient, and the Subrecipient agrees to carry out its obligations in compliance with all the obligations described in this Agreement.

A. General Compliance

The Subrecipient shall comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 CFR Part 570, as modified by the Federal Register notices that govern the use of Grant Funds available under this Agreement. This includes without limitation applicable Federal Registers; 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200); 24 CFR Part 570 Community Development Block Grant dollars; applicable waivers; Fair Housing Act, 24 CFR Part 35, 24 CFR Part 58, 24 CFR Part 135; National Historic Preservation Act, 36 CFR Part 800, Executive Order 11593; and any other applicable state laws or regulations, including the requirements related to nondiscrimination, labor standards and the environment; and Action Plan amendments and HUD's guidance on funds.

Notwithstanding the foregoing, (1) the Subrecipient does not assume any of the Grantee's responsibilities for environmental review, decision-making, and action, described in 24 CFR Part 58 and (2) the Subrecipient does not assume any of the Grantee's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. The Subrecipient shall also comply with all other applicable Federal, state and local laws, regulations, and policies that govern the use of the Grant Funds in complying with its obligations under this Agreement, regardless of whether Grant Funds are made available to the Subrecipient on an advance or reimbursement basis.

B. Duplication of Benefits

The Subrecipient shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 5155) and described in Appropriations Act. Specifically, Section 312 prohibits any person, business concern, or other entity from receiving "any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source." 42 USC 5155 (a). A duplication occurs when a beneficiary receives assistance from multiple sources of cumulative amount that exceeds the total need for a particular recovery purpose. The amount of the duplication is the amount of assistance provided in excess of need. Guidance to assist in preventing a duplication of benefits is provided in a notice published in the Federal Register at 76 FR 71060 (November 16, 2011).

C. Drug-Free Workplace

Subrecipients shall comply with drug-free workplace in compliance with the requirements in Subpart B of Part 2429, which adopts the governmentwide implementation (2 CFR Part 182) of Sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

D. Insurance & Bonding

The Subrecipient shall ensure that all contractors and developers comply with the bonding and insurance requirements of 2 CFR §200.325 and §200.310.

E. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Subrecipients shall comply with 24 CFR 570.502 (a), 24 CFR 570.489 (d), and any applicable Federal Register Notices.

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

1. Financial & Program Management

The Subrecipient shall expend and account for all Grant Funds received under this Agreement in accordance with the requirements in 2 CFR Part 200, including 2 CFR Part 200, Subpart D, which covers Standards for Financial and Program Management.

Ultimately, the requirements and procedures applicable to Subrecipients for expending and accounting for the Grantee's Grant Funds will depend on the requirements imposed by Federal statute, regulations, and the terms and conditions of the Grantee's Federal awards.

2. 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 HUD 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, except for the following:

- (i) Depreciation methods for fixed assets shall not be changed without the approval of the Federal cognizant agency.
- (ii) Fines penalties, damages, and other settlements are unallowable costs to the CDBG-DR program.
- (iii) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses (goods or services for personal use) regardless of whether reported as taxable income to the employees (2 CFR 200.445);
- (iv) Organization costs (2 CFR 200.455); and
- (v) Pre-Award Costs, as limited by this Agreement.

F. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall establish and maintain records sufficient to enable the Grantee to (1) determine whether the Subrecipient has complied with this Agreement, applicable Federal statutes and regulations, and the terms and conditions of the Grantee's Federal award and (2) satisfy recordkeeping requirements applicable to the Grantee.

At a minimum, the Subrecipient shall maintain records required by 24 CFR 570.506, as if the requirements in 24 CFR 570.506 were directly imposed upon the Subrecipient and additionally include any additional recordkeeping requirements imposed by Federal Register notice governing the use of Grant Funds.

Each Subrecipient shall establish and maintain sufficient records to enable the Grantee to determine whether the Subrecipient has met the requirements of this part. At a minimum, the following records are needed:

(a) Records providing a full description of each activity assisted (or being assisted) with Grant Funds, including its location (if the activity has a geographical locus), the amount of Grant Funds budgeted, obligated and expended for the activity, and the provision in Subpart C under which it is eligible.

(b) Records demonstrating that each activity undertaken meets one of the criteria set forth in 24 CFR 570.208.

2. Access to Records

As required by 2 CFR 200.331(a)(5), the Subrecipient shall permit the Grantee and auditors to have access to the Subrecipient's records and financial statements as necessary for the Grantee to meet its audit requirements under the Federal award.

3. Record Retention and Transmission of Records to the Grantee

Prior to close out of this Agreement (as described below in IX G.), the Subrecipient must transmit to the Grantee records sufficient for the Grantee to demonstrate that all costs under this Agreement met the requirements of the Federal award.

The Subrecipient shall retain financial records, supporting documents, statistical records, and all other Subrecipient records pertinent to this Agreement and Subrecipient's Subaward for the longer of 3 years after the expiration or termination of this Agreement, or 3 years after the submission of the Grantee's annual performance and evaluation report, as prescribed in 24 CFR 91.520 or in the applicable Federal Register notices governing the use of the Grant Funds, in which the specific activity is reported on for the final time.

The preceding requirement is, however, subject to the following exceptions:

- (i) Records for activities subject to the reversion of assets provisions at 24 CFR 570.503(b)(7) or change of use provisions at 24 CFR 570.505 must be maintained for as long as those provisions continue to apply to the activity, otherwise, records for real property and equipment acquired under this Agreement must be retained for 3 years after final disposition;
- (ii) Records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained until such receivables or liabilities have been satisfied;
- (iii) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken;
- (iv) When the Subrecipient is notified in writing by HUD, the cognizant agency for audit as defined in 2 CFR 200.18, the oversight agency for audit as defined in 2 CFR 200.73, the cognizant agency for indirect costs as defined in 2 CFR 200.19, or the Grantee, the Subrecipient shall extend the retention period consistent with the notification;

- (v) When records are transferred to or maintained by HUD or the Grantee, the 3-year retention requirement is not applicable to the Subrecipient;
- (vi) The retention period for the records pertaining to the earning of the Program Income (as defined in this Agreement) starts from the end of the Grantee's fiscal year in which the Program Income is earned; and
- (vii) For indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates), and their supporting records:
 - a. If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the Grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
 - b. If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the Grantee) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Notwithstanding the term of this Agreement, all records the Subrecipient is required to maintain, including supporting documentation, shall be retained for the greater of three years from close out of the Federal award to the Grantee, or the period required by other applicable laws and regulations as described in 24 CFR 570.487 and 24 CFR 570.488.

4. Client Data and Other Sensitive Information

The Subrecipient is required to maintain data demonstrating client eligibility for activities provided under this Agreement. Such data may include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of activities provided.

The Subrecipient must comply with 2 CFR 200.303 and take reasonable measures to safeguard protected personally identifiable information, as defined in 2 CFR 200.82, and other information HUD or the Grantee designates as sensitive or the Subrecipient considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

Subrecipient shall further comply with the requirements of the Records Management and Preservation of Essential Records Act, W. Va. Code §§ 5A-8-21, 22; the Consumer Credit and Protection Act, General Consumer Protection, W. Va. Code §§ 46A-6-101, *et seq.*; the Breach of Security of Consumer Information Act, W. Va. Code § 46A-2A-101-105; the West Virginia Governmental Ethics Act, W. Va. Code §§ 6B-1-1, *et seq.*; and the West Virginia Freedom of Information Act, W. Va. Code §§ 29B-1-1, *et seq.*, as applicable.

G. Close Out

The Subrecipient shall close out its use of the Grant Funds and its obligations under this Agreement by complying with the close out procedures in 2 CFR 200.343 and 24 CFR 570.509. Activities during this close out period may 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 Grantee), and determining the custodianship of records.

Notwithstanding the terms of 2 CFR 200.343, upon the expiration of this Agreement, the Subrecipient shall transfer to the recipient any Grant Funds on hand at the time of expiration and any accounts receivable attributable to the use of Grant Funds, further, any real property under the Subrecipient's control that was acquired or improved in whole or in part with Grant Funds (including Grant Funds provided to the subrecipient in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7) and 24 CFR 570.509. Subrecipient shall be responsible for a final performance and expenditure report, provided by the Grantee, for completed activities which will be submitted to the Grantee.

H. 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 2 CFR 200.501 Audit requirements.

2. Inspections and Monitoring

The Subrecipient shall permit the Grantee and auditors to have access to the Subrecipient's records and financial statements as necessary for the Grantee to meet the requirements of 2 CFR Part 200.

The Subrecipient must submit to monitoring of its activities by the Grantee 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.

This review must include: (1) reviewing financial and performance reports required by the Grantee; (2) following-up and ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from the Grantee detected through audits, on-site reviews, and other means; and (3) issuing a management decision for audit findings pertaining to this Federal award provided to the Subrecipient from the Grantee as required by 2 CFR 200.521.

3. Corrective Actions

The Grantee may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. The Grantee may require the Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from the pass-through entity detected through audits, on-site reviews, and other means. In response to audit deficiencies or other findings of noncompliance with this Agreement,

Grantee may impose additional conditions on the use of the Grant Funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

The Subrecipient shall be subject to reviews and audits by the Grantee, including onsite reviews of the Subrecipient as may be necessary or appropriate to meet the requirements of 42 U.S.C. 5304(e)(2).

I. 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.

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.

The Subrecipient must comply with CDBG-DR regulations regarding debarred or suspended entities at 24 CFR 570.609. Grant Funds may not be provided to excluded or disqualified persons.

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.

All contracts and agreements (with subrecipients, recipients, and contractors) must clearly state the period of performance or date of completion, incorporate performance requirements and liquidated damages into each procured contract or agreement, or other similar contract oversight provisions. They also may include limitations on the types of procurements for administrative responsibilities or reporting requirements that all procurements be posted on the Grantee's website.

J. Building Code Standards

For all projects that include construction or rehabilitation, the Subrecipient shall meet or shall cause recipients of Grant Funds to meet all applicable State and local building code requirements. In addition, the Subrecipient will follow building standards as defined in 81 FR 83269, which includes but is not limited to Green Building standards, elevation requirements, and broadband infrastructure.

K. Federal Funding Accountability and Transparency Act (FFATA)

The Subrecipient shall comply with the requirements of 2 CFR Part 25 Universal Identifier and System for Award Management (SAM). The Grantee 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 Grantee 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.

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

The Subrecipient shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 USC 4601 – 4655, 49 CFR Part 24, 24 CFR Part 42, and 24 CFR 570.606.

In addition to other URA requirements, these regulations (49 CFR 24.403(d)) implement Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5181, which provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [URA] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act".

M. 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 Grant 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.

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 ensure 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).

The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily

achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

3. State and Local Nondiscrimination Provisions

The Subrecipient shall ensure that its activities are consistent with requirements of both § 5-11A which discusses the additional protected classes under the West Virginia State Fair Housing Act and § 5-11 which discusses the additional protected classes under the West Virginia State Human Rights Act.

4. Title VI of the Civil Rights Act of 1964 (24 CFR Part 1)

(i) General Compliance:

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 Grant 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 2 CFR Part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

(ii) Assurances and Real Property Covenants:

As a condition to the approval of this Agreement and the extension of any Federal financial assistance, the Subrecipient assures that the program or activities described in this Agreement will be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this Part 1.

If the Federal financial assistance under this Agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, the Subrecipient's assurance herein shall obligate the Subrecipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the Subrecipient for the period during which Federal financial assistance is extended pursuant to the contract or application.

This assurance gives the Grantee and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Agreement or acquired with Grant Funds and provided to the Subrecipient under this Agreement, the instrument effecting any disposition by the Subrecipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

If the Subrecipient receives real property interests or funds or for the acquisition of real property interests under this Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this Part 1 shall extend to any facility located wholly or in part in such space.

5. Affirmative Action

(i) Approved Plan

The Subrecipient agrees that it shall carry out pursuant to the Grantee's specifications an Affirmative Action Program in compliance with the President's Executive Order 11246 of September 24, 1966, as amended, and implementing regulations at 42 CFR chapter 60. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the release of Grant Funds under this Agreement.

(ii) Women- and Minority-Owned Businesses (W/MBE)

The Subrecipient shall take the affirmative steps listed in 2 CFR 200.321(b)(1) through (5) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when the Subrecipient procures property or services under this Agreement.

(iii) Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

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

N. Labor and Employment

1. Labor Standards

The Subrecipient shall comply with the 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 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 Grantee for review upon request.

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

1. Compliance

The Subrecipient shall comply with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u, and implementing its implementing regulations at 24 CFR Part 135.

The Subrecipient shall include the “Section 3 clause” at 24 CFR 135.38 in every “Section 3 covered contract” (as defined in 24 CFR 135.5).

P. Conduct

1. Hatch Act

The Subrecipient shall comply with the Hatch Act, 5 USC 1501 – 1508, and shall ensure that no Grant 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 of the U.S.C.

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 the Grantee’s procurement policies and procedures. In all cases not governed by the conflict of interest provisions in the Grantee’s procurement policies and procedures, the Subrecipient shall comply with the conflict of interest provisions in 24 CFR 570.489(h).

Subrecipient agrees to complete State of West Virginia Purchasing Division form Certification of Non-Conflict of Interest as per §5A-3-31 of the West Virginia Code, see Attachment A.

3. Lobbying Certification

The Subrecipient hereby certifies that:

- (i) No Federal appropriated funds have been paid or will be paid, by or on behalf of Subrecipient, 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;

- (ii) 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;
- (iii) It shall require that the language of paragraph (a) through (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
- (iv) 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 required by Section 1352, Title 31, U.S.C. 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.

Q. Religious Activities

The Subrecipient agrees that Grant Funds provided under this Agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

R. Environmental Conditions

1. Environmental Reviews

The Subrecipient shall be responsible for reviewing environmental documentation to ensure compliance with 24 CFR Part 58. Once the Subrecipient has completed its review and all required public notification/comment period(s) are complete, the assessment packet will be forwarded to the Grantee for final review and submission of the Certification and Request for Release of Funds to HUD for approval.

The Subrecipient agrees that it shall not commit any Grant Funds to a project until it has approval from the Grantee to do so and HUD has issued the Authority to Use Grant Funds.

2. Prohibition on Choice Limiting Activities Prior to Environmental Review

The Subrecipient must comply with the limitations in 24 CFR 58.22, which 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.

3. Air and Water

The Subrecipient shall comply with the following requirements insofar as they apply to the performance of this Agreement:

- Air quality. (1) The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly Section 176(c) and (d) (42 U.S.C. 7506(c) and (d)); and (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR Parts 6, 51, and 93).
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, including the requirements specified in Section 114 and Section 308 of the Federal Water Pollution Control Act, as amended, and all regulations and guidelines issued thereunder.

4. Flood Disaster Protection

The Subrecipient shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 USC 4012a. Additionally, the Subrecipient shall comply with Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a), which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements. More information about these requirements is available in the Federal Register notices governing the CDBG-DR award.

5. Lead-Based Paint

The Subrecipient shall follow the Grantee's procedures with respect to CDBG-DR assistance that fulfill the objectives and requirements of 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 Part 35, Subparts A, B, J, K, and R of this Title.

6. Historic Preservation

The Subrecipient shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, codified in Title 54 of the United States Code, and the procedures set forth in 36 CFR Part 800 insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

THE UNDERSIGNED, as authorized officials on behalf of the Parties, have executed this Agreement, which shall be effective as of the date of execution hereof on behalf of the Grantee.

GRANTEE

By: Jennifer Ferrell 01/29/21
(Signature) (Date)

Jennifer Ferrell
Director, Community Advancement and Development
West Virginia Development Office

SUBRECIPIENT

By: Erica Boggess 1-29-2021
(Signature) (Date)

Erica L. Boggess
Executive Director
West Virginia Housing Development Fund