**Conditions & Certifications Required by HUD**

**for Contracts Funded by CDBG**

All activities under this Agreement must be carried out in compliance with the following federal laws and regulations. These laws and regulations and the descriptions herein are not intended to be complete. This is not an all-inclusive list of requirements.

* Program Income 24 CFR 570.503(b)3 and 24 CFR 504

The receipt and expenditure of gross income directly generated from use of Community Development Block Grant (CDBG) funds shall be recorded as part of the financial transactions of the grant program. Program income received before grant closeout may be retained if the income is treated as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds.

* Conditions for Religious Organizations 24 CFR 570.200(j)

In accordance with First Amendment Church/State Principles, as a general rule, CDBG assistance may not be used for religious activities. CDBG funds may be contracted to a primarily religious entity for eligible public services where the entity hereby agrees to the following:

* It will not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion; and
* It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing and exert no other religious influence in the provision of such public services.
* Reversion of Assets 24 CFR 570.503(b)8

Upon the discontinuation of funding this program with CDBG, the Agency shall transfer to the City any CDBG funds on hand and any accounts receivable attributable to the use of CDBG funds. Any real property under the Agency's control that was acquired or improved in whole or in part in excess of Twenty-Five Thousand Dollars ($25,000) shall either: (1) be used to meet one of the CDBG national objectives until five (5) years after the expiration of the Agreement or for such longer period of time as determined; (2) disposed of in such a manner that results in the City being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property.

* Public Law 88-352 referring to Title VI of the Civil Rights Act of 1964 and implementing regulations issued in 24 CFR Part 1, as related to non-discrimination in federally-assisted programs.
* Public Law 90-284 referring to the Fair Housing Act (42 USC 3601-20), as amended, and implementing regulations.
* Executive Order 11063, as amended by Executive Order 12259, and the implementing regulations. Prohibits discrimination in the sale, leasing, rental, use or occupancy, or disposition of residential property assisted with federal funds.
* Section 109 of the Housing and Community Development Act of 1974, as amended, and the regulations issued pursuant thereto (24 CFR 570.602). Prohibits discrimination or exclusion of benefits in any program or activity funded in whole or in part with CDBG funds. Also incorporates the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1974.
* Equal Employment Opportunity—All contracts shall contain a provision requiring compliance with E.O. 11246, “Equal Employment Opportunity,” as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
* 24 CFR 570.614 requires compliance with the Architectural Barriers Act of 1968 (42 USC 4151-4157) and with the Americans with Disabilities Act (42 USC 12131; 47 USC 155, 201, 218, and 225).
* The lead based paint requirements of 24 CFR Part 35, issued pursuant to the Lead Based Paint Poisoning Prevention Act. Prohibits the use of lead based paints and requires notification, elimination, abatement and tenant protection.
* CDBG funds may not be used directly or indirectly to engage any contractor during any period of debarment, suspension or placement in ineligibility status under provisions of 2 CFR 2424.
* The Agency shall comply with the policies, guidelines and requirements of 2 CFR 200. 2 CFR 200 consolidates the financial, audit, and related requirements formerly found in the following Office of Management and Budget (OMB) Circulars
* A-87
* A-110
* A-122
* A-133
* Conflict of interest provisions found in 24 CFR 84.42, 24 CFR 85.36, 24 CFR 570.611, and additionally:

No member, officer, or employee of the grantee, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the Agreement.

* Section 3
* The Agency certifies the following under Section 3 of the HUD Act of 1968, as amended:
* The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of HUD and is subject to the requirements of Section 3 of the HUD Act of 1968, as amended, 12 USC 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area (particularly those who are recipients of government assistance for housing), and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
* The parties to this contract will comply with the provisions of said Section 3 and the regulations, as amended, issued pursuant thereto, by the Secretary of HUD set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder, prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
* The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his 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.
* The contractor will include the Section 3 clause set forth in 24 CFR 135.38 in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of HUD, 24 CFR 135. The contractor will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations (24 CFR 570.607).
* Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder, prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.
* Lobbying: The Agency Certifies the Following Under Section 1352, Title 31, U.S. Code:
* No federal appropriated funds have been paid or will be paid, by or on behalf of the contractor, 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.
* 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, the contractor shall complete Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
* The contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
* This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars ($10,000) and not more than One Hundred Thousand Dollars ($100,000) for each such failure.
* Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c)—All contracts and subgrants in excess of $2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to HUD.
* Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)—As required by 24 CFR 570.603, all construction contracts awarded by the recipients and subrecipients of more than $2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to HUD.
* Contract Work Hours and Safety Standards Act (40 U.S.C. 327 through 333)—Where applicable, all contracts awarded by recipients in excess of $2000 for construction contracts and in excess of $2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 11⁄2 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
* Rights to Inventions Made Under a Contract or Agreement—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by HUD.
* Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended—Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to HUD and the Regional Office of the Environmental Protection Agency (EPA).
* Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.
* Drug-Free Workplace Act of 1998 (41 USC 701 et seq.) – The Agency shall not receive a federal grant unless it agrees to provide a drug-free workplace by publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and specifying actions that will be taken against employees for violations or the prohibition and establishing a drug-free awareness program for employees.
* Resource Conservation and Recovery Act (42 USC 6962); 24 CFR 84.16 – Non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.
* Financial management systems: Agency’s financial management systems must comply with the standards set forth in 24 CFR 84.21.
* Use of real property (24 CFR 570.505) – The Agency may not change the use or planned use of any real property acquired or improved with CDBG funds for a period of at least five years. Any change of use of real property requires consultation with the City, and may involve reimbursing the City for any funds expended for the acquisition or improvement.
* Disposition of equipment (24 CFR 570.502(b)(3)(iv)) – Proceeds of the sale of equipment originally acquired with CDBG funds shall be counted as program income. If such equipment is not sold and is no longer needed by the Agency for CDBG-funded activities, the agency may retain the equipment after compensating the City.
* Procurement and Competitive Processes (24 CFR 84.43-48) – All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade.
* Records retention requirements (24 CFR 570.502(b)(3)(ix)) - Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of four years from the date of submission of the City’s annual performance and evaluation report to US HUD (24 CFR 91.520).