

STATE OF ALABAMA)

JEFFERSON COUNTY)

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COMMUNITY DEVELOPMENT

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**COMMUNITY DEVELOPMENT BLOCK GRANT-
DISASTER RECOVERY
PLANNING, MANAGEMENT, AND PROGRAM
DELIVERY AGREEMENT**

This Agreement made as of the 1st day of April 2014

by and between the

CITY OF BIRMINGHAM, ALABAMA, A MUNICIPAL CORPORATION

(hereinafter referred to as "City" and/or "Recipient")

and

Regional Planning Commission of Greater Birmingham

(hereinafter referred to as "Subrecipient")

in an amount not to exceed \$582,600.00, which shall terminate on or before the 31st day of March 2017 unless amended by written instrument as provided for herein.

WITNESSETH

WHEREAS, Part 570 of Title I of the Housing and Community Development Act of 1977 (Public Law 93-383) provides for the making of grants by the Secretary of Housing and Urban Development to eligible units of local government to assist them in community development activities; and,

WHEREAS, the City of Birmingham has applied for and has been designated as a recipient of supplemental disaster grant funds (Public Law 113-2); and,

WHEREAS, said Community Development Block Grant, hereinafter referred to as "CDBG", does allow for the provision of planning, management, and program delivery pursuant to 24 CFR 570 of the CDBG regulations with special disaster recovery requirements pursuant to the Federal Register published May 29, 2013 (Volume 78, Number 103); and,

WHEREAS, the City is desirous of obtaining the services of the above-named Subrecipient to provide planning, management, and program delivery pursuant to the above referenced regulations to be provided in a manner consistent with the terms of this agreement.

NOW, THEREFORE, for and in consideration of the mutual benefit herein provided for and expressed in accordance with the terms and conditions of 24 CFR 570.503, the City and the above-named Subrecipient do hereby agree as follows:

I. Scope of Services

A. The subrecipient will provide support for the Community Development Disaster Recovery Programs as follows:

- Provide two individuals, a planner and a program manager selected subject to the approval of the Director of Community Development, whose only duties are to augment City staff in support of Community Development Disaster Recovery Programs.

-Maintain DRGR data and input data as the system allows (including quarterly reports, new activities, edit existing activities, etc.)

- Update the CDBG-DR Action Plan, per HUD guidelines and regulation, as needed and approved by the Director of Community Development or his designee.
- Plan all new projects and activities to be funded by the City of Birmingham's CDBG-DR funds in response to the April 27, 2011 storms.
- Implement all projects and activities, as approved by the Director of Community Development or his designee, to be funded by the City of Birmingham's CDBG-DR funds in response to the April 27, 2011 storms.
- Perform all disaster related Environmental Reviews per HUD regulations.
- Perform all required Davis-Bacon interviews and compliance requirements per HUD guidelines.
- Maintain files to be located in the Community Development Department of the City of Birmingham.
- Any other tasks, as deemed necessary by the Director of Community Development, required in meeting HUD deadlines and implementing disaster funds in response to the April 27, 2011 storms.

B. The subrecipient will be assessed on the following deliverables with regard to supporting the Community Development Disaster Recovery Programs:

- Timely updates, as required by HUD, to DRGR for data input and required reporting. Timely, in this instance, will be defined on a case-by-case basis as needed by HUD.
- Timely updates, as requested by the City, to the CDBG-DR Action Plan document in a format prescribed by HUD. Timely, in this instance, will be defined by HUD, with at least 14 days given for the review of documents, by the City, before the proposed submission date to HUD.

-Detailed planning and assessment of the disaster area using current plans (Comprehensive Plan, R/UDAT, etc.) and new plans to be implemented in a coordinated effort, as described in the Request for Proposal response and correspondence since such response between the City and the subrecipient.

-Successful implementation of projects in the disaster area using the above referenced plans. Implementation will be deemed successful if there are no findings with HUD, the planned projects stay within 10% of the planned budget, and the initially planned outcome that is submitted to HUD as the Action Plan Amendment is met.

-Proper file maintenance and paperwork for all CDBG-DR activities, as prescribed by the City. This includes maintaining files in the Community Development Department, as well as, the completion of environmental reviews and Davis-Bacon requirements, as prescribed by HUD.

- Timely response to requests for any other tasks, as deemed necessary by the Director of Community Development, required in meeting HUD deadlines and implementing disaster funds in response to the April 27, 2011 storms. Timely, in this instance, will be acknowledgment within 24 hours of any request and a plan for finishing any such task within 72 hours of the request.

BUDGET

I. General Program Planning and Management

Auburn University Landscape Architect Study \$ 12,600.00

Overall Project Planning \$195,000.00

II. Program Delivery

Program Delivery including training, travel, and supplies \$375,000.00

TOTAL BUDGET

\$582,600.00

II. RECORDS AND REPORTS

- 1) Monitoring and Evaluation - The Subrecipient shall work under the direction of the City's Community Development Department, which will monitor and evaluate the performance of this agreement. The Director of the Community Development Department shall be the designated correspondent for the City of Birmingham in all matters regarding this agreement. All correspondence shall be submitted to the Community Development Director, 710 North 20th Street, Room 1000, Birmingham, AL 35203-2286.
- 2) The Subrecipient shall submit a monthly progress report outlining all activities undertaken pursuant to this agreement to the Director of the Community Development Department. All monthly reports shall include, but will not be limited to, a statistical report in a format to be provided by the City reflecting the demographics of the actual number of persons served, the types of services provided, the cumulative number of persons receiving such services for the reporting period, and a narrative description of assistance provided which includes a statement regarding the progress made toward meeting performance goals. In addition, on a quarterly basis, the Subrecipient shall submit a "Quarterly Report" in a format to be provided by the City, summarizing statistically and in narrative form, progress in meeting agreed upon program goals. All reports (monthly/quarterly) shall be submitted by the 15th day of the following month. Consistent tardiness or non-submittal of required reports,

and/or monthly financial reimbursement requests may result in a delay of contract reimbursements or termination of said agreement.

3) The Subrecipient shall maintain detailed records of all persons served pursuant to this agreement. Representatives of the City, U.S. Department of Housing and Urban Development (HUD), or their designees may examine any records or information accumulated pursuant to this agreement. All confidential information shall be treated as such by all aforementioned City or HUD representatives or designees.

4) Financial records, supporting documents, statistical records, and all other records pertinent to this agreement shall be retained by the Subrecipient for a period of four (4) years from the termination or completion of this agreement in accordance with Subpart C of OMB Circular A-110, as amended. If any litigation, claim or audit is started before the expiration of the 4-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

5) Grant Close-Out Requirements:

The Subrecipient's obligation to the City shall not end until all grant close-out requirements are met. Accordingly, upon completion of contract activities within the original or amended time-frame referenced herein, a final year-end Grant Close-Out Report shall be submitted to the City by no later than thirty (30) days preceding the scheduled termination date of this agreement. This overall summary report must include the following information (documentation).

- A narrative summary and final report supported by statistical documentation addressing progress made in achieving program goals pursuant to Section I. - Statement of Work;
- A final Direct Benefit form identifying the cumulative number of persons served by income, category and other demographics as prescribed by the City;
- An up-dated and accurate CDBG Property Inventory Log documenting the status and condition of program assets (equipment, furnishings, real property, etc.) purchased in part or full with contract funds;
- The submittal of a final Financial Disbursement Request form to reconcile year-end expenses incurred; and
- The submittal of the required year-end Independent Financial Audit Report and where applicable, to implement recommended corrective actions where deficiencies have been identified.

III. EQUAL OPPORTUNITY

1) Employment:

In accordance with 24 CFR 570.607, Employment and Contracting Opportunities, to the extent that they are otherwise applicable, the Subrecipient shall comply with:

- (a) Executive Order 11246 (Department of Labor regulations) as amended by Executive Orders 11375, 11478, 12086 and 12107 (3 CFR 1964-1965 Comp. p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264 (Equal

Employment Opportunity), and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60; and

(b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135.

2) Fair Housing:

The Subrecipient hereby agrees to comply with all guidelines set forth under the Civil Rights Act of 1968, as amended, familiarly known as the Fair Housing Act, which prohibits discrimination in the provision of housing (sale or rental) based on race, color, religion, sex, national origin, handicap or familial status, and further agrees to:

Carry out its housing and community development activities in a manner to affirmatively further fair housing in all aspects of the private and public housing sectors, by promoting fair housing choice for all persons; providing opportunities for racially and ethnically inclusive patterns of housing occupancy; and promoting housing that is physically accessible to all persons, particularly persons with disabilities. In accordance with the Fair Housing Act, Human Immunodeficiency Virus (HIV) is identified as a physical or mental impairment protected under the definition of handicap. Therefore, agencies cannot deny services to those who are HIV positive. Questions regarding the existence of the virus can be asked assuming that all applicants are asked the same question and the questions are for a legitimate purpose as specified in the Fair Housing Act regulations.

3) Persons With Disabilities:

The Subrecipient shall comply with the requirements of the Architectural Barriers Act and the American Disabilities Act in accordance with 24 CFR 570.614.

IV. COMPENSATION

- 1) The Subrecipient's Financial Management System must meet the standards and guidelines of OMB Circulars A-110 and A-122.
- 2) All requests for compensation shall be paid pursuant to the terms and conditions of this agreement in accordance with the Statement of Work and Budget as described in Part I of this Agreement.
- 3) All requests for payment shall be submitted to the Director of Community Development, 710 North 20th Street, Room 1000, Birmingham, AL 35203-2286.
- 4) All payments made pursuant to this agreement shall be made in conformance with the City's Finance Department procedures. All billing submitted by the Subrecipient shall be properly documented with invoices and/or receipts for each expenditure, accompanied by a signed certification that such goods/services claimed have been duly received, and shall be submitted together with a request for payment form designed by the Subrecipient and a standard Financial Disbursement Request form provided by the Grantee. No payment requests will be honored without the completion of these documents. For purposes of this agreement, expenses duly incurred by the Subrecipient in the performance of services herein described shall be deemed eligible for payment by the City upon the Subrecipient's satisfaction of either of the following conditions:

- Submission of invoices or other such documentation in a format acceptable to the City reflecting the payment of said expenses, and the execution of a statement certifying that goods/services have been received and said expenses have in fact been paid; or,
- Submission of invoices or other such documentation in a format acceptable to the City reflecting that said expenses have been duly incurred and goods/services have been received by the Subrecipient and the execution of a statement by the Subrecipient certifying that payment of said expenses is in process and shall be paid within three (3) days from the date of deposit of funds by the Subrecipient.

In either event, payment of said expenses by the Subrecipient are subject to subsequent verification by the U.S. Department of Housing and Urban Development, the City, or a duly appointed designee pursuant to the terms of the agreement. This information should be submitted by 5:00 p.m. on Thursday. Requests received after this day will be processed the following week. Billings for reimbursement consideration should be submitted at least on a weekly, bi-weekly, or monthly basis.

- 5) Any changes in the above listed budgeted line items in excess of 10% must be approved in writing by the Director of Community Development in advance of expenditure of funds by the Subrecipient. The Subrecipient may make budget changes of up to 10% of any specific line item without prior written approval. However, upon invoicing the City, the Subrecipient will specifically notify the City of adjustments made under the 10% change permitted and will indicate from which line excess expenditures will be taken.

- 6) No work performed pursuant to this Agreement shall be contracted to any other person, organization, consultant, or corporation without prior written approval by the City.

Subrecipients requiring the use of professional services deemed necessary for the support of this Agreement shall ensure compliance with OMB Circular A-110, Subpart C, Procurement Standards.

- 7) No funds budgeted pursuant to the terms of this agreement as either contingency fund or staff training fund shall be approved for expenditure without the prior written consent of the Director of the City's Department of Community Development or his designee. The Subrecipient must obtain written approval from the City prior to the purchase of any program assets (equipment, furnishings, etc.) costing \$500.00 or more to be acquired in full or in part with program funds provided under this agreement. In compliance with OMB Circular A-110, Attachment "O", Procurement Standards, a formal letter summarizing the procurement process undertaken must be provided to the City, in writing, documenting the specific items to be purchased, the intended use/need of such items, the results of at least three bids or price quotations received, and justification for the selected vendor from whom the purchase(s) will be made. The Subrecipient must maintain an accurate Property Inventory Log (form provided by the City) documenting the status, condition and location of said assets. A copy of this form must be submitted at the expiration, termination or completion of this agreement in accordance with Section II. (5). Records and Reports/Grants Closeout Requirements.

- 8) Subrecipients obtaining authorization to participate in staff training/education activities, requiring either in or out of town travel, shall comply with guidelines set forth in OMB Circulars A-87 and A-122, and be governed by the City's established Travel Policy (referenced sections: General Advances and Acceptable Expenses). A copy of this "Policy" shall be provided to the Subrecipient under separate cover. Further, a written report indicating the extent to which the Subrecipient's program might benefit from participation and documentation of expenses incurred shall be submitted to the City within thirty (30) days upon return from authorized trip.

V. PROGRAM INCOME

- 1) Program Income means amounts received or generated directly by the Subrecipient through the use of CDBG funds. Program income includes, but is not limited to the following:
- (i) Proceeds from the disposition by sale or long term lease of real property purchased with CDBG funds;
 - (ii) Income from the temporary use or leasing of properties acquired with CDBG funds pending the disposition or use for which the property was acquired;
 - (iii) Payments of principal and interest on loans made using CDBG funds;
 - (iv) Interest earned on funds held in a revolving fund account; and,
 - (v) Interest earned on program income pending disposition of such income.

"Revolving fund" means a separate fund (with a set of accounts that are independent of other program accounts) established for the purposes of carrying

out specific activities which, in turn, generate payments to the fund for re-use in carrying out such activities.

- 2) All program income received by the Subrecipient shall be returned to the recipient (City) at the time the program income is received. In no event shall the Subrecipient retain program income without written approval from the City.
- 3) The recipient may, in its sole direction, allocate program income to the Subrecipient. In the event program income is allocated to the Subrecipient, only those activities expressly authorized in this agreement shall be undertaken with said program income.
- 4) Any program income allocated to the Subrecipient by the recipient shall be paid over and above the total compensation authorized in Section IV of this agreement.
- 5) Any program income on hand when this agreement is terminated or completed shall be paid to the recipient as required by 24 CFR 570.504.

VI. UNIFORM ADMINISTRATIVE REQUIREMENTS

- 1) The Subrecipient shall comply with the requirements of 24 CFR 570.502 and with the following OMB Circulars, as applicable:
 - (a) Subrecipients which are governmental entities (including public agencies) shall comply with the requirements and standards of OMB Circular No. A-87, "Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally recognized Indian Tribal Governments," OMB Circular A-133, "Audits of State and Local Governments."

(b) Subrecipients, except Subrecipients which are governmental entities, shall comply with the requirements and standards of OMB Circular No. A-122, "Cost Principles for Nonprofit Organizations" or OMB Circular No. A-21, "Cost Principles for Educational Institutions," OMB Circular No. A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations", and OMB Circular A-133 "Audits of States, Local Governments and Other Non-Profit Institutions", and compliance supplements, as applicable.

2) The Subrecipient does, through the execution of this agreement, expressly acknowledge receipt of the above-referenced OMB Circulars from the recipient. The above-referenced OMB Circulars as well as Executive Order 11246 are hereby incorporated by reference into the terms and conditions of this agreement.

VII. OTHER PROGRAM REQUIREMENTS

1) The Subrecipient shall carry out all activities authorized pursuant to this agreement in compliance with all Federal laws and regulations described in Subpart K, as amended of 24 CFR 570, except that:

(i) The Subrecipient does not assume the recipient's responsibility for initiating the review process under Executive Order 12372, as described at 24 CFR 570.612; and,

(ii) The Subrecipient does not assume the recipient's environmental responsibilities described at 24 CFR 570.604.

2) Faith-based Activities: The Subrecipient shall operate its program in a manner free from religious influences. Accordingly, the following terms and conditions of 24 CFR 570.200(j) shall apply:

- (1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.
- (2) Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.
- (3) A religious organization that participates in the CDBG program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded religious organization

retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

- (4) An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- (5) CDBG funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. CDBG funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to CDBG funds in this part. Sanctuaries, chapels, or other rooms that a CDBG-funded religious congregation uses as its principal place of worship, however, are ineligible for CDBG-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85).

- (6) If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.
- 3) Where applicable, the Subrecipient agrees to comply with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, which states that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects, shall to the greatest extent feasible, be directed to low- and very-low income persons. In addition the requirements of Section 3 apply to contractors and subcontractors performing work on Section 3 covered projects for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000 (24 CFR 135.38).
- 4) The Subrecipient agrees to abide by the provisions of OMB Circular A-110 of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments which in part states that Subrecipients shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Federal funds. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- 5) The Subrecipient further 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.

VIII. REVERSION OF ASSETS

In accordance with OMB Circular A-110:

- 1) Upon the expiration, termination, or completion of this agreement, the Subrecipient shall transfer to the recipient any CDBG funds on hand at the time of termination and any accounts receivable attributable to the use of CDBG funds and any furnishings or equipment acquired in whole or in part through CDBG funds pursuant to this agreement. If the Subrecipient ceases to use any asset acquired with CDBG funds for the purposes described in this agreement, the Subrecipient shall either pay to the recipient the fair market value of the asset or transfer control of the asset to the recipient.
- 2) Further, the Subrecipient must obtain written approval from the City prior to the purchase and/or disposal of any asset (equipment, machinery) acquired in full or in part with CDBG program funds.
- 3) Subrecipients shall maintain an active inventory log of all furnishings, equipment and/or real property purchased with CDBG funds. This log shall be submitted along with other close-out documents upon completion/termination of this agreement.
- 4) Any real property under the Subrecipient's control at the time of termination of this agreement that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 shall be either:

- (i) Used to meet one of the national objectives in 24 CFR 570.208 until five (5) years after the termination of this agreement, or such longer period of time as determined appropriate by the recipient; or
 - (ii) Disposed of in a manner comparable to that described in 24 CFR 570.505(b).
- 5) The Subrecipient shall comply with the conflict of interest requirements in 24 CFR 85.36 and 84.42, and in OMB Circular A-110. No person (1) who is an employee, agent, consultant, officer, or elected or appointed official of the Subrecipient that receives HUD funds, and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or (2) who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for him or herself or those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

IX. SUBRECIPIENT AUDIT

The Subrecipient shall, either:

- (i) Within sixty (60) days from the termination or completion of this agreement submit to the City a complete financial examination of the expenditure of funds provided pursuant to the terms of this agreement. Said examination may be in the form of an audit or interim audit and shall be prepared by a Certified Public Accountant or Accountants, who are sufficiently independent of the Subrecipient to produce unbiased

opinions, conclusions, or judgments. The audit shall be performed in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants, and generally accepted governmental standards established by the U.S. General Accounting Office. Certified Public Accountants shall meet the independence criteria pursuant to Chapter 3, Part 3 of the GAO Publication *Standards for Audits of Governmental Organizations, Program, Activities and Functions*. The Subrecipient shall provide two copies of the audit report to the City.

- A. Subrecipients shall comply with the audit standards of OMB Circular No. A-133. These Subrecipients include states, local governments and non-profit organizations.

“The cost of auditing a non-Federal entity which has Federal awards expended of less than \$500,000 per year and is thereby exempted under § ____.200(d) from having an audit conducted under this part. However, this does not prohibit a pass-through entity from charging Federal awards for the cost of limited scope audits to monitor its Subrecipients in accordance with § ____.400(d)(3), provided the Subrecipient does not have a single audit. For purposes of this part, limited scope audits only include agreed-upon procedures engagements conducted in accordance with either the AICPA’s generally accepted auditing standards or attestation standards, that are paid for and arranged by a pass-through entity and addresses only one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching, level of effort, earmarking; and, reporting.”

Now, therefore, Subrecipients which have Federal awards expended of less than \$500,000 per year shall submit to the City a Limited Scope Audit, provided the Subrecipient does not have a single audit. The limited scope audit shall include the allowable costs/cost principle compliance requirement referenced above and may include at the option of the Subrecipient, activities allowed or unallowed, eligibility, matching, level of effort, earmarking, and reporting compliance requirements.

- B. Failure to comply may result in full reimbursement by the Subrecipient of said Community Development Block Grant allocation to the City of Birmingham.
- C. Subrecipient shall assume complete responsibility for the reconciliation of any expenditures in the event that audit exceptions are discovered during the audit process. If the Subrecipient is awarded CDBG funding for the following year, the amount in question shall be restricted from use under the new agreement until such time as said exceptions are cleared to the satisfaction of the City. Subrecipients not funded for the following year shall be required to reimburse the City in full;

or,

- (ii) With the express prior written permission of the City, the Subrecipient may within sixty (60) days from the termination or completion of this agreement submit to the City a certified financial report/statement on the expenditure of CDBG funds provided pursuant to the terms of this agreement. Said statement shall be in the form of an Interim Audit. Further, within six (6) months from the end of the Subrecipient's fiscal year, the Subrecipient shall submit to the City a complete financial examination of the expenditure

of funds provided pursuant to this agreement. Said examination shall be in the form of an audit in accordance with OMB Circular A-133. The audit shall be prepared by a Certified Public Accountant or Accountants who are sufficiently independent of the Subrecipient to produce unbiased opinions, conclusions, or judgments. Among other items the audit shall include separate line items which include revenues received from the City. The audit shall be performed in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants, the Single Audit Act of 1984, and generally accepted governmental standards established by the U.S. General Accounting Office. Certified Public Accountants shall meet the independence criteria pursuant to Chapter 3, Part 3 of the GAO Publication *Standards for Audits of Governmental Organizations, Programs, Activities and Functions*. The Subrecipient shall provide two copies of the audit report to the City.

Subrecipients shall assume complete responsibility for the reconciliation of any expenditures in the event that audit exceptions are discovered during the Interim Audit process. If the Subrecipient is awarded CDBG funding for the following year, the amount in question shall be restricted from use under the new agreement until such time as said exceptions are cleared to the satisfaction of the City. Subrecipients not funded for the following year, and failing to resolve questionable expenditures prior to submittal of the final audit, shall be required to reimburse the City in full.

- A. Subrecipients shall comply with the audit standards of OMB Circular No. A-133. These Subrecipients include states, local governments and non-profit organizations.

"The cost of auditing a non-Federal entity which has Federal awards expended of less than \$500,000 per year and is thereby exempted under

§ ____.200(d) from having an audit conducted under this part. However, this does not prohibit a pass-through entity from charging Federal awards for the cost of limited scope audits to monitor its Subrecipients in accordance with § ____.400(d)(3), provided the Subrecipient does not have a single audit. For purposes of this part, limited scope audits only include agreed-upon procedures engagements conducted in accordance with either the AICPA's generally accepted auditing standards or attestation standards, that are paid for and arranged by a pass-through entity and addresses only one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching, level of effort, earmarking; and, reporting."

Now, therefore, Subrecipients which have Federal awards expended of less than \$500,000 per year shall submit to the City a Limited Scope Audit, provided the Subrecipient does not have a single audit. The limited scope audit shall include the allowable costs/cost principle compliance requirement referenced above and may include at the option of the Subrecipient, activities allowed or unallowed, eligibility, matching, level of effort, earmarking, and reporting compliance requirements.

- B. Failure to comply may result in full reimbursement by the Subrecipient of said Community Development Block Grant allocation to the City of Birmingham.
- C. Subrecipient shall assume complete responsibility for the reconciliation of any expenditures in the event that audit exceptions are discovered during the audit process. If the Subrecipient is awarded CDBG funding for the

following year, the amount in question shall be restricted from use under the new agreement until such time as said exceptions are cleared to the satisfaction of the City. Subrecipients not funded for the following year shall be required to reimburse the City in full.

- D. In compliance with HUD regulations and the City of Birmingham requirements, the City may elect, at its discretion, to have conducted on its behalf, a financial examination of the expenditure of funds provided pursuant to the terms of this agreement. Said examination will be in the form of a financial audit and shall be performed by Certified Public Accountants, who are independent of the Subrecipient to produce unbiased opinions, conclusions or judgments. The audit shall meet established independent criteria, shall be in compliance with OMB Circular A-133 and all other pertinent auditing standards as set forth in this agreement at Section IX. Subrecipient Audit. In the event of this action, the City shall formally notify the Subrecipient in writing. A copy of the audit report will be provided to the Subrecipient upon completion. If the Subrecipient is awarded (CDBG/ESG/HOPWA/HOME) funding for the following year, the amount in question shall be restricted from use under the new agreement until such time as said exceptions are cleared to the satisfaction of the City. Subrecipients not funded for the following year shall be required to reimburse the City in full.

The "Subrecipient" shall provide written notification to the City as to its audit option within 30 days from the effective date of this agreement.

X. LIABILITY

- 1) The Subrecipient shall not, without prior written permission of the City specifically authorizing them to do so, represent or hold themselves out to others as an agent of or on behalf of the City.
- 2) The Subrecipient hereby expressly agrees that it shall save and hold harmless the City against liability of any kind resulting from any sale, act, omission, transaction, contract, or thing whatsoever done, made or entered into by the Subrecipient and/or their agents, servants, employees, associates, subcontractors, or other such representatives related to services furnished by the Subrecipient under this agreement.
- 3) The Subrecipient hereby agrees to maintain a fidelity bond and liability insurance throughout the duration of this contract at a minimum of \$250,000. The City of Birmingham shall be an additional named insured under this policy.

XI. SUSPENSION AND TERMINATION

- 1) This Agreement may be suspended or terminated by any party upon at least thirty (30) days written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.
- 2) This Agreement may be suspended or terminated by the City upon at least thirty (30) days written notice to the Subrecipient. In the event of suspension or termination not the fault of the Subrecipient, the Subrecipient shall be compensated for all services performed to suspension or termination date, together with all reimbursable expenses then due.

XII. AMENDMENT OF AGREEMENT

This Agreement contains the entire understanding of the parties, and no change of any term or provision of the Agreement shall be valid or binding unless so amended by written instrument which has been executed or approved by the recipient (City). Such actions include change of agreement effective dates, changes to program focus and performance goals pursuant to the established Statement of Work. Any such amendment shall become an official part of this agreement by attachment.

XIII. ACKNOWLEDGMENT OF SUPPORT

The Subrecipient shall, in any publication, letter head, business cards, marketing materials, or media presentation regarding this project, provide the following statement:

"This project is supported, in part, by funds awarded through the
Community Development Department, City of Birmingham, Alabama."

XIV. TIMELINESS

The Subrecipient hereby acknowledges the importance of meeting reporting requirements, providing all services described herein in a timely manner and understands that failure to do so may result in the suspension or termination of this agreement.

Without prior written approval from the City, the Subrecipient hereby acknowledges that it must submit invoices for payment to the City's Community Development Department for services described herein on either a weekly, biweekly, or monthly basis.

Lastly, the Subrecipient acknowledges that the City may, at its option, suspend or terminate this agreement in accordance with the provisions of Section XI, Suspension

and Termination, in the event the Subrecipient fails to submit invoices for payment pursuant to the terms of this agreement to the City's Community Development Department on at least a monthly basis.

XV. DOCUMENTATION OF ELIGIBILITY/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, family size and certification of living/homelessness status, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

Current HUD Family Income Guidelines are attached as an addendum hereto; updated data will be made available as information becomes available.

XVI. COLLABORATIVE PARTNERSHIPS

The Subrecipient agrees to the extent feasible and mutually beneficial, to establish and implement a collaborative relationship with other City funded entities (CDBG/HOME/ESG/HOPWA/UDAG) and the broader community in an effort to maximize resources and enhance services to low and moderate income beneficiaries.

Evidence of efforts/progress made toward the development of these relationships shall be documented and included in the Monthly Reporting format as outlined in accordance with the terms of your agreement with the City referenced at Section II. Records and Reports. Community Development staff will be available to provide technical assistance upon request and as necessary to ensure compliance with applicable City/HUD regulatory requirements.

XVII. CITY OF BIRMINGHAM PRIORITY NEEDS

As necessary, the Subrecipient shall assist the City of Birmingham in carrying out its housing and community development goals and priorities. As instructed by the Director of Community Development, the Subrecipient will adjust activities as needed to meet the requirements of changing needs and priorities.

XVIII. CHANGES IN ADMINISTRATION

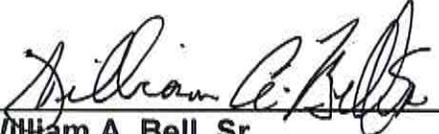
The Subrecipient shall promptly notify the City in writing of any significant changes in personnel within the agency that may be directly associated with the management and/or administration of this agreement. Failure to comply may result in suspension or termination of this agreement.

IN WITNESS THEREOF, the parties hereto have executed the above Agreement on the day and year first written above.

Regional Planning Commission
of Greater Birmingham
Two Twentieth Street North, Suite 1200
Birmingham, AL 35203

CITY OF BIRMINGHAM, ALABAMA
A Municipal Corporation

By: 

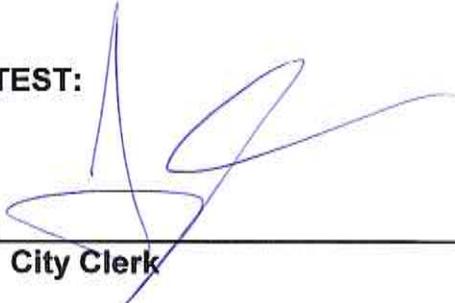
By: 
William A. Bell, Sr.
Mayor

Its: Executive Director

ATTEST:

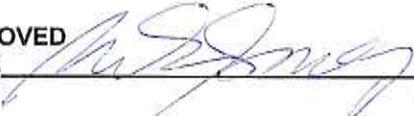
ATTEST:

By: 

By: 
City Clerk

Its: Director of Planning

Revised July 2013

APPROVED  AS 5/5/2014 TO
FORM ASSISTANT CITY ATTORNEY DATE