# Appendix C

# Sample Subrecipient Agreement

CONTRACT NO. CT-DCS-XXXXXXX
SUBRECIPIENT AGREEMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

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EXHIBITS

Exhibit A — 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," implementing guidance formerly found in Office of Management and Budget ("OMB") Circulars A-110, A-122 and A-133.

Exhibit B — Restrictions on Lobbying

Exhibit C — 24 CFR Part 570, "Community Development Block Grants"

Exhibit D — Compliance Documentation Form – Self Certification of Annual Income by Beneficiary

| | |
|---|---|
| Exhibit E | Program Progress Report, Quarterly Report Form (PP-01) |
| Exhibit F | Financial Status Report/Payment Request to the City (PR-01) |
| Exhibit G | CDBG Use Restriction Agreement |
| Exhibit H | Regulatory Agreement |
| Exhibit I | RESERVED |
| Exhibit J | 2 CFR 200.332, "Requirements for Pass-Through Entities" |
| Exhibit K | Federal Financial Accountability and Transparency Act ("FFATA") Form |
| Exhibit L | Sexual Harassment Policy for Employer Having a Contract with the City |

CONTRACT NO. CT-DCS-XXXXXXX
SUBRECIPIENT AGREEMENT
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM
ASSISTANCE LISTING NUMBER (ALN) 14.218

[Agency Name]
[Project Name]

This SUBRECIPIENT AGREEMENT ( "Agreement") is by and between the CITY AND COUNTY OF HONOLULU ("City"), a municipal corporation of the State of Hawai'i, with offices at Honolulu Hale, 530 South King Street, Honolulu, Hawai'i 96813, and [Agency Name] ("Subrecipient"), Unique Entity Identifier (UEI) [UEI Number], a Hawai'i nonprofit corporation, whose mailing address is [Agency Address].

The City and County of Honolulu, by Resolution No. xx-xx, authorized the execution and submittal of the City and County of Honolulu's 2026 – 2030 Consolidated Plan, including the [Funding Year] Year Action Plan for the Community Development Block Grant ("CDBG"), HOME Investment Partnerships, Emergency Solutions Grants, Housing Opportunities for Persons with Aids, and Housing Trust Fund program funds ("Action Plan") to the U.S. Department of Housing and Urban Development ("HUD").

The Action Plan was approved by HUD and the resulting Funding Approval/Agreement for CDBG program (FAIN B-__-MC-15-0001) was authorized on_____, allocating a total of $_____.00 in HUD Fiscal Year 20xx/City Fiscal Year 20xx funds. Of this total, the Action Plan allocated to Subrecipient the amount of _____ AND NO/DOLLARS ($_____.00) for the purposes of acquiring [Address of Property Acquired] ("Project").

The amount of _____ AND NO/DOLLARS ($_____.00) is the current and total amount of Federal Funds obligated to the Subrecipient by the City and the total amount committed to this Subrecipient as part of this Federal Award. These funds are not for Research and Development.

This Agreement will allow for pre-award costs, according to 2 Code of Federal Regulations ("CFR") § 200.458, incurred as of the date recognized in this Agreement. Any reimbursed pre-award costs must be eligible for reimbursement under 24 CFR Part 570.

In the event of any conflict or inconsistency between the provisions of 24 CFR Part 570 and/or the rules related to the CDBG program and the provisions of this Agreement, the provisions of 24 CFR Part 570 and/or the rules related to the CDBG program shall control.

IN CONSIDERATION of the mutual covenants and obligations herein contained and subject to the terms and conditions hereinafter stated, the City and Subrecipient agree as follows:

[Remainder of Page Intentionally Left Blank]

SECTION I

1. TERM OF AGREEMENT. This Agreement shall be effective from the date specified in the Notice to Proceed ("NTP"), and shall remain in effect for XXXX (X) months ("Standard Term End Date"), unless earlier terminated by:

   a. The City's entry of the Project as completed into HUD's Integrated Disbursement and Information System ("IDIS"); or

   b. Any action to terminate as set forth under SECTION II, Paragraph 29, NONCOMPLIANCE, SUSPENSION AND TERMINATION.

   The term of this Agreement and the provisions herein may be extended as specified in SECTION I, Paragraph 4, PROJECT PERIOD.

   Notwithstanding the foregoing, certain provisions of this Agreement shall remain in effect until the end of the record retention period set forth in SECTION II, Paragraph 28, RECORDKEEPING, or the national objective period set forth in SECTION I, Paragraph 6, NATIONAL OBJECTIVE AND CITY COMPLIANCE PERIODS.

   The parties may agree to extend the TERM OF AGREEMENT by way of a letter request from the Subrecipient, approved in writing by the Department of Community Services ("DCS") Director, and by way of 1) a written contract amendment executed by both parties or 2) a letter issued by the Department of Budget and Fiscal Services Director or designee and acceptance of the extension by endorsement on said letter by the Subrecipient.

2. SCOPE OF SERVICES.

   a. Specific Services to be Provided. The Subrecipient shall perform the following services:

      CDBG funds shall be used to acquire property at XXXXX, [City, State Zipcode], Tax Map Key (1) _-_-___-___ ("Property") which shall be used for [housing OR public facility] for low- and moderate-income individuals and families at or below _____ percent (__%) of the area median income ("AMI"), in accordance with the CDBG program, HUD standards, and the Subrecipient's proposal.

      The Subrecipient shall complete and maintain the Project in accordance with the Project's Proposal dated _____ ( "Proposal"), which is incorporated herein by reference.

   b. Eligible Activity and National Objective. The Subrecipient certifies that the Project is eligible for CDBG funding as an activity that:

      (1) is described in 24 Code of Federal Regulations ("CFR") § 570, "Community Development Block Grants";

      (2) is allowed under the solicitation to which the Project's Proposal responded; and

(3) meets a CDBG national objective described in 24 CFR § 570.208 by providing low- and moderate-income housing for individuals at or below _____ percent (___%) of the area median income ("AMI"), in accordance with 24 CFR § 570.208(a)(3). [*this paragraph may be modified based on the National Objective proposed]*

The Subrecipient shall carry out the Project as described in this Agreement and in compliance with all applicable CDBG regulations.

c. Special Documentation Requirements. The Subrecipient shall comply with the documentation maintenance and either the records retention period set forth in SECTION II, Paragraph 28, RECORDKEEPING, and the National Objective Period set forth in SECTION I, Paragraph 6, NATIONAL OBJECTIVE AND CITY COMPLIANCE PERIODS, whichever is longer. Such records shall include:

(1) Eligibility of Activity. No special documentation requirements.

(2) Compliance with CDBG national objective. Documentation that all clients served qualify as low- and moderate-income under the CDBG program requirements as outlined in Exhibit D.

(3) Accomplishment and beneficiary data as required by the City on Form PP-01 (Exhibit E) as required in SECTION II, Paragraph 3, REPORTS.

(4) Compliance with the requirements set forth in the Subrecipient Training Certification (Exhibit I).

(5) Compliance with the Federal Financial Accountability and Transparency Act of 2006 ("FFATA"), Subrecipient shall submit to the City a completed FFATA Form (Exhibit K) within twenty (20) days of execution of this Agreement.

3. COMMENCEMENT OF WORK. The Subrecipient shall not perform any services required by this Agreement until this Agreement has been executed by all parties and until a written NTP has been issued to the Subrecipient by the City unless the City authorizes pre-award to be incurred. The City will not issue a NTP until the completion of all applicable environmental review requirements.

Costs incurred are done so at the Subrecipient's own risk. HUD and the City are under no obligation to reimburse such costs if the City determines they are ineligible, or for any reason the City does not receive its Funding/Approval agreement or the grant award is less than anticipated and insufficient to cover such costs.

Invoices submitted for payment will be subject to the City for review and approval. The City reserves the right to reject any invoice for payment if the costs incurred are not CDBG eligible or not authorized in this Agreement.

4. PROJECT PERIOD. Except as expressly provided in this Agreement or otherwise authorized by the City, all activities and services required by this Agreement shall be completed after issuance of the NTP and before the Standard Term End Date ("Project Period"). Any extension of the PROJECT PERIOD shall be subject to the City's

determination, at its sole discretion, that such extension will have no adverse effect on the City's ability to meet HUD's grant requirements. Any such extension shall be effectuated by amendment to this Agreement.

The parties may agree to extend the PROJECT PERIOD by way of a letter request from the Subrecipient, approved in writing by the DCS Director, and by way of 1) a written contract amendment executed by both parties or 2) a letter issued by the Department of Budget and Fiscal Services Director or designee and acceptance of the extension by endorsement on said letter by the Subrecipient.

5. GRANT OF FUNDS. Subject to all of the provisions hereinafter set forth, the City agrees to grant to the Subrecipient a total sum not to exceed _____ NO/100 DOLLARS ($_____.00) for actual costs incurred to undertake all the activities and work required by this Agreement.

a. Requirement for Timely Expenditure of Funds. In accordance with HUD's requirement for the timely expenditure of funds, the City reserves the right to cease further funding under this Agreement, to terminate this Agreement and to require repayment of any unexpended funds, at any time upon its determination, in its sole and absolute discretion, that the Subrecipient is not in compliance with the Drawdown Schedule required in SECTION II, Paragraph 2, PERFORMANCE AND DRAWDOWN SCHEDULES.

b. Federal Funds. The City and the Subrecipient agree that this Agreement:

(1) shall be construed as an agreement to pay the CDBG amount only out of federal funds to be received from the federal government when the federal funds are so received, and

(2) shall not be construed as a general agreement to pay out of any funds other than those received from the federal government.

c. Budget. CDBG funds shall only be used for eligible costs incurred during the PROJECT PERIOD, and such costs shall be subject to the following budget allotments:

| Budget Category | Allotment |
|---|---|
| _____ [ e.g. Acquisition, Construction] | $_____.00 |
| Due Diligence, Closing, and Other costs | |
| Total | $_____.00 |

In addition, the City may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City. Any amendments to the budget must be approved in writing by both the City and the Subrecipient.

d. Indirect Cost Rate. Reserved.

e. All charges to the Project shall be subject to approval by the City. Funds will be paid to the Subrecipient only upon submission of evidence substantiating the eligibility of such charges to the City's satisfaction.

6. NATIONAL OBJECTIVE AND CITY COMPLIANCE PERIODS. The Project must satisfy the CDBG national objective by providing [housing/public facility] to low- to moderate-income households at or below _____ percent (___%) of the area median income, pursuant to Project's Proposal incorporated herein, and continue to comply with all CDBG program requirements for a period of five (5) years after the Project is fully leased with qualified households ("National Objective Period").

The National Objective Period shall commence upon the date of the Certificate of Compliance is issued by the City which states that the CDBG activity involving acquisition, construction or improvement of real or personal property is serving the beneficiaries as proposed and required under the Subrecipient Agreement.

The Certificate of Compliance will be issued once the Project is fully leased with qualified households. The Subrecipient will submit a completed CDBG Rental Compliance Report and CDBG Annual Performance Report (APR) to provide beneficiary data including household income levels, number of persons assisted, and narrative of accomplishments.

Upon completing the five (5) year National Objective Period, the Project shall continue to comply with the CDBG program requirements, including satisfying the national objective, for twenty (20) years ("City Compliance Period"). Both the National Objective Period and City Compliance Period may be extended for the duration of any time that the Project does not comply with this Agreement.

The term of the City Compliance Period shall be based upon the following schedule:

| CDBG AWARD | CITY COMPLIANCE PERIOD |
|---|---|
| Less than $249,999 | Five (5) years |
| $250,000 - $499,999 | Ten (10) years |
| $500,000+ | Fifteen (15) years |
| All New Construction or Real Property Acquisition Activities | Twenty (20) years |

7. ACCESS TO RECORDS. Subrecipient is required to make its facilities, books, and records available for Project monitoring and inspection by the City, HUD, and the Comptroller General of the United States and/or their representatives throughout the term of this Agreement and any Community Development Block Grant Use Restriction

Agreement and Regulatory Agreement periods in effect pursuant to documents recorded at the Bureau of Conveyances of the State of Hawai'i.

8. CDBG USE RESTRICTION AND REGULATORY AGREEMENT. To secure the Subrecipient's performance of its obligations under this Agreement, the Subrecipient shall execute a CDBG Use Restriction Agreement and a Regulatory Agreement, forms of which are attached hereto as Exhibit G and Exhibit H, respectively.

The CDBG Use Restriction Agreement shall be effective upon execution and shall continue for the duration of the five (5) year National Objective Period, and may be extended according to the terms of said CDBG Use Restriction Agreement.

The Regulatory Agreement shall be effective as of the date of completion of the National Objective Period and shall continue for the duration of the twenty (20) year City Compliance Period, as may be extended according to the terms of said Regulatory Agreement.

The CDBG Use Restriction Agreement and Regulatory Agreement shall be recorded at the Bureau of Conveyances of the State of Hawai'i under the appropriate recording system.

9. NONCOMPLIANCE OF TRANSFER OR CHANGE OF USE. If the Subrecipient materially fails to comply with any of the terms of this Agreement, the City may take any of the actions set forth in SECTION II, Paragraph 29, NONCOMPLIANCE, SUSPENSION AND TERMINATION, including, without limitation, disallowing all or part of the cost of the Project, in which case the City may enforce any and all rights and remedies available in law or equity to recover the same. The City reserves all rights and remedies specified under the CDBG Use Restriction Agreement to enforce compliance with the provisions of this Agreement.

The Subrecipient is subject to the restrictions on Transfer or Change of Use of the Real Property set forth in SECTION II, Paragraph 12, USE, DISPOSITION AND REVERSION OF ASSETS, and to like restrictions in the CDBG Use Restriction Agreement. In the event of a transfer or change of use without consent of the City, the City may require payment or retransfer of the Real Property as provided in said SECTION II, Paragraph 12, and reserves all rights and remedies under this Agreement, or under the CDBG Use Restriction Agreement to enforce said obligations.

10. SUBRECIPIENT AGREEMENT CLOSEOUT. The Subrecipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to the City), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during the PROJECT PERIOD including the period subject to the program income requirements.

The Subrecipient shall provide the City with a completed CDBG APR form and have received a Certificate of Compliance notating the start of the National Objective Period prior to closeout.

Additional documentation as stated in SECTION II, PARAGRAPH 7, METHOD OF PAYMENT, will need to be submitted for final payment and closeout of the contract.

11. NOTIFICATIONS. Any notice required or permitted by the provisions of this Agreement to be made shall be written and shall be either personally delivered or mailed postage prepaid by certified mail, return receipt requested, to the other party at the address and to the person designated by each party. No other method of notification shall be effective. The parties designate the following addresses and persons for notices:

a. CITY AND COUNTY OF HONOLULU

Department of Community Services
222 N School Street
Honolulu, Hawai'i 96817
ATTENTION: Director

With a copy to:

CITY AND COUNTY OF HONOLULU
Department of Budget and Fiscal Services
Federal Grants Unit
925 Dillingham Boulevard, Suite 240
Honolulu, Hawai'i 96817

b. Name of Nonprofit

Address
City, Hawai'i, 96___
ATTENTION: Executive Officer

[END OF SECTION I]

SECTION II

1. CONDITIONAL COMMITMENT OF FUNDS.

a. Pursuant to 24 CFR Part 58, no Project cost may be incurred by the Subrecipient until it has been formally notified by the City that the City has obtained the appropriate level of environmental clearance from HUD; or the City has determined, as the responsible entity, that the Project is categorically excluded subject to or categorically excluded not subject to 24 CFR § 58.5.

Notwithstanding anything herein, the parties hereto agree and acknowledge that this award does not constitute a commitment of funds or site approval, and that such commitment of funds or site approval may occur only upon satisfactory completion of environmental review and receipt by the City of a release of funds from HUD under 24 CFR Part 58. The parties further agree that the provision of any funds to the Project is conditioned on the City's determination to proceed with, modify or cancel the Project based on the results of a subsequent environmental review.

b. The Project must complete an environmental review in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. § 4321, et seq.) and the related authorities listed in HUD's implementing regulations at 24 CFR Part 58.

c. Decisions, actions or commitments of resources by either the Subrecipient or any participant in the development process that may have an adverse impact on the environment or limit the choice of reasonable alternative sites is prohibited until the appropriate level of environmental clearance has been received and the appropriate NTP has been issued by the City. Prohibited activities include, but are not limited to, the following:

(1) Start of construction;

(2) Demolition;

(3) Relocation;

(4) Conversion;

(5) Rehabilitation and repair, except as specifically designated and permitted by a Notice to Proceed issued by the City;

(6) Site-specific architectural and/or engineering drawings and/or designs;

(7) Acceptance of construction bids;

(8) Advertising for construction bids;

(9) Initiating the development of or approving final plans and specifications; or

(10) Acquisition of property.

d. Violations of this provision may result in the termination of this agreement and the revocation of funds awarded.

2. PERFORMANCE AND DRAWDOWN SCHEDULES.

a. Within thirty (30) days after the date of the NTP, the Subrecipient shall submit for approval by the City:

(1) A Performance Schedule specifically indicating the timeframe and the expenditures required to complete each major phase of the activities delineated in SECTION I, Paragraph 2, SCOPE OF SERVICES; and,

(2) A Drawdown Schedule indicating when payments for Project expenditures will be requested.

b. The Subrecipient acknowledges that its timely performance of this Agreement is essential to compliance by the City with the terms of its grant agreement with HUD, and that its failure to timely perform could affect the availability to the City of future HUD funding. The Subrecipient shall diligently perform this Agreement to provide the services or carry out the activities described in the SCOPE OF SERVICES, in accordance with the approved Performance Schedule, and shall adhere to the approved Drawdown Schedule. Failure to diligently adhere to either of these Schedules shall constitute grounds for termination of this Agreement in accordance with SECTION II, Paragraph 29, NONCOMPLIANCE, SUSPENSION AND TERMINATION.

c. Any request by the Subrecipient to approve amendments to the Performance or Drawdown Schedules must be accompanied by a showing of good cause. The City may grant or deny such requests in its sole discretion. No such extension or amendment shall be effective unless in writing and signed by the City.

3. REPORTS. Beginning after the date of the NTP, the Subrecipient shall:

a. Within fifteen (15) days after the end of each month during which CDBG costs have been incurred and invoices received, submit a Financial Status Report/Payment Request to the City on Form PR-01 (Exhibit F) detailing the Project's financial status. The Financial Status Report/Payment Request shall be submitted as required below in SECTION II, Paragraph 7, METHOD OF PAYMENT. The final Financial Status Report/Payment Request shall be submitted within forty-five (45) days after the expiration of the PROJECT PERIOD; and

b. By the end of the month following each completed calendar quarter during which this Agreement remains in effect, submit a Program Progress Report, on Form PP-01 (Exhibit E), for the type of program funded. This report shall describe the status of the Scope of Service requirements, compliance with the National Objective, beneficiary demographics and include a narrative report on the Project's progress (as applicable). The final Program Progress Report shall be submitted within forty-five (45) days after the expiration of the PROJECT

PERIOD unless otherwise provided for in the SECTION I, Paragraph 2, SCOPE OF SERVICES.

c. Additional reports required by the City and CDBG program regulations shall be provided by the Subrecipient as requested.

4. INSPECTIONS AND MONITORING. During normal business hours, all of the Subrecipient's records relating to this Agreement shall be made available for examination by the City, HUD, and the Comptroller General of the United States and/or their representatives.

On a semi-annual basis until the final report for this CDBG funded activity is accepted by the City, the City will make a determination as to whether the Subrecipient (a) has complied with the terms of this Agreement; and (b) has the continuing capacity to complete the CDBG funded activities in a timely manner.

The City retains the right to physically inspect the Property with reasonable notice.

5. PROCUREMENT AND SUBCONTRACTING. The Subrecipient shall not procure or subcontract any part of the services under this Agreement without the prior written consent of the City. Written consent of the City will specify the clearance of the subcontractor from the United States General Services Administration's (GSA) List of Parties Excluded from Federal Procurement or Nonprocurement Programs. Procurement policies and procedures shall comply with the requirements at 2 CFR §§ 200.317-327 at a minimum.

a. Procurement Transactions. All procurement transactions shall be conducted in a manner to provide, to maximum extent practical, open and free competition. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors or individuals that draft specifications, requirements, statements of work, invitations for bids and/or Requests for Proposals should be excluded from competing for such procurement. The Subrecipient should be alert to organizational conflicts of interest or noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the Subrecipient, price and other pertinent bid/offer factors considered. Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for his/her bid/offer to be evaluated by the Subrecipient. Any and all bids/offers may be rejected when it is in the Subrecipient's interest to do so.

b. Procurement Procedures. The Subrecipient shall establish procurement procedures that provide for, at a minimum, the following procedural requirements:

(1) Proposed procurement actions shall follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.

(2) Solicitation of goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not, in

competitive procurements, contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by bidders/offerors shall be clearly specified.

(3) The type of procuring agreements used, e.g., fixed price contracts or purchase contracts, may be determined by the Subrecipient, but must be appropriate for the particular procurement and foremost for promoting the best interest of the Federal CDBG program. The "cost-plus-a-percentage-of-cost" method shall not be used.

(4) Contracts shall be made only with responsible licensed contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

(5) All proposed sole source contracts or where only one bid or proposal is received shall be subject to prior approval at the discretion of the City.

(6) A price or cost analysis in connection with every procurement action shall be documented and maintained for review by the City or HUD Officials.

(7) Procurement records and files for purchases in excess of $10,000.00 shall include the following:

(a) Basis for contractor selection;

(b) Justification for lack of competition when competitive bids or offers are not obtained; and

(c) Basis for award cost or price.

c. Subcontracts and Administration of Subcontracts. All subcontract agreements entered into by the Subrecipient shall be in writing. No cost incurred prior to the execution of a written subcontract agreement shall be eligible for payment with funds under this Agreement. The Subrecipient shall maintain a system for subcontract administration to ensure that each subcontractor conforms to the terms, conditions and specifications of its subcontract, and to ensure adequate and timely follow-up of purchases.

d. Construction Services. For any procurement of construction services in excess of $2,000.00 the Subrecipient shall provide written notification of the procurement to the City at least 30 days before the request for bids for such services is issued.

e. Women- and Minority-Owned Businesses. The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the

Small Business Act, as amended (15 U.S.C. § 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

6. INSURANCE REQUIREMENTS.

a. The Subrecipient shall procure or cause to be procured and maintain (as provided herein), at no cost to the City, all insurance to cover the operations under this Agreement, that may be required under the laws, ordinances or regulations of any governmental authority, including but not limited to the following:

(1) Workers' Compensation and Employers' Liability Insurance. The Subrecipient shall maintain workers' compensation and employers' liability insurance. Workers' compensation coverage shall be in accordance with State statutes. Employers' liability coverage shall provide limits of not less than $1,000,000.00 each accident for bodily injury by accident or $1,000,000.00 each employee, $1,000,000.00 aggregate, for bodily injury by disease. The policy shall include a waiver of subrogation in favor of the City.

(2) Commercial General and Umbrella Liability Insurance. The Subrecipient shall maintain commercial general liability ("CGL") and if necessary commercial umbrella insurance with a limit of not less than $1,000,000.00 each occurrence, and general aggregate. CGL insurance shall be written on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage), and shall cover liability arising from premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). The City shall be included as an additional insured under the CGL, using ISO additional insured endorsement CG 20 10 (or equivalent), and under the commercial umbrella liability insurance described in subparagraph (3) below, if any. The policy shall contain a waiver of subrogation in favor of the City.

(3) Business Automobile and Umbrella Liability Insurance. The Subrecipient shall maintain business auto liability (including no fault coverage) insurance, and if necessary, commercial umbrella liability insurance with a limit of not less than $1,000,000.00 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non owned autos) used by Subrecipient in the performance of this contract. Business auto coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. The City shall be included as an additional insured, and if necessary, the policy shall be endorsed to provide contractual liability coverage.

(4) Property Insurance. The Subrecipient shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with Federal funds, as provided to property owned by the Subrecipient.

b. The insurance specified above shall:

(1) Provide that such insurance is primary coverage with respect to all insured for claims arising from Subrecipient's negligent acts, omissions and/or misconduct; and that any insurance (or self-insurance) carried by the City shall be excess and non-contributing;

(2) Contain a standard Cross Liability endorsement providing that the insurance applies separately to each insured, applicable to policies specified in a.(2) and a.(3) above;

(3) Not be terminated, canceled, nor renewed or substantially changed without THIRTY (30) DAYS prior written notice to the City, except for non-payment of premium;

(4) Be written on an "Occurrence" form of policy, unless otherwise specifically approved by the City; and

(5) Be provided by insurers authorized to do business in the State of Hawai'i, and with a current AM Best's rating of not less than A minus (A-) or otherwise as approved by the City.

c. The Subrecipient will provide and maintain current certificates of insurance prepared by a duly authorized agent, or if requested, copies of the policies, evidencing the insurance in effect at all times during the Term as required herein, to the City.

d. The City reserves the right to require additional kinds or amounts of insurance, as reasonably determined by the City to be appropriate.

7. METHOD OF PAYMENT. The Subrecipient shall submit Financial Status Report/Payment Requests (herein referred to as Payment Requests) to the City in accordance with CDBG program requirements, which shall be subject to verification by a designated City official.

a. Certification. Each Payment Request shall be authenticated as to accuracy and certified by the Subrecipient that the work for which payment is requested was performed in accordance with the terms of this Agreement. Only Payment Requests that are completely documented, accurate, and certified as required shall be paid by the City.

b. Immediate Cash Needs. The Subrecipient shall submit Payment Requests for immediate cash needs only. Immediate cash needs include eligible costs that have been paid by the Subrecipient for reimbursement by the City, costs for goods and services that have been received and are payable at the time the request for payment is prepared, and special disbursement needs for which the Subrecipient has received prior written approval from the City.

c. Timely Disbursement of Funds Received. Upon receipt of funds from the City, the Subrecipient shall, within three (3) business days, issue payments for all of the costs included in the payment request for which funds were received. The Subrecipient's failure to pay vendors on a timely basis as required in this Paragraph may result in interest penalties payable to the U.S. Treasury based on its Prompt Pay Interest Rate calculator.

d. Payment Request Requirements. Each Payment Request shall include the following:

(1) Payment Request Form PR-01 (Exhibit F). The Payment Request Form shall be fully completed; certified by an authorized official of the Subrecipient; and submitted to the City's Department of Community Services.

(2) Copies of Invoices. Copies of all itemized bills, invoices and receipts that support the Payment Request shall be attached and identify the Project and, if applicable, the nature of work or materials provided by the subcontractor(s).

(3) Payroll Summary Reports. Requests for payment of salary and payroll tax costs shall be accompanied by Payroll Summary Reports providing in detail the salary costs for each staff member to be paid with funds provided through this Agreement.

(a) Payroll Summary Reports shall be prepared by report period and include by position: total salary or wages paid, the CDBG share of salary or wages (by percent of total and amount), prior charges, the budgeted amount, and the budget balance; and a computation of applicable payroll taxes and fringe benefits.

(b) An authorized Subrecipient official shall certify that the information contained in such Payroll Summary Reports is true and correct, and that the hours of work reported reflect the actual hours of time spent by employees to achieve the objectives of the Project as documented by employee timesheets duly signed by the employee and a responsible supervisory official.

(c) Payroll costs shall be substantiated through timesheets signed by the employee and a responsible supervisory official.

e. Documentation Requirements. Throughout the PROJECT PERIOD and Record Retention Period, the Subrecipient shall maintain in its files documentation (including bills, invoices, receipts, and timesheets) that substantiates that costs charged to this Agreement are correct per the terms of this Agreement.

f. Final Payment. After completion of the work in the SCOPE OF SERVICES, the City will release the final payment to the Subrecipient subject to the receipt of the Subrecipient's Tax Clearance and Non-Gratuity Affidavit and, after expiration of the mechanic's and materialmen's statutory lien period.

g. Payments may be contingent upon certification of the Subrecipient's financial management system per the standards specified in 2 CFR § 200.302.

8. WITHHOLDING OF PAYMENTS. The City may withhold any payments to the Subrecipient if the costs set forth in a Payment Request are unreasonable, are inconsistent with HUD letter of credit procedures, or do not comply with applicable Federal guidelines, or if the Payment Request does not comply with the terms of this Agreement.

9. PROGRAM INCOME (24 CFR § 570.500). "Program Income" means gross income received by the Subrecipient directly generated from the use of CDBG funds.

a. Program Income includes, but is not limited to the following:

(1) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;

(2) Proceeds from the disposition of equipment purchased with CDBG funds;

(3) Gross income from the use or rental of real or personal property acquired by the Subrecipient with CDBG funds, less the costs incidental to the generation of Program Income;

(4) Gross income from the use or rental of real property, owned by the Subrecipient that was constructed or improved with CDBG funds, less costs incidental to the generation of the income;

(5) Payments of principal and interest on loans made with CDBG funds;

(6) Proceeds from the sale of loans made with CDBG funds;

(7) Proceeds from the sale of obligations secured by loans made with CDBG funds;

(8) Interest earned on Program Income pending its disposition; and

(9) Funds collected through special assessments made against properties owned and occupied by the households not of low and moderate income, where the assessments are used to recover all or part of the CDBG portion of public improvements.

b. Subrecipient shall report all Program Income and shall pay all Program Income received to the City on a quarterly basis within thirty (30) days after the end of each quarter, by cashier's check made payable to the City and County of Honolulu.

c. In no event shall any of the income, earnings or assets of the Project, including surplus funds or Program Income as herein described, be distributed by the Subrecipient to, or for the benefit of its corporate directors, officers, members, employees or consultants. Discretionary use of Program Income by the Subrecipient is strictly prohibited.

10. COSTS INCIDENTAL TO THE GENERATION OF PROGRAM INCOME. Costs incidental to the generation of Program Income are those costs determined by the City as necessary costs to operate the activities allowed under this Agreement, and shall be reviewed annually by the City based on the Subrecipient's submission of audited financial statements. The audited financial statements shall be made available to the City within sixty (60) days after the close of the Subrecipient's fiscal year.

11. RECEIPT OF FUNDS FROM A THIRD PARTY FOR CDBG FINANCED ACTIVITY. In the event the Subrecipient receives funds from a third party for any part of the services described in the SCOPE OF SERVICES, the Subrecipient shall reimburse the City the total amount of the funds received from that third party. If, however, the Subrecipient expended its own funds, in addition to the funds provided by the City in order to complete the SCOPE OF SERVICES, the Subrecipient may retain third party funds equal to the amount of its expenditures.

12. USE, DISPOSITION AND REVERSION OF ASSETS. The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 CFR Part 200 and 24 CFR §§ 570.502, 570.503 and 570.504, as applicable, which include but are not limited to the following:

    a. The Subrecipient is prohibited from disposing of any real or personal property acquired with CDBG funds received under this Agreement, without first receiving prior written consent of the City.

    b. Should the Subrecipient cease to use any real or personal property acquired with CDBG funds for the purposes described in this Agreement, the Subrecipient shall, at the option of the City, either:

        (1) Pay the City the current fair market value of the asset; or,

        (2) Transfer the control of the asset to another eligible nonprofit upon the written approval of the City; or,

        (3) Transfer the control of the asset to the City.

        The election of one of these options shall be at the sole and absolute discretion of the City.

    c. Upon expiration of the Project Period or earlier termination of this Agreement, the Subrecipient shall transfer to the City:

        (1) Any CDBG funds on hand at the time of expiration or termination; and

        (2) Any accounts receivable attributed to the use of CDBG funds.

        (3) If applicable, any real property acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the Subrecipient in the form of a loan) in excess of $25,000.00 shall be used to meet one of the national objectives in 24 CFR § 570.208 and for the purposes described in SECTION I, Paragraph 2 SCOPE OF SERVICES, for a period of five (5) years thereafter, or for such longer period of time as may

be specified by the City in SECTION I, Paragraph 6, NATIONAL OBJECTIVE AND CITY COMPLIANCE PERIODS. If the Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time the Subrecipient shall pay to the City an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period, or longer National Objective Period.

(4) In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be Program Income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Subrecipient for activities under this Agreement shall be (A) transferred to the City for the CDBG program or (B) retained after compensating the City an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment.

13. USE RESTRICTION AGREEMENT. The CDBG Use Restriction Agreement attached hereto as Exhibit G shall be recorded immediately upon completion of the acquisition of the Property.

14. CONFLICT OF INTEREST. The Subrecipient agrees to abide by the provisions of 2 CFR § 200.112 and 24 CFR § 570.611, which include (but are not limited to) the following:

a. The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

b. No employee, officer or agent of the Subrecipient shall participate in the 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.

c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this Paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the City, the Subrecipient, or any designated public agency.

15. WASTE, FRAUD, ABUSE, AND WHISTLEBLOWER PROTECTIONS. Any person who becomes aware of the existence or apparent existence of fraud, waste, or abuse of any HUD award must report such incidents to both the HUD official responsible for the award and to HUD's Office of Inspector General (OIG). Allegations of fraud, waste, and abuse

related to HUD programs can be reported to the HUD OIG hotline via phone at 1-800-347-3735 or online hotline form. The Recipient must comply with 41 U.S.C. § 4712, which includes informing employees in writing of their rights and remedies, in the predominant native language of the workforce. Under 41 U.S.C. § 4712, employees of a government contractor, subcontractor, recipient, and subrecipient – as well as a personal services contractor – who make a protected disclosure about a Federal award or contract cannot be discharged, demoted, or otherwise discriminated against if they reasonably believe the information they disclose is evidence of (1) gross mismanagement of a Federal contract or award; (2) waste of Federal funds; (3) abuse of authority relating to a Federal contract or award; (4) substantial and specific danger to public health and safety; or (5) violations of law, rule, or regulation related to a Federal contract or award.

16. STATUTORY AND REGULATORY COMPLIANCE. The Subrecipient shall comply with all applicable City, State and Federal laws, rules and regulations, including without limitation, those mandated by HUD regarding the CDBG program. In cases where City, State and/or Federal laws, rules or regulations address similar issues, the Subrecipient shall comply with the most stringent law, rule or regulation.

a. The Subrecipient acknowledges receipt of the following documents, which are attached hereto and incorporated herein by reference. The Subrecipient shall comply with the applicable standards, requirements and restrictions set forth in these attachments:

(1) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," implementing guidance formerly found in Office of Management and Budget ("OMB") Circulars A-110, A-122 and A-133, (Exhibit A) and found at: https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200;

(2) Restrictions on Lobbying (Exhibit B);

(3) 24 CFR, Part 570, "Community Development Block Grants", (Exhibit C) and found at: https://www.ecfr.gov/current/title-24/subtitle-B/chapter-V/subchapter-C/part-570;

(4) Compliance Documentation Form – Self Certification of Annual Income by Beneficiary (Exhibit D) [*RESERVED if not applicable to project*];

(5) Program Progress Report, Quarterly Report Form (Exhibit E);

(6) Financial Status Report/Payment Request to the City (Exhibit F);

(7) CDBG Use Restriction Agreement (Exhibit G);

(8) Regulatory Agreement (Exhibit H);

(9) RESERVED (Exhibit I);

(10) 2 CFR 200.332, "Requirements for Pass-Through Entities" (Exhibit J);

(11) Federal Financial Accountability and Transparency Act (FFATA) Form (Exhibit K); and

(12) Chapter 1, Article 18, Revised Ordinances of Honolulu 2021, as amended, "Sexual Harassment Policy for Employer Having a Contract with the City" (Exhibit L).

b. The Subrecipient acknowledges that the above are only some of the rules and regulations governing the administration of the CDBG program. The Subrecipient agrees to comply with all applicable directives of the CDBG program and with all rules and regulations found in 24 CFR Part 570, including, but not limited to:

(1) The applicable uniform administrative requirements, as described in 24 CFR § 570.502; and

(2) The Federal laws and regulations described in 24 CFR Part 570, Subpart K, except that:

(a) The Subrecipient does not assume the City's environmental responsibilities described at 24 CFR § 570.604; and

(b) The Subrecipient does not assume the City's responsibility for initiating the intergovernmental review process for HUD's programs and activities found at 24 CFR Part 52.

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

17. NONDISCRIMINATION. The Subrecipient will not discriminate against any program beneficiary or prospective program beneficiary on the basis of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, disability or handicap, age, marital/familial status with regard to public assistance. The Subrecipient will take affirmative action to ensure that its program is free from such discrimination.

18. FAITH-BASED ACTIVITIES (24 CFR § 570.200(j)). The Subrecipient agrees that, in connection with CDBG assistance under this Agreement:

a. It will not discriminate against any program beneficiary or prospective program beneficiary based on religion and will not limit such assistance or give preference to persons based on religion; and

b. It will provide no religious instruction or counseling, conduct no religious worship or service, engage in no religious proselytizing, and exert no other religious influence in the provision of service. If the Subrecipient conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this Agreement, and participation must be voluntary for the beneficiaries of the programs or services funded under this Agreement.

c. It will comply with the "Faith-based Activities" provision of the applicable HUD regulations found at 24 CFR § 570.200(j).

19. FAIR HOUSING. Any housing or housing services offered by Subrecipient must be made available without discrimination based on race, color, national origin, age, sex, religion, familial status, or disability, or on any basis prohibited by State law, in accordance with fair housing laws. In providing rental housing the Subrecipient shall not discriminate against a rental applicant based on the fact that he or she receives a direct rental subsidy, such as a Section 8 voucher or HOME tenant-based rental assistance (TBRA), in accordance with 24 CFR § 92.252(d). In addition, Subrecipient acknowledges that the following fair housing and nondiscrimination laws apply to its provision of housing or housing services: Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended and implementing regulations at 24 CFR Part 100; Title VI of the Civil Rights Act of 1964; The Age Discrimination Act of 1975, as amended and implementing regulations at 24 CFR Part 146; Executive Orders 11063 and 12259 Equal Opportunity in Housing, and implementing regulations at 24 CFR Part 107; Section 504 of the Rehabilitation Act of 1973 (Section 504) and implementing regulations at 24 CFR Part 8; and Title II of the Americans with Disabilities Act (ADA). Subrecipient agrees to comply with all applicable provisions of these statutes and rules.

20. EQUAL EMPLOYMENT OPPORTUNITY. During the performance of this Agreement, the Subrecipient agrees as follows:

a. The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, or on any other basis prohibited by State law. The Subrecipient will take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin, and without regard to any other basis prohibited by State law. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer of the City setting forth the provisions of this nondiscrimination clause.

b. The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin, and without regard to any other basis prohibited by State law.

c. In the event the Subrecipient is found to be in noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Subrecipient may be declared ineligible for further government contracts in accordance with procedures authorized by law, rules, regulations or orders, and such other sanctions may be imposed and remedies invoked as provided by law, rules, regulations or orders.

d. The Subrecipient will include the provisions of subparagraphs (a) through (c) of this Paragraph in every subcontract or purchase order unless exempted by the City in writing, so that such provisions will be binding upon each subcontractor or vendor. The Subrecipient will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Subrecipient becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the City the Subrecipient may request the United States to enter into such litigation to protect the interest of the United States.

21. LABOR STANDARDS. Reserved.

22. LABOR, TRAINING AND BUSINESS OPPORTUNITY. Reserved.

23. FLOOD DISASTER PROTECTION. In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. § 4001, et seq.), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

24. ENVIRONMENTAL CONDITIONS. The Subrecipient agrees to comply with 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., as amended, and all regulations and guidelines issued thereunder.

25. LEAD-BASED PAINT (24 CFR § 570.608). The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR § 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted. The Subrecipient further agrees that any repair, renovation or painting activities that disturb lead-based paint in "target housing," as that term is defined in the Toxic Substances Control Act (TSCA), section 401 or in a "child-occupied facility," as that term is defined in EPA regulations implementing said Act, shall be carried out in strict compliance with those implementing regulations, which are set forth in 40 CFR Part 745, beginning 40 CFR § 745.80. These regulations require, among other things, the use of certified renovators, dust sampling technicians, and renovation firms.

26. HISTORIC PRESERVATION. The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470, et seq.) and the procedures set forth in 36 CFR Part 800,

Advisory Council on Historic Preservation procedures for Protection of Historic Properties, 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.

27. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT. The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR § 570.606(b); (b) the requirements of 24 CFR § 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the Housing and Community Development Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. The Subrecipient shall provide relocation assistance to displaced persons as defined by 24 CFR § 570.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with applicable City ordinances, resolutions and policies concerning the displacement of persons from their residences.

28. RECORDKEEPING. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR § 570.506, that are pertinent to the activities to be funded under this Agreement.

a. Records to be Maintained.

The Subrecipient shall maintain records that document compliance with the requirements of this Agreement, which shall include, but not be limited to, the following:

(1) Records providing a full description of each activity undertaken; the amount of CDBG funds budgeted, obligated, and expended for the activity and the provision in 24 CFR Part 570, Subpart C under which it is eligible;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of the real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Financial records as required by 24 CFR § 570.502 and 2 CFR Part 200; and

(7) Other records necessary to document compliance with Subpart K of 24 CFR Part 570 and this Agreement.

b. Record Retention. The Subrecipient shall retain all records pertinent to this Agreement for a period of four (4) years after the date of submission of the annual performance and evaluation report, as prescribed in 24 CFR § 91.520, in which the specific activities pursuant to this Agreement are reported on for the final time, rather than from the date of submission of the final expenditure report for the award. Records for non-expendable property acquired with funds under this Agreement shall be retained for four (4) years after final disposition of such property. Records for any displaced person, meaning any displaced individual, family, partnership, corporation, or association, must be kept for five (5) years after the displaced person has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the applicable record retention period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the applicable retention period, whichever occurs later.

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

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

e. Property Records. The Subrecipient shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR §§ 570.503 and 570.505, as applicable.

29. NONCOMPLIANCE, SUSPENSION AND TERMINATION (24 CFR § 570.503(b)(6)).

a. If the Subrecipient materially fails to comply with any term of this Agreement, whether stated herein or in a Federal statute or regulation, an assurance, or application, proposal, or elsewhere; or, if the Subrecipient shall become bankrupt, or abandons the Project or suspends performance of this Agreement, the City may, at its sole discretion take any one or more of the following actions:

(1) Withhold cash payments pending correction of deficiency by the Subrecipient;

(2) Disallow all or part of the cost of the activity or action not in compliance;

(3) Suspend or terminate, wholly or partially, the current award of this Agreement with the Subrecipient;

(4) Withhold additional awards to the Subrecipient; and

(5) Terminate this Agreement without service or notice or legal process and without prejudice to any other legally available remedy or right of action; and

(6) Exercise any and all rights and remedies available to the City in law or equity, all of which the City hereby expressly reserves.

b. Upon termination of this Agreement, all finished or unfinished documents, data, studies, and reports purchased or prepared by the Subrecipient for the Project shall be transferred to the City.

c. This Agreement may also be terminated in whole or in part by the City with the consent of the Subrecipient, in which case the parties shall agree upon termination conditions, including the effective date and in the case of partial termination, the portion to be terminated. In all cases of partial termination, if the City determines that the remaining portion of this Agreement will not accomplish the purposes for which this Agreement was made, the City will terminate this Agreement in its entirety.

30. AUDITS.

a. The Subrecipient shall comply with the audit requirements of 2 CFR Part 200, Subpart F. Single Audits shall be conducted annually at the Subrecipient's expense. A full copy of the audit report shall be submitted to the City within thirty (30) days after its receipt by the Subrecipient. Findings and deficiencies noted in audit reports shall be addressed by the Subrecipient to the City's satisfaction within ninety (90) days after receipt of the report by the Subrecipient. Additional findings and requests for corrective action that may result from the City's review of the audit report shall be addressed within ninety (90) days after the Subrecipient's receipt of written notification of such findings from the City.

b. Subrecipients determined to be exempt from the requirements of 2 CFR Part 200, Subpart F shall submit to the City certified financial statements prepared by an independent Certified Public Accountant for each fiscal year during which CDBG funds provided through this Agreement are expended. These statements are due within ninety (90) days after the end of each applicable fiscal year. At the Subrecipient's option, these financial statements may be limited to funds provided by the City's CDBG program.

c. Failure of the Subrecipient to comply with the above requirements shall constitute a violation of this Agreement and shall be subject to Section II, Paragraph 29, NONCOMPLIANCE, SUSPENSION AND TERMINATION.

31. EFFECTS OF SUSPENSION AND TERMINATION (24 CFR § 570.503(b)(6)).

a. The cost to the Subrecipient resulting from the obligations incurred by the Subrecipient during suspension or after termination of this Agreement are not allowable unless the City authorizes such costs in the Notice of Suspension or Termination issued to the Subrecipient.

b. The Subrecipient's cost during the suspension or after termination which are necessary and not reasonably avoidable, are allowable if the costs resulting from obligations which were properly incurred by the Subrecipient before the effective date of suspension or termination, are not in anticipation of it, and, in the case of termination, are noncancellable.

c. Determination of eligible Subrecipient costs during suspension or after termination of this Agreement shall be determined solely by the City.

32. INDEMNITY. The Subrecipient shall indemnify, defend and hold harmless the City and HUD, and their respective officers, agents and employees from any liability, actions, claims, suits, damages, or costs arising out of or resulting from the acts or omissions of the Subrecipient, its officers, employees, agents or contractors occurring during or in connection with the Project activities that may be funded, in whole or in part, from grant funds provided to the Subrecipient under this Agreement, including but not limited to actions by HUD against the City to recover said funds and actions by HUD against the City resulting from Subrecipient's breach of this Agreement or failure to comply with any laws, rules, regulations or program guidelines related to the CDBG program. The provisions of this Paragraph shall survive the termination of this Agreement.

33. CITY'S COSTS AND EXPENSES. The Subrecipient will pay to the City on demand all costs, including reasonable attorneys' fees, incurred by the City in enforcing any of the terms of this Agreement, in remedying any breach of the terms of this Agreement by the Subrecipient, in recovering possession of the property on which the Project is situated, taxes, or other charges payable by the Subrecipient, or in connection with any litigation commenced by or against the Subrecipient to which the City shall be party without any fault on its part.

34. CITY RECOGNITION. The Subrecipient shall ensure recognition of the role of the City in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

35. MISCELLANEOUS TERMS.

a. Amendment. Except as herein otherwise expressly provided in subparagraph (f) below and as may be expressly provided elsewhere in this Agreement, this Agreement may be amended only by a written amendment executed by both parties.

b. Applicable Law. The provisions of this Agreement shall be interpreted in accordance with the law of the State of Hawai'i as that law is construed and

amended from time to time.

c. Assignment. Neither the entire agreement which is stated in this Agreement nor any interest in it may be assigned by any party for any purpose without the prior written consent of each other party.

d. Authorization. Each party warrants to each other party that the individuals executing this Agreement on behalf of the respective parties are authorized to do so. The Subrecipient and the person signing for the Subrecipient below represent and warrant that there are no restrictions, agreement, limitations on the Subrecipient's right or ability to enter into and perform the terms of this Agreement.

e. Binding Effect. Upon its execution by each party, this Agreement shall become binding and enforceable according to its provisions. If more than one party is obligated by any provisions stated in this Agreement, those parties shall be jointly and severally liable for the performance of those obligations. The rights and obligations of each party named in this Agreement shall bind and inure to the benefit of that party, the respective heirs, personal representatives, successors, and assigns of that party.

f. City's Right to Amend to Conform to Law. Notwithstanding any provision herein to the contrary, during the Term, the City reserves the right, at any time, to amend this Agreement in order to assure compliance with all HUD, City and County of Honolulu, State of Hawai'i and other Federal statutes, laws and regulations. All such amendments shall be within the general scope of this Agreement. The City shall provide all such amendments in writing to the Subrecipient. The Subrecipient agrees that it shall immediately take any and all reasonable steps to comply with such amendments and not to jeopardize the grant or loan as the case may be.

g. Consent; Subsequent Agreement. If a subsequent consent or agreement required of any party by the provisions of this Agreement is requested by a party, it shall not be unreasonably withheld by the party to whom the request is made.

h. Construction. Each party named in this Agreement acknowledges and agrees that:

(1) Each party is of equal bargaining strength;

(2) Each party has actively participated in the negotiation and preparation of this instrument;

(3) Each party has consulted with their respective legal counsel and other professional advisors as each party has deemed appropriate;

(4) Each party and the party's legal counsel and advisors have reviewed this instrument; and

(5) Each party has agreed to be bound by the terms stated in this instrument following such party's review and obtaining advice.

i. Counterparts. This Agreement may be executed by the parties in counterparts. The counterparts executed by the parties named in this Agreement and, properly acknowledged, if necessary, taken together, shall constitute a single Agreement.

j. Dates. If any date stated in this instrument falls on a Saturday, Sunday, or legal holiday, such date shall be the next following business day.

k. Defined Terms. Certain terms where they initially are used in this Agreement are set off by quotation marks inside parentheses and subsequently are capitalized. Those designated terms shall have the same meaning throughout this Agreement, unless clearly inappropriate in context.

l. Force Majeure. If any party is prevented from performing its obligations stated in this Agreement by any cause not within the reasonable control of that party, including, but not limited to, fire, an act of God, public enemy, or war, an act or failure to act of a government entity (except on the part of the City), unavailability of materials, or actions by or against labor unions, it shall not be in default of its obligations stated in this Agreement; provided, however, any party delayed by such an event shall request an extension of time to perform its obligations stated in this Agreement by notifying the party to which it is obligated within ten (10) days following the event. If the notified party agrees that the event was the cause of the delay, the time to perform the obligations stated in this Agreement shall be extended by the number of days of delay caused by the event. If no notice is given by the delayed party, no time extension shall be granted.

m. Gender; Number. In this Agreement, the use of any gender shall include all genders and the use of any number in reference to nouns and pronouns shall include the singular or plural, as context dictates.

n. Independent Contractor/Non-Agency. The parties acknowledge that the Subrecipient is an independent contractor, and neither party hereto is a partner, agent and/or employee of the other.

o. Integration. This Agreement contains all of the agreements of the parties pertaining to its subject matter. Each party acknowledges that no person or entity has made any oral or written representation on which it has relied in entering into this Agreement which set forth herein.

p. Legal Action and Fees. In the event of any controversy, claim or dispute between the parties hereto arising out of or relating to this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party its reasonable expenses, including attorneys' fees and costs.

q. Memorandum. If required by the provisions of this Agreement or requested by any party, a memorandum of this Agreement shall be executed by the parties, the signatures properly acknowledged by a Notary Public, and recorded in the Bureau of Conveyances, State of Hawai'i.

r. No Drafter. No party shall be deemed to have drafted this Agreement. No provision stated in this Agreement shall be construed against any party as its

drafter.

s. No Obligations to Third Parties. Unless there is a provision stated in this Agreement to the contrary, the execution and delivery of this Agreement shall not confer rights on any person or entity except the parties herein or obligate either party herein to any person or entity except another party herein.

t. No Offer. The provisions stated in this Agreement shall not bind any party until each party has executed it. The mere delivery of this Agreement is not an offer.

u. No Waiver. No consent or waiver, expressed or implied, by either party to or of any breach or default by the other party in the performance of its obligations hereunder, shall be valid unless in writing. No such consent or waiver shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of any other obligations of such party hereunder. The failure of any party to declare the other party in default shall not constitute a waiver by such party of its rights hereunder, irrespective of how long such failure continues.

v. Paragraph Titles. The titles of each provision stated in this Agreement are included only for the convenience of the parties. They shall not be considered in the construction and interpretation of the provisions stated in this Agreement.

w. Required Actions by the Parties. Each party named in this Agreement agrees to execute the instruments and to diligently undertake the acts necessary to consummate the transaction contemplated by this Agreement. Each party shall use its best efforts to consummate the transaction contemplated by this Agreement.

x. Severability. If any provision stated in this Agreement subsequently is determined to be invalid, illegal, or unenforceable, that determination shall not affect the validity, legality, or enforceability of the remaining provisions stated in this Agreement unless that is made impossible by the absence of the omitted provision.

y. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto (as permitted pursuant to the provisions of this Agreement).

z. Survival. Each representation and warranty stated in this Agreement made by a party shall survive the termination of this Agreement, unless otherwise specifically stated.

aa. Time is of the Essence. Time is of the essence with respect to the Subrecipient's obligations under this Agreement.

[END OF SECTION II]

Subrecipient Agreement
Community Development Block Grant Program
NAME OF NONPROFIT

The City and the Subrecipient have executed this Agreement on _____.

APPROVED AS TO CONTENT

_____
Director
Department of Community Services

APPROVED AS TO FORM AND LEGALITY

_____
Deputy Corporation Counsel

CITY AND COUNTY OF HONOLULU

By _____
Name: Andrew T. Kawano
Title: Director of Budget & Fiscal Services

NAME OF NONPROFIT

_____
Authorized Subrecipient Official

Name: _____

Title: _____

STATE OF HAWAI'I

SUBRECIPIENT'S ACKNOWLEDGMENT

STATE OF_____)
) S.S.
_____COUNTY OF_____)

On this _____ day of _____, _____, before me appeared
(day) (month) (year)

_____, and _____, to me
(name) (name)

known, to be the person(s) described in and, who, being by me duly sworn, did say that he/she/they is/are

_____ and _____of
(position title) (position title)

_____
(name of organization)

the SUBRECIPIENT named in the foregoing instrument, and that he/she/they is/are authorized to sign said instrument on behalf of the SUBRECIPIENT, and acknowledges that he/she/they executed said instrument as the free act and deed of the SUBRECIPIENT.

_____
(Notary's Signature)

_____
(Print Name of Notary)

(Notary Stamp or Seal)

Notary Public, State of _____

My Commission Expires:_____

NOTARY CERTIFICATE (Hawai'i Administrative Rules §5-11-8)

Document Identification or Description: Contract No. CT-DCS-_____

Undated at time
Doc. Date:__of notarization__ No. of Pages:_____ Jurisdiction:____

_____
Signature of Notary Date of Certificate

(Notary Stamp or Seal)

_____
Printed Name of Notary