Agreement for Consulting Services

City of Columbus, Indiana
and
Strategic Development Group, Inc.

THIS AGREEMENT made this 12th day of Mar. '13 between The City of Columbus, 123 Washington Street, Columbus Indiana 47201 (hereinafter called "Client") and Strategic Development Group Inc. (SDG) with principal offices at 2901 North Walnut Street, Bloomington, Indiana 47404 (hereinafter called "Consultant").

1. **Services, Standard of Care and Independent Contractor.**
Consultant, as an independent contractor, agrees to perform, during the term of this agreement, the following services: The City of Columbus Housing Needs Assessment. The scope of work is included as Appendix A.

Consultant shall be responsible for the completion of Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Upon notice to Consultant, and by mutual agreement between the parties, Consultant will, without additional compensation, correct those Services not meeting such a standard.

The relationship of the parties hereto shall be as provided for in this Agreement, and Consultant shall in no fashion be deemed to be an employee of City. In this regard, Consultant and all of its employees, contractors, outside sources and other persons shall not be employees of City. Furthermore, Consultant shall have all responsibility to pay to or for its employees, contractors, outside sources and other persons, all statutory and contractual benefits and obligations and any other benefits and/or obligations as due and at its discretion. The City shall not be responsible for same, but rather the compensation to be paid hereunder by City to Consultant shall be the full compensation and monies required of City to be paid to Consultant. Consultant hereby warrants and indemnifies City for and from any and all costs, fees, expenses and/or damages incurred by City as a direct or indirect result of any statutory, contractual or other claim for wages, benefits or otherwise by any employee, outside source, contractor or other person of Consultant regarding or related to the subject matter of this Agreement.

2. **Compensation.**
Client shall pay Consultant a total fixed, lump sum, not to exceed fee of $44,500 (Forty-four Thousand and Five Hundred Dollars) for creation of The City of Columbus Housing Needs Assessment. A budget is included as Appendix B.

3. **Term.**
The term of this Agreement shall commence upon execution of this Agreement. Provided, however, that either party may terminate this Agreement at any time by giving the other party 30 (thirty) days notice in writing.

Agreement for Consulting Services

4. **Designation of Duties.**
Consultant shall receive project direction from the Client's primary contact person - Jeffrey R. Bergman, AICP, Planning Director, City of Columbus / Bartholomew County Planning Department. The Client's primary contact person may change during the course of the project, however the Client commits to provide the Consultant with a single person as the source for project direction. The Client's primary contact person shall facilitate communication between the Consultant and the Client's project leadership team.

5. **Federal 3rd Party Provisions.**
The Consultant agrees to incorporate into this contract the federal and state third-party contract provisions for Community Development Block Grant (CDBG)-assisted non-construction contracts. A copy of those provisions is attached to this contract as Appendix C.

6. **Reimbursable Expenses.**
The aforementioned fees will cover all of Consultant's normal expenses. Unusual expenses shall be specifically pre-approved by Client and shall be reimbursed at the next payment point.

7. **Payment Terms.**
Terms of payment are as follows: Client shall pay Consultant a total fixed, lump sum, not to exceed fee of $44,500 (Forty-four Thousand and Five Hundred Dollars).

8. **Disqualification of Contractors Dealing with the Government of Iran**
The undersigned certifies pursuant to IC 5-22-16.5-13 that Strategic Development Group Inc. is not engaged in investment activities in Iran.

9. **E-Verify Program**
Strategic Development Group Inc. affirms under penalties of perjury that it does not knowingly employ an unauthorized alien. Strategic Development Group Inc. shall enroll in and verify (or has enrolled in and verifies) the work eligibility status of all its newly hired employees through the E-Verify program as defined in I.C. 22-5-1.7-3. Strategic Development Group Inc. is not required to participate should the E-Verify program cease to exist. Additionally, Strategic Development Group Inc. is not required to participate if Strategic Development Group Inc. is self-employed and does not employ any employees. Strategic Development Group Inc. shall not knowingly employ or contract with an unauthorized alien. Strategic Development Group Inc. shall not retain an employee or contract with a person that Strategic Development Group Inc. subsequently learns is an unauthorized alien. Strategic Development Group Inc. shall require its subcontractors, who perform work under this contract, to certify to Strategic Development Group Inc. that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. Strategic Development Group Inc. agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor. The City may terminate this Agreement for breach of contract/default if Strategic Development Group Inc. fails to cure a breach of this provision no later than thirty (30) days after being notified of such breach.

Agreement for Consulting Services

10. **Successors and Assigns**
Consultant shall not assign, sublet, sell, transfer, or otherwise dispose of any interest in this Agreement without the prior approval of the City.

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, but shall not inure to the benefit of any third party or other person.

11. **Nonwaiver**
No failure or waiver or successive failures or waivers on the part of either party hereto, their successors or permitted assigns, in the enforcement of any condition, covenant, or article of this Agreement shall operate as a discharge of any such condition, covenant, or article nor render the same invalid, nor impair the right of either party hereto, their successors or permitted assigns, to enforce the same in the event of any subsequent breaches by the other party hereto, its successors or permitted assigns.

12. **Notification**
All notices required or permitted under this Agreement shall be made in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follow:

TO CITY: Columbus Planning Department
ATTN: Jeffrey Bergman
123 Washington Street
Columbus, IN 47201

TO CONSULTANT: Strategic Development Group, Inc.
ATTN: Thayr Richey
2901 North Walnut Street
Bloomington, IN 47404

13. **Exhibits**
All exhibits referenced herein shall be considered a part of this Agreement as though fully set forth herein.

14. **Indemnification**
Consultant shall indemnify and hold harmless City and its respective officials, officers, employees, agents, assigns and legal representatives from all loss, liability, claims, judgments and liens, including, but not limited to, all damages, costs, expenses and attorney fees, arising out of any intentional or negligent act, or omission of Consultant, any of its employees, agents, outside sources, contractors or subcontractors in the performance of the Services, regardless, or whether or not such claims, damages, costs or expense is caused in part by a party indemnified hereunder. Consultant shall be responsible for keeping the City currently advised as to the status of any claims made for damages against the Consultant resulting from work performed under this Agreement. The failure to perform as herein provided shall constitute a material breach of this Agreement.

Agreement for Consulting Services

15. **Insurance**

Consultant shall effect and maintain insurance at its own cost and expense to protect itself from claims under Workers' Compensation Acts; from claims for damages because of bodily injury including sickness, disease, or death of any of its employees; from claims for damages because of injury to or destruction of tangible property; and from claims arising out of the performance of professional services caused by errors, omissions, or negligent acts for which it is legally liable, each in the amount of $1,000,000.

Consultant shall furnish the City with a certificate(s) of insurance showing Consultant has complied with this Article; which certificates shall provide that thirty (30) days written notification of cancellation of the policies shall be given to the City.

16. **Applicable Law**

Consultant agrees to comply with all present and future federal, state and local laws, executive orders, rules, regulations, codes and ordinances which may be applicable to Consultant's performance of its obligations under this Agreement, and all provisions required thereby are hereby incorporated herein by reference. The parties further agree that, in the event a lawsuit is filed hereunder, any such lawsuit shall be filed in an appropriate court in Bartholomew County, Indiana, and the parties agree that such court is the appropriate venue for and has jurisdiction over the same.

16. **Extent of the Agreement**

This Agreement represents the entire and integrated agreement between the City and Consultant and supersedes and replaces all terms and conditions of any prior agreements, arrangements, negotiations, or representations, written or oral, with respect to this Project.

Agreement for Consulting Services

IN WITNESS WHEREOF, the parties have signed this agreement.

CONSULTANT:

Thayr Richey, President
Strategic Development Group, Inc.

THE CITY OF COLUMBUS, INDIANA, ACTING THROUGH ITS DULY AUTHORIZED BOARD OF PUBLIC WORKS AND SAFETY:

Kristen Brown, Mayor

Susan Thayer-Fye, Member

Jayne Farber, Member

ATTEST:

Luann Welmer, Clerk-Treasurer Chief Deputy

Agreement for Consulting Services

Appendix A: SCOPE OF WORK
City of Columbus Housing Needs Assessment

The primary consulting firm will be Strategic Development Group (SDG). HWC Engineering will provide technical support and K.K. Gerhart-Fritz of The Planning Workshop will focus on ordinance review.

1. Housing Supply

EXISTING SUPPLY
SDG will begin the assessment with a description, analysis, and evaluation of existing housing conditions and supply. SDG will use U. S. Census data, current listings, interviews with local stakeholders (including members of the Mayor's Housing Council), and other available sources to determine: housing values of owner-occupied housing, contract rents for rental housing, supply of housing types, housing location by Census tract, and housing features such as size, number of bedrooms, etc.

Housing conditions will be assessed through site visits and windshield surveys of sample areas. Using Plan Commission and Code Enforcement records, SDG will analyze trends in Code Enforcement actions and housing permit data. SDG will conduct interviews with property managers, landlords, and realtors to assess trends in the city's for-sale inventory, rental inventory, and loan and foreclosures.

PROPERTY INVENTORY
Using GIS data and information available from the Planning Department website (http://www.columbus.in.gov/planning/infill/), HWC will provide a series of exhibits that illustrate an inventory of available land for prospective residential development in and immediately adjacent to Columbus. Potential opportunities and restraints will be identified, discussed, and evaluated for future planning.

SDG will interview community stakeholders engaged in development – including Housing Partnerships, Inc. and local builders/developers.

AFFORDABILITY / AVAILABILITY
SDG will take a "snapshot" of existing housing to determine availability and affordability. This snapshot will track homes for sale using a Multiple Listing Service over a month's time. SDG will also take a "snapshot" of rental rates during the same time period. This information will be compared with local and regional incomes to determine the housing cost burden across income levels. Analysis of the city's housing stock will explore housing cost burden issues related to affordable housing, market rate housing, and housing for young professionals.

SDG will compare housing costs in Columbus with other communities in terms of tax rate, building materials, land, labor, and infrastructure.

SDG will talk with city and not-for-profit agency professionals who work with residents seeking low income housing.

2. Housing Demand

SDG will prepare a comprehensive demographic profile for the city that will include an analysis of population trends and projections. In addition, the demographic profile will evaluate issues impacting the city's economy such as regional workforce dynamics, education, employment, income, and commuting. In addition, SDG will conduct interviews with major employers to determine housing demand. SDG will use this data to determine the city's projected owner-occupied and rental housing demand over the next ten years.

3. Evaluation of Barriers to Housing

Development

EVALUATION OF PREVIOUS COMMUNITY HOUSING STUDIES
SDG will begin this assessment with a review and evaluation of previous Community Housing Studies for the city. This analysis will inform the assessment's focus on specific neighborhoods in need of rehabilitation. To better understand current barriers to affordable housing, SDG will interview city and not-for-profit agency professionals to discuss current barriers with the goal of understanding which barriers should be considered priorities for future action.

EVALUATION OF PHYSICAL CONDITIONS
HWC will work with the city to evaluate existing and planned infrastructure improvements, floodplain areas, the Columbus Comprehensive Plan, utility services, and transit and roadway circulation to identify possible areas for both redevelopment and new development. A series of exhibits, created with GIS data and aerial mapping, will illustrate the impacts of these physical conditions on current and future housing in the area.

EVALUATION OF REGULATORY ENVIRONMENT
With records and documents provided by the Planning Department, K.K. Gerhart-Fritz will assess the city's existing comprehensive plan elements pertaining to housing, neighborhoods and land use.

K.K. will conduct a review of the city's zoning and subdivision control ordinances; and housing-related Plan Commission, Board of Zoning Appeals, and City Council decision histories on their

impact on housing development. Following this review, K.K. will provide a written analysis with recommendations.

EVALUATION OF RELATED BARRIERS TO HOUSING DEVELOPMENT
Based on the team's initial research, SDG will talk with a variety of housing professionals in the community, including developers, lenders and not-for-profit agency staff. In addition, SDG will conduct a review of best practices relating to overcoming barriers to housing development. From these discussions and research, SDG will assemble the relevant information on specific related barriers – from price points to neighborhood images to land availability. Specific attention will be given to barriers to multi-family housing for all income levels.

EVALUATION OF NEIGHBORHOOD-LEVEL SAFETY
SDG will analyze relevant local data provided by the Columbus Police Department and assess specific neighborhood safety issues. SDG will conduct a focus group discussion with residents from neighborhoods where police data suggest higher crime rates.

4. Level of Services

EVALUATION OF CURRENT SERVICES AND SERVICE PROVIDERS SUPPORTING EXISTING HOUSING NEEDS
SDG will conduct a targeted service provider survey to determine current services available to address existing housing needs. This survey will determine gaps in service and specific needs for vulnerable populations such as the elderly, disabled, homeless, at-risk youth, and those deemed "hard to house."

In addition, SDG will interview stakeholders to supplement findings from the service provider survey.

5. Summary - Market Conditions Analysis

At the conclusion of our Part 1 research, SDG will present a written analysis of the Columbus housing market. This will include:

1. The gaps between supply and demand for major housing categories.
2. Recommendations on priority barriers to housing and how they might be removed or reduced.
3. An overall housing needs assessment with a specific element devoted to affordable housing needs.
4. Recommendations on the potential for new residential projects by type by other issues.

Agreement for Consulting Services

This analysis of the Columbus housing market will be submitted first in draft form for review by the Client's project leadership team. It will then be revised as appropriate and re-submitted for review by the Mayor's Housing Council (both its affordable and market-rate housing sub-committees). This review by the Housing Council shall serve as a "sign-off" on the analysis and the subject matter for the Part 2 recommendations. The Consultant shall again make any needed revisions and provide the analysis in its final form.

6. Recommendations & Strategies

SDG's research in Part 1 and our team's experience in housing will serve as the foundation for the Recommendations and Strategies in Part 2. This second major report of the project will include:

- ❑ Position in the regional marketplace.
- ❑ Appropriate locations for residential development (affordable and market rate), improvements and reinforcement.
- ❑ Identification of any barriers to market rate housing and what, if any, local government action is needed to restore / maintain normal market functions.
- ❑ Opportunities to create and sustain affordable housing.
- ❑ Mixed-income strategies.
- ❑ Mixed-use strategies.
- ❑ Rental vs. for-sale housing.
- ❑ Appropriate markets and product mix.
- ❑ Neighborhood revitalization strategies for areas with concentrations of low income residents.
- ❑ Opportunities for providing needed housing for young professionals.
- ❑ An examination of successful strategies from elsewhere, particularly in Indiana, and will include recent Indianapolis Housing Authority success at (1) leveraging funds and (2) completing mixed-financing, mixed-income projects.

In this strategy document SDG will work closely with the Client's project leadership team, sharing ideas and early drafts of the strategy throughout the process.

Leaders of successful communities understand that almost every issue impacts and is impacted by other issues. Consequently the Part 2 strategy will need to take a holistic approach. For example creating housing for young professionals is potentially connected to the economic development issues of downtown revitalization, brain drain, and the "Creative Class." will use its experience and understanding of these and other issues as we develop the strategy document.

Agreement for Consulting Services

HWC will assist SDG in providing recommendations and strategies related to future housing development. HWC will provide character sketches and graphics as needed to illustrate these recommendations.

The recommendations and strategies will be submitted first in draft form for review by the Client's project leadership team. They will then be revised as appropriate and re-submitted for review by the Mayors Housing Council (both its affordable and market-rate housing sub-committees). The Consultant shall again make any needed revisions and provide the material in its final draft form.

After delivery of the final report, the SDG/HWC team will present the housing needs assessment findings at a public meeting that will include a question-and answer portion. The Consultant will meet with the Client's project leadership team after the public meeting to review public comments and identify any additional revisions to the materials that may be needed. The Consultant will then make those final revisions and provide all project products and materials in their final form.

Agreement for Consulting Services

Appendix B: BUDGET
City of Columbus Housing Needs Assessment

Consultant will bill client monthly by completed activity.

Project Timeline & Fees

Month	Activity	Cost
1	Analyze existing housing conditions and supply.	$4,000
1	Evaluate previous Community Housing Studies.	$1,000
1	Assess housing availability, affordability, and burden.	$4,000
1	Analyze demographic and economic trends to determine housing demand.	$3,500
1	Inventory available land for residential development.	$2,500
2	Evaluate physical conditions.	$10,000
2	Evaluate regulatory environment and decisions.	$3,000
2-3	Evaluate neighborhood safety.	$1,500
2-3	Evaluate barriers to housing development.	$2,000
3-4	Conduct a targeted service provider survey to determine current services available to address existing housing needs.	$3,000
5	Deliver Market Conditions Analysis Summary Report.	$1,000
6	Deliver Recommendations and Strategies Report.	$7,000
7	Present findings at a public meeting with Question/Answer opportunity.	$2,000
	Total Project Fees	**$44,500**

Agreement for Consulting Services

Appendix C: FEDERAL AND THIRD-PARTY CONTRACT PROVISIONS
City of Columbus Housing Needs Assessment

CDBG-ASSISTED NON-CONSTRUCTION CONTRACTS

(Required by Title 24 of the Code of the Federal Register as well as other selected contract provisions required by the Indiana Office of Community and Rural Affairs for CDBG-assisted grants/activities)

The following Federal Regulations, Contract Provisions and Clauses are incorporated into this agreement in their entirety, and made an integral part hereof.

1. **Equal Employment Opportunity (Executive Order 11246 dated 9/24/65, as amended by Executive Order 11375 dated 10/13/67):**

The contractor hereby agrees that it will incorporate or cause to be incorporated into any contract for professional services, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the federal government or borrowed on the credit of the federal government pursuant to a grant, contract, loan insurance or guarantee or undertaken pursuant to any federal program involving such grant, contract, loan insurance or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

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

B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex or national origin.

C. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided

advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, and with the rules, regulations and relevant orders of the Secretary of Labor.

E. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

F. In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

G. The contractor will include the portion of the sentence immediately preceding paragraph A and the provisions of paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 14, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

H. The contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrument or subdivision of such government which does not participate in work on or under the contract.

I. The contractor agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information

as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

J. The contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate proceedings.

2. Minority and Women Business Enterprise Policy (Indiana Office of Community and Rural Affairs):

The contractor agrees to ensure that disadvantaged business enterprises as defined in 13 CFR 124.103 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 13 CFR 124.103 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of this contract. The contractor shall establish and pursue a 10% goal for participation in the proceeds of this contract.

During the performance of this contract, the contractor agrees to comply with Executive Order 12138 entitled "Women Business Enterprise Policy" which includes, but is not limited to, creating or supporting new programs responsive to the special needs of women business enterprises, establishing incentives to promote business or business-related opportunities of women business enterprises, collecting and disseminating information in support of women business enterprise in ensuring to women business enterprises knowledge of any ready access to business-related services and resources.

3. Compliance in the Provision of Training, Employment and Business Opportunities:

A. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development through the Indiana Office of Community and Rural Affairs and is subject to the

requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC, 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

4. <u>Title VI Civil Rights Act of 1964:</u>

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

A. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices.

B. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.

C. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, their sources of information and its facilities as may be determined by the Indiana Office of Community and Rural Affairs or the United States Department of Housing and Urban Development to be pertinent to ascertain compliance with such regulations, orders and

instructions. Where any information is required or a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the awarding agency, the Indiana Office of Community and Rural Affairs, or the United States Department of Housing and Urban Development, as appropriate, and shall set forth what efforts it has made to obtain the information.

D. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Indiana Office of Community and Rural Affairs or the United States Department of Housing and Urban Development shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

(1) Withholding of payments to the contractor under the contract until the contractor complies; and/or,
(2) Cancellation, termination or suspension of the contract, in whole or in part.

E. The contractor shall include the provisions of paragraph (A) through (E) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Indiana Office of Community and Rural Affairs or the United States Department of Housing and Urban Development may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Indiana Office of Community and Rural Affairs to enter into such litigation to protect the interests of the State of Indiana, and, in addition, the contractor may request the United States Department of Housing and Urban Development to enter into such litigation to protect the interests of the United States.

5. <u>Title VIII Civil Rights Acts of 1968 (as applicable):</u>

The contractor shall comply with Title VIII Civil Rights Acts of 1968 which prohibits discrimination in the sale or rental of dwellings (as defined), discrimination in the financing or housing, blockbusting, and discriminatory advertising; and makes it unlawful to deny any person access to, or membership or participation in, any multiple listing service or real estate broker organization for discriminatory reasons.

6. <u>Section 109 Housing and Urban Development Act of 1974 (as applicable):</u>

The contractor provides that no person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part under this title.

7. <u>Section 504 Rehabilitation Act of 1973:</u>

A. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all demotion or transfer, recruitment, advertising, layoff or termination rates of pay or other forms of compensation, and selection for training, including apprenticeship.

B. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

C. In the event of the contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

D. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Indiana Office of Community and Rural Affairs, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

E. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 504 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

F. The contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 504 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

8. <u>Fair Housing Amendments Act of 1988 (as applicable):</u>

The contractor shall comply with Fair Housing Amendments Act of 1988 which Amends Title VIII of the Civil Rights Act of 1968 that prohibits discrimination on the basis of race, color, religion, sex or national origin in the sale, rental and financing of dwellings. The 1988 Amendments Act extends coverage of the 1968 Act to persons with disabilities and families with children. In addition, the 1988 Amendments establish certain design and construction requirements for new multi-family housing built for first occupancy on or after March 13, 1991.

9. <u>Age Discrimination Act of 1975:</u>

Agreement for Consulting Services

The contractor shall comply with the Age Discrimination Act of 1975 which provides that no person, on the basis of age shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

10. Americans With Disabilities Act of 1990:

The contractor shall comply with the Americans With Disabilities Act of 1990 which provides that no person, on the basis of handicap, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

11. Certification of Nonsegregated Facilities:

The contractor certifies that he/she does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and those under his/her control. He/she certifies further that he/she will not maintain or provide for employment segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The contractor agrees that a breech of this certification is a violation of the Equal Opportunity Clause of the contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or in fact segregated on the basis of race, color, religion or national origin because of habit, local custom, or otherwise. He/she further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certification from proposed subcontractors prior to the awards of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he/she will retain such certification in his/her files; and that he/she will forward this notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

12. Retention and Access Requirements For Records (24 CFR Part 85.42):

A. The contractor shall comply with Retention and Access Requirements For Records (24 CFR Part 85.42) and State of Indiana records access and retention requirements, to wit:

Financial records, supporting documents, statistical records and all other records pertinent to a grant shall be retained for a period of five (5) years, with the following qualifications:

(1) If any litigation, claim, negotiation, audits or other action is started before the expiration of the five-year period, the records shall be retained until all litigation, claim or audit

findings involving the records have been resolved, or the five-year period, whichever is later.

(2) Records of nonexpendable property acquired with federal funds shall be retained for five years after final disposition of such property.

(3) When records are transferred to or maintained by the federal sponsoring agency, the five-year retention required is not applicable to the grantee.

B. The five-year retention period starts from the date of issuance of a "Certification of Completion" respective to the grant by the Indiana Office of Community and Rural Affairs.

C. The Indiana Office of Community and Rural Affairs shall request transfer of certain records to its custody from grantees when it is determined that the records possess long-term retention value. However, in order to avoid duplicate record-keeping, the Indiana Office of Community and Rural Affairs may make arrangements with grantees to retain any records that are continuously needed for joint uses.

D. The Indiana Office of Community and Rural Affairs, the United States Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records of grantee and sub-grantees to make audits, examinations, excerpts and transcripts.

E. Unless otherwise required by law, Indiana Office of Community and Rural Affairs shall not place restrictions upon grantees that will limit public access to the records of grantees that are pertinent to a grant except when the agency can demonstrate that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 USC 552) if the records had belonged to the grantor agency.

13. <u>Conflict of Interest (24 CFR 85.36 and 24 CFR 570.611):</u>

The contractor 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. Persons covered under this section include any person who is:

(a) An employee, agent, consultant, officer, or elected or appointed official of the grantee, any designated public agency or any subrecipient agency that is receiving CDBG funds from the Indiana Office of Community and Rural Affairs;

(b) Any member of his/her immediate family;

(c) His or her partner; or

(d) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements funded with CDBG funds. To the extent permitted by state or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents or by contractors or their agents.

No persons described in (a) through (d) above 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.

14. Remedies/Sanctions or Breach of Contract Terms:

Upon written notice, the grantee may withhold payments to the contractor if the contractor shall fail to fulfill in a timely and proper manner its obligations to grantee under this contract, or if the contractor shall violate any of the conditions of this contract. The grantee shall in its written notice to contractor fully describe the nature of failure or violation by contractor, the corrective action required of contractor, and, the grantee shall allow the contractor thirty (30) days from the date of notification to correct such failure and/or violation. If such failure or violation is corrected by the contractor within thirty (30) days from the date of notification, then the grantee shall process payment(s) to the contractor. If such failure or violation is not corrected within thirty (30) days from the date of this notification, then the grantee may proceed to terminate this contract.

15. Termination of Contract for Cause - 24 CFR 85.43 (All Contracts in Excess of $10,000):

If the contractor shall fail to fulfill in a timely and proper manner his/her obligations under this contract, or if the contractor shall continue to violate any of the covenants, agreements, or stipulations of this contract, following notices by the grantee and allowances for corrective actions specified in Paragraph 14 above, the grantee shall thereupon have the right to terminate this contract by giving written notice to the contractor of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the contractor under this contract shall, at the option of the grantee, become the property of the grantee and the contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. In the event the

contractor disputes grantee's election to terminate this contract for cause under this paragraph, contractor may pursue equitable relief or remedy.

16. Termination for Convenience - 24 CFR 85.44 (All Contracts in Excess of $10,000):

The grantee may terminate this contract for its convenience, at any time, by giving at least thirty (30) days notice in writing to the contractor. If the contract is terminated by the grantee as provided herein, the grantee agrees to pay the contractor, no later than thirty (30) days following the date of the written notice of contract termination by grantee. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the contractor under this contract shall, at the option of the grantee, become the property of the grantee and the contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

17. Changes to Contract:

The terms and conditions of this contract may be changed at any time by mutual agreement of the parties. Such modification shall be effective upon the signing by both parties of an addendum to this contract encompassing those changes. Where the addendum changes the compensation or time of performance, it shall also describe the change in scope, character or complexity of the work that is the basis for the change.

18. Contractor to Furnish Necessary Personnel Resources:

A. The contractor represents that it has, or will secure at its own expense, all personnel required in performing the services specified in this contract. Such personnel shall not be employees of or have, as individuals, any contractual relationship with the grantee.

B. All of the services required hereunder will be performed by the contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.

C. With the exception of the work described as being subcontracted within the contract, if any, none of the work or services covered by this contract shall be subcontracted without the prior approval of the grantee. Any additional work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this contract.

19. Reports and Information:

The contractor, at such times and in such forms as the grantee or the Indiana Office of Community and Rural Affairs may require, shall furnish grantee and/or the Indiana Office of Community and Rural Affairs such periodic reports as it may request pertaining to the work or

services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred by grantee in connection therewith, and any other matters covered by this contract.

20. Records and Audits:

The contractor shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this contract and such other records as may be deemed necessary by the grantee to assure proper accounting for all funds applicable to this contract. These records will be made available for audit purposes to the grantee or any authorized representative, and will be retained for five years after the expiration of this contract unless permission to destroy them is granted.

21. Copyright and Patent Rights:

No reports, maps, or other documents produced in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the contractor. The US Department of Housing and Urban Development, the Indiana Office of Community and Rural Affairs and the grantee shall possess all rights to invention or discovery, as well as rights in data which may arise as a result of the contractor's services.

22. Compliance with State and Local Laws:

The contractor specifically agrees that in performance of the services herein enumerated, contractor and his/her employees/agents will comply with any applicable State, and Local Statutes, ordinances and regulations at the time this agreement is executed.

23. Disclosure Reports (HUD Reform Act of 1989 - 24 CFR Part 4.9):

Section 2 of the HUD Reform Act of 1989 requires that if the grantee receives $200,000 or more in federal CDBG funds during a federal fiscal year, (October 1 - September 30), a HUD disclosure report must be completed for each contract funded in whole or in part with federal CDBG funds. A copy of all such Disclosure Reports must be submitted by the grantee to the Grant Support Office of the Indiana Office of Community and Rural Affairs within ten (10) days after contract execution. In order for the grantee to comply with this federal requirement, the grantee will provide to the contractor the prescribed format of Part IV to the HUD Disclosure Report, and the contractor agrees to furnish the grantee a completed Part IV to the HUD Disclosure Report within seven (7) days of execution of the agreement between contractor and grantee. Within such Part IV of the prescribed HUD Disclosure Report, the contractor will provide the grantee with the following minimum information:

a. The name of all persons who are proprietors, partners, directors or officers of the contractor and thereby have a pecuniary interest in the proceeds of the CDBG-assisted contract;

b. The social security account number of all proprietors listed in a. above, or the federal identification number of the partnership or corporation which is subject to the CDBG-assisted contract, as applicable;

c. The type of participation each individual named in a. above will have in the CDBG-assisted contract. Such participation may be listed in the Part IV of the HUD Disclosure Report as "direct", or "passive", whichever applies to such proprietor, partner, director or officer, as applicable; and,

d. The financial interest of the named individual as set forth in a. above; such interest to be expressed in dollar terms or in terms of percentage of ownership of the proprietorship, partnership, or corporation which is to receive federal CDBG funding under this contract.

24. Compliance with Copeland "Anti-Kick Back" Act:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Copeland "Anti-Kick Back" Act (18 USC 874) as supplemented in US Department of Labor regulations 29 CFR Part 3, respective to all contracts and subgrants for construction or repair services.

25. Compliance with Davis-Bacon Act:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Davis-Bacon Act (40 USC 276a to 276a-7) as supplemented in US Department of Labor regulations 29 CFR Part 5, respective to construction contracts in excess of $2,000 awarded by grantees and subgrantees.

26. Compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Contract Work Hours and Safety Standards Act (40 USC 327-333) as supplemented in US Department of Labor regulations 29 CFR Part 5, respective to construction contracts in excess of $2,000 awarded by grantees and subgrantees, and $2,500 for other contracts which involve the employment of mechanics or laborers.

27. Compliance with Clean Air and Water Acts (applicable to all contracts over $100,000):

In carrying out this agreement, the contractor agrees to comply with the requirements of the Federal Clean Air Act (42 USC 7401 et seq.), and the Federal Water Pollution Control Act (33 USC 1251 et seq.), as amended. Such statutes and regulations prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the Environmental Protection

Agency's List of Violating Facilities. The provision shall require reporting of violations to the grantor agency and to the US Environmental Protection Agency.

28. Conservation:

In carrying out this agreement, the contractor agrees to comply with the requirements of mandatory standards and policies relating to energy efficiency which are contained in the State of Indiana's energy conservation plan issued in compliance with the federal Energy Policy and Conservation Act (PL 94-163, 89 Statutes 871).

29. Drug-Free Workplace Requirements:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Drug-Free Workplace Act of 1988 (42 U.S.C. 701) and to certify that contractor will comply with drug-free workplace requirements in accordance with the Act and with HUD rules found at 24 CFR part 24, subpart F.