

GENERAL AGREEMENT GOVERNMENTAL SUBRECIPIENT

THIS AGREEMENT is made and entered into this 3rd day of February, 2014 by and between the Cuyahoga County, Ohio, on behalf of the Department of Development, (the "County"), and Cuyahoga County Planning Commission, a county planning agency established pursuant to the Section 713.22 of the Ohio Revised Code, with principal offices located at 2429 Superior Viaduct, Cleveland, Ohio 44113 (the "Provider").

WITNESSETH:

WHEREAS, the County has entered into various Agreements with the United States of America providing for financial assistance to said County under the Cranston-Gonzalez Affordable Housing Act (the "Act"); and

WHEREAS, pursuant to the Act, the County is undertaking by and through its Department of Development certain activities; and

WHEREAS, such activities include the creation of a 5-Year HUD Consolidated Plan ("Consolidated Plan") by examining the needs of communities and gathering Census data and information on housing related issues; and

WHEREAS, the U.S. Department of Housing and Urban Development ("HUD"), subsequently issued regulations set forth in 24 CFR Part 92, allowing units of general local government to enter into mutual cooperation agreements to form consortiums for the purpose of obtaining funding from the affordable housing development program created by the Act (the "HOME Program"); and

WHEREAS, the Act contemplates and encourages the joining together by agreement of contiguous communities into a consortium for the purpose of carrying out the objectives of the Act; and,

WHEREAS, the County, and the Communities of Cleveland Heights, Euclid, Lakewood, and Parma, Ohio (collectively, the "Member Jurisdictions") have formed the Cuyahoga Housing Consortium (the "Consortium") pursuant to the Act, and,

WHEREAS, for the purposes of the Consortium, Cuyahoga County is authorized by the Member Jurisdictions to act in a representative capacity for all member units of general local government (in such capacity the "Lead Entity") and assumes overall responsibility for the Consortium's HOME Program compliance with the requirements of the Act; and,

WHEREAS, the County solicited the assistance of a knowledgeable professional organization to coordinate the collection and analysis of the data necessary for developing the Consortium's 5-Year Consolidated Plan to assist the Consortium in identifying priority needs; and

WHEREAS, in response to the County's Request for Qualifications RFQ#DV-14-28987, the Provider submitted a statement of qualification on November 29, 2013 to provide such services to the County; and

WHEREAS, the County desires to hire Provider, and Provider accepts to perform all the necessary services to develop the Consolidated Plan for the County.

NOW, THEREFORE, for the consideration of mutual promises hereinafter set forth, the County and the Provider agree as follows:

ITEM I - SCOPE OF SERVICES:

Provider shall provide services under this Agreement as described in the Scope of Services ("Exhibit A"), Budget Detail ("Exhibit B"), Terms and Conditions ("Exhibit C"), and Accounting and Financial Management Procedures ("Exhibit D") attached and incorporated into this Agreement as fully rewritten herein.

The terms and conditions of this Agreement shall take precedence over any inconsistent terms in the Exhibits.

ITEM II - TERM:

A. The term of this Agreement is to commence on February 3, 2014, and shall be completed by no later than December 31, 2015.

B. In accordance with the 2013 Final HOME rule, Home Program funds must be allocated to a specific project, address(s) or through entering into a legally binding agreement to perform an eligible activity to meet the definition of committed. Cuyahoga County HOME Consortium members evidence of compliance with this section shall be included in the attached Scope of Services.

ITEM III - COMPENSATION AND METHOD OF PAYMENT:

A. The total compensation and reimbursement to be paid hereunder shall not exceed the maximum sum of \$81,000 consisting of Fiscal Year 2013 HOME funds.

B. Provider shall require prior written approval from the County for any changes in the Scope of Services and the Budgetary Details that result in a budget line item increase greater than ten percent (10%). In addition, Provider agrees that a budget line item revision exceeding ten percent (10%) or changes to Scope of Services must have prior approval of the HOME Consortium, at a regularly scheduled meeting.

C. All HOME Program funds not committed or expended within the term of the agreement shall convert to the Consortium pool of funds maintained by the County (the "Consortium Pool"). Additional allocations will not be committed if prior year funds have not been expended as evidenced by approved requests for reimbursement of those funds. These funds will remain uncommitted until all funds in or approaching five (5 years) are expended.

D. The total compensation referred to in paragraph (A) above shall be paid on a monthly basis reimbursing the Provider for actual expenditures involved in performing the necessary work as set forth in the Scope of Services and Budget. The Provider shall submit a report itemizing both actual time expended and costs incurred in performance of said Scope of Services and in accordance with the Scope of Services and the Budget.

ITEM IV – INVOICING AND REPORTING

The Provider shall submit to the County on a monthly basis a progress report and request for reimbursement. The report must include the current status of the project and milestones articulated in Provider's schedule.

The Provider shall maintain documentation that demonstrates compliance with hour and wage requirements of the provision of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 1341 et seq.; 40 USC 3701 et seq. and 40 USC 3145 and all other applicable federal, state and local laws and regulation pertaining to labor standards insofar as those acts apply to the performance of this Agreement. Such documentation shall be made available to the County when requesting reimbursement

ITEM V - EQUAL EMPLOYMENT OPPORTUNITY

If applicable to this Agreement, the Provider agrees to comply with:

- A. Title VI of the Civil Rights Act of 1964, (P.L. 88-352) and the United States Department of Housing and Urban Development ("HUD") regulations under 24 CFR. Part 1, which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance by way of grant, loan, or Agreement and will immediately take any measures necessary to effectuate this Agreement. If any real property or structure thereof is provided or improved with the aid of Federal financial assistance extended to the Provider, this assurance shall obligate the Provider, or in the case of any transfer of such property or structure is used for a purpose of which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.
- B. Title VIII of the Civil Rights Act of 1968 (P.L. 90-284), as amended by the Fair Housing Amendments Act of 1988 (P.L. 100-430), and will administer all programs and activities

relating to housing and community development in a manner to affirmatively further fair housing within Constitutional limitations throughout the United States.

- C. Section 109 of the Housing and Community Development Act of 1974 and 1977, as amended, and in conformance with all requirements imposed pursuant to the regulations of the Department of HUD (24 CFR Part 570.602) issued pursuant to that Section; and in accordance with Equal Opportunity obligations of that Section, no person in the States shall, on the grounds of race, color, national origin, or sex, be excluded from participating in, be denied the benefits of, be subjected to discrimination under, any program or activity funded in whole or in part with Community Development Block Grant funds.
- D. Section 109 of the Act further provides that any prohibition against discrimination on the basis of age, under the Age Discrimination Act of 1975 (24 CFR Part 146), or with respect to any otherwise qualified handicapped person, as provided in Section 504 of the Rehabilitation Act of 1973 (24 CFR Part 8), shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act.
- E. Executive Order 11063 on equal opportunity in housing and related facilities owned or operated by the Federal government or provided with Federal financial assistance.
- F. Executive Order 11246, as amended, requiring nondiscrimination and affirmative action to ensure nondiscrimination in employment by government and Providers and under federally assisted construction contracts.
- G. The National Affordable Housing Act of 1990 (P.L. 101-625) adds religion as a basis on which Providers may not discriminate in the programs and activities funded under the HUD Community Development Block Grant ("CDBG") program.
- H. U.S. Department of Housing and Urban Development Federal Labor Standards Provision, as set forth in HUD Form 4010, copy attached hereto.

ITEM VI - PERSONNEL ASSIGNED

Communication and details concerning this Agreement shall be directed to the following representatives:

Cuyahoga County

Angela Henderson

Development Specialist

Email: ahenderson1@cuyahogacounty.us

Reserve Square, 1st floor

1701 East 12th Street

Cleveland, Ohio 44114

Telephone: (216) 443-8162

Cuyahoga County Planning Commission

Name: RICHARD SICHA

Title: PRINCIPAL PLANNER

Email: RSICHA@CUYAHOGACOUNTY.US

Address: 2429 SUPERIOR AVENUE

CLEVELAND OH 44113

Cleveland, Ohio 44113

216-443-3723

ITEM VII - DISPUTE RESOLUTION

In the event of any dispute or disagreement between Provider and the County, either with respect to the interpretation of any provision of this Agreement or with respect to the performance by Provider or the County hereunder, which cannot be resolved in the normal course of business, then upon written notice of either Party, each Party will appoint a designated officer whose task it will be to meet for the purpose of endeavoring in good faith to resolve such dispute or to negotiate for an adjustment to such section or provision of this Agreement. During the course of such negotiation, all reasonable requests made by one Party to the other for information will be honored in order that each of the Parties may be fully advised in the negotiations. The specific format for such discussions will be left to the discretion of the designated officers but may include the preparation of agreed upon statements of fact or written statements of position furnished to the other Party. No formal proceedings for such dispute may be commenced until (i) resolution as contemplated in this clause has been unsuccessful and (ii) either of the Parties concludes in good faith that amicable resolution through continued negotiation of the matter in issue does not appear likely and so notifies the other Party.

The rights and obligations of the Parties under this provision shall not limit either party's right to terminate this Contract as may be otherwise permitted hereunder.

ITEM VIII - PUBLIC RECORDS

The Parties acknowledge and agree that, as political subdivisions, they are subject to the requirements of the Ohio Public Records Law. When Provider submits documents and/or information that properly and legally qualifies as a trade secret under Ohio law, Provider must segregate all protected information and/or documents submitted to County and conspicuously mark each page as "CONFIDENTIAL – TRADE SECRET. Provider may not take advantage of this process to mark information/documents that it wishes to keep confidential, but doesn't qualify legally as a trade secret under Ohio law. By taking advantage of this process, Provider certifies that it only marked information/documents that legally qualify as a trade secret under Ohio law as "CONFIDENTIAL – TRADE SECRET."

This Article shall survive the completion of the Project Activity hereunder and the termination of this Agreement.

ITEM IX - INSURANCE

The provider shall procure, maintain and pay premiums for the insurance coverage and limits of liability indicated below with respect to products, services, work and/or operations performed in connection with this Contract.

1. Mandatory Insurance Requirements

The following three items (Worker's Compensation Insurance, Commercial General Liability Insurance, and Business Automobile Liability Insurance) are all mandatory requirements unless

otherwise specified.

(a) **Worker's Compensation Insurance** as required by the State of Ohio. Such insurance requirement may be met by either purchasing coverage from the Ohio State Insurance Fund or by maintaining Qualified Self-Insurer status as granted by the Ohio Bureau of Workers Compensation (BWC).

Such insurance shall be written on the National Council on Compensation Insurance (NCCI) form or its equivalent.

(b) **Commercial General Liability Insurance** with limits of liability not less than: \$1,000,000 each occurrence bodily injury & property damage; \$1,000,000 personal & advertising injury;

\$2,000,000 general aggregate; \$2,000,000 products/completed operations aggregate. Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

(c) **Business Automobile Liability Insurance** covering all owned, non-owned, hired, and leased vehicles. Such insurance shall provide a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident;

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

2. **Insurance Coverage Terms and Conditions**

The insurance policies of the Political Subdivision required for this contract shall contain the following provisions:

- a. Thirty (30) days prior notice of cancellation or material change;
- b. A waiver of subrogation wherein the insurer(s) waives all rights of recovery against the County.

1. The insurance required for this contract shall be provided by insurance carrier(s) licensed to transact business and write insurance in the state(s) where operations are performed and shall carry a minimum A.M. Best's rating of A- VII or above.

2. These insurance provisions shall not affect or limit the liability of the Contractor stated elsewhere in this Contract or as provided by law.

3. The Provider shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverages and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Contract.

4. The County reserves the right to require insurance coverage in various amounts or to modify or waive insurance requirements on a case-by-case basis whenever it is determined to be in the best interest of the County.

5. The Provider shall furnish a Worker's Compensation Certificate and Certificate of Insurance evidencing the insurance coverages required herein is in full force and effect. Acceptance of a non-conforming certificate of insurance by the County shall not constitute a waiver of any rights of the parties under this Contract.

6. **Providers that are political subdivisions shall have the right to provide the insurance required hereunder by participating in a self-insurance program with sufficient limits. Confirmation of the entities' self-insured status is required.**

ITEM X – MISCELLANEOUS

A. Governing law and Jurisdiction. This Agreement shall be governed by and construed under the laws of the State of Ohio without regard to conflicts of law provisions. The parties agree that the state and federal courts sitting in Cuyahoga County, Ohio will have exclusive jurisdiction over any claim arising out of this Agreement, and each party consents to the exclusive jurisdiction of such courts. Provider hereby agrees not to challenge this Governing Law and Jurisdiction provision, and not to attempt to remove any legal action outside of County for any reason.

B. County Ordinances. All County contracts/agreements, including this Agreement, are subject to the Cuyahoga County Code and available on the County Council's web site at <http://council.cuyahogacounty.us/>.

C. Findings for Recovery. Provider represents and warrants that it is not subject to an "unresolved" finding for recovery under Ohio Revised Code Section 9.24. If this representation and warranty is deemed false, this Agreement is void ab initio, and Provider must immediately repay to County any funds paid under this Agreement and must make County whole for any damages sustained by County.

D. Agreement to Remain in Compliance with Certifications, Representations, and Warranties as Continuing Commitments/Verification. Provider shall ensure that all of its certifications, representations, and warranties under this Agreement shall remain true throughout the duration of the Agreement as if they are continuing commitments. At its sole discretion, the County has the unequivocal right to review and audit Provider's continuing certifications, representations, and warranties.

~~Provider warrants and represents that it has not employed or retained any company, firm or person, other than a bonafide employee working for the Provider, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company, firm or person, other than a bonafide employee working for Provider, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the County shall have the right to annul this Agreement without liability or in its discretion to deduct from the contract fee or consideration, or otherwise recover, the full amount of such fee, commission, gift, percentage, brokerage fee, or contingent fee.~~

E. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties, either express or implied, with respect to the subject matter hereof. No modification of this Agreement shall be binding upon the parties unless set forth in writing and signed by both parties, or their respective successors or assigns.

F. **No Apparent Authority.** Provider recognizes and agrees that no public official or employee of the County be deemed to have apparent authority to bind the County to any contractual obligations not properly authorized pursuant to the County's Contracting and Purchasing Procedures.

G. **Parties Bound and Benefitted.** This Agreement shall bind and benefit the parties hereto and, as applicable, their respective owners, members, directors, officers, representatives, successors and assigns.

H. **Non-waiver.** Either party's failure to require performance of any Item of this Agreement or if it requires performance and does not follow through, shall not affect the non-defaulting party's right to require performance at any time thereafter. Additionally, either party's waiver of any breach or default of this Agreement shall not constitute a waiver of any subsequent breach or default or a waiver of the provision itself or any other provision.

I. **Contract Interpretation and Construction.** In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as though drafted by both parties, and no presumption or burden of proof shall arise favoring or disfavoring one party by virtue of the authorship of any of the items of this Agreement.

J. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement (and each amendment, modification and waiver in respect of it) by facsimile or other electronic transmission, including email, shall be as effective as delivery of a manually executed original counterpart of each such instrument.

K. **Severability.** If any Item of this Agreement is invalid or unenforceable for any reason, this Agreement shall be divisible as to such item and the remainder of this Agreement shall be and remain valid and binding as though such item was not included herein.


L. **Authority.** ~~This Agreement has been properly authorized pursuant to the required provisions of any and all charter provisions, ordinances, resolutions and regulations of the County and Provider. The individuals signing on behalf of the parties to this Agreement are authorized to execute this Agreement on behalf of the County and the Provider.~~

ITEM XI - ELECTRONIC SIGNATURE POLICY

BY ENTERING INTO THIS CONTRACT I AGREE ON BEHALF OF THE CONTRACTING ENTITY, ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, SUB-GRANTEE, AGENTS OR ASSIGNS, TO CONDUCT THIS TRANSACTION BY ELECTRONIC MEANS BY AGREEING THAT ALL DOCUMENTS REQUIRING THE COUNTY SIGNATURES MAY BE EXECUTED BY ELECTRONIC MEANS, AND THAT THE ELECTRONIC SIGNATURES AFFIXED BY THE COUNTY TO SAID DOCUMENTS SHALL HAVE THE SAME LEGAL EFFECTS AS IF THAT SIGNATURE WAS MANUALLY AFFIXED TO A PAPER VERSION OF THE DOCUMENT. I ALSO AGREE ON BEHALF OF THE AFOREMENTIONED ENTITIES AND PERSONS, TO BE BOUND BY THE PROVISIONS OF CHAPTER 304 AND 1306 OF THE OHIO REVISED CODE AS THEY PERTAIN TO ELECTRONIC TRANSACTIONS, AND TO COMPLY WITH THE ELECTRONIC SIGNATURE POLICY OF CUYAHOGA COUNTY.

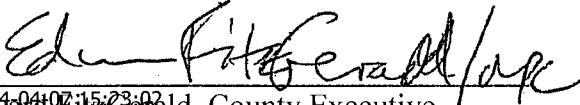
IN WITNESS WHEREOF, the parties hereto have affixed their signatures on the day and date first above written.

CUYAHOGA COUNTY PLANNING COMMISSION

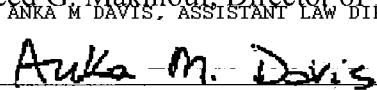
By: 

CUYAHOGA COUNTY, OHIO

Edward FitzGerald, County Executive

By: 
Edward FitzGerald, County Executive

The legal form and correctness
of this Contract is hereby approved:
Law Department, County of Cuyahoga, Ohio
Majeed G. Makhoul, Director of Law

By: 
Assistant Director of Law

Date: _____

Exhibit A

Scope of Services

Provider Name: Cuyahoga County Planning Commission

Program Funding: HOME Administration \$81,000

Year Award: FY2013

Areas Served: Cleveland Heights, Euclid, Lakewood, Parma, and Cuyahoga Urban County

Eligible Activity: **HOME Program Administration**

Project Description: Assist the Cuyahoga County, on behalf of the Cuyahoga County Housing Consortium, with preparation and submission of its 5-year HUD Consolidated Plan covering the years 2015-2019, including information required by HUD for the cities of Cleveland Heights, Euclid, Lakewood, Parma, and the Cuyahoga Urban County.

Location of the Project: Cleveland Heights, Euclid, Lakewood, Parma, and the Cuyahoga Urban County.

Program Income: No Program Income will be received by the Provider

Licensing Requirements: The Provider has and will maintain all documents required for operation of this program per Local, State and Federal regulations.

Reporting Requirements:

1. The Provider will invoice to the Lead Entity monthly based on staff time worked at hourly rates from \$30 - \$100 depending on the specific staff person providing services.
 2. A narrative report or letter to the Lead Entity should be submitted if the Provider encounters any difficulty in meeting the contract requirements of the contract. The report should describe any special servicing problems that may modify the pattern of service delivery, including changes in staffing, funding or use of facilities.
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3. Should the Provider fail to meet these reporting requirements on an adequate and timely basis, the Lead Entity will withhold payments until the necessary information is made available. Continued failure to submit adequate and timely reports will result in the termination of this Agreement.

EXHIBIT B

BUDGETARY DETAILS

Matching Requirements -- none for Administration

PROVIDERR: Cuyahoga County Planning Commission

PROGRAM: Assistance with the Consolidated Plan - Administration

COST CATEGORIES	BUDGETED AMOUNT
Other	\$81,000.00
Total	\$81,000.00

Angela Henderson

Prepared By



Cuyahoga County Planning Commission

Date

2/13/14

Date

PROJECT EXPENDITURES BUDGETARY DETAILS

Provider: Cuyahoga County Planning Commission:

(1) **PERSONNEL (a)**

Title	Salary	Hours Worked Per Week	% Charged to	Budgeted Amount

TOTAL PERSONNEL \$0

- (a) Monthly reports are to include: hourly rates, actual hours worked percentage of hours actually charged to HOME and dollar amounts charged to HOME. All personnel are required to maintain time sheets which are to be approved by an appropriate supervisor.

(2) **FRINGE BENEFITS**

The following guidelines apply to charging "Fringe Benefits" to HOME

1. FICA may only be applied to the extent that the total salary does not exceed the pro-rated FICA limit.
2. Workers' Compensation may be charged monthly, provided that there is a periodic adjustment (every 6 months) to reflect the actual billing.
3. Unemployment Tax may be charged monthly, provided that there is a periodic adjustment (every 3 months) to reflect the actual billing. The actual amount charged will be the Unemployment Tax rate x the actual HOME charged salaries for the related period.

Type of Benefit	Rate or Dollar Amount	Budgeted Amount
TOTAL FRINGE BENEFITS		

(3) **TRAVEL (b)**

Description	Budgeted Amount
	0

- (b) Mileage logs are to be maintained and should include: Name, date, destination of trip, actual odometer readings and a supervisor's approval.

(4) **EQUIPMENT (c)**

Type of Equipment	Budgeted Amount
	0

- (c) Federal grant guidelines state that all non-expendable property acquired with HOME funds shall revert to the Department of Development upon termination of the funded program. Invoice should be submitted to the Department of Development when equipment is purchased.

(5) **GENERAL OVERHEAD (d)**

Type of General Overhead	Budgeted Amount
	\$0.00

- (d) Any costs which may be classified as indirect (i.e., costs which benefit more than one program cost objective) must be reported in total, using an approved cost allocation method. The cost allocation plan must be approved by the County prior to any reimbursement being made under the plan.

If any of the above costs require an agreement, monthly receipts are required, and a copy of the agreement must be on file in our office.

(6) **CONTRACTUAL (e)**

Description	Budgeted Amount
	0

- (e) Persons listed under Contractual are responsible for their own tax liabilities.

A copy of all Contractual agreements is to be submitted to the County for approval prior to any Contractual work.

(7) **OTHER**

Category	Budgeted Amount
County Planning Commission staff time at \$30 to \$100 per hour	\$81,000.00

TOTAL PROGRAM BUDGET

\$ 81,000.00

EXHIBIT C

STANDARD TERMS AND CONDITIONS

HOME INVESTMENT PARTNERSHIP PROGRAM

SECTION 1 - HOME PROGRAM RULES AND REGULATIONS; UNIFORM ADMINISTRATIVE REQUIREMENTS;

Where applicable, during the performance of this Agreement, the Provider agrees to comply with:

(I) The federal rules and regulations, as amended from time to time, governing the Home Investment Partnerships Program ("HOME Program") issued by the U.S. Department of Housing and Urban Development ("HUD") and set forth at 24 CFR Parts 91 and 92, including, but not limited to, Subpart H - "Other Federal Requirements" ("HOME Program Rules and Regulations").

(II) The requirements and standards of OMB Circular No. A-87, "Cost Principles for State, Local, and Indian Tribe Government" and OMB Circular No. A-122 "Cost Principles for Nonprofit Organizations"; and with the following sections of 24 CFR Part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments", and 24 CFR Part 84 "Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations" as specified below (collectively, the "UAR"). A copy of OMB Circular Nos. A-87 and A-122 shall be available upon request by the Provider.

OMB Circular No. A-87 and the following provisions of 24 CFR Part 85 shall apply to governmental Providers:

- a. Section 85.6, Exceptions.
- b. Section 85.12, Special grant or sub-grant conditions for "high-risk" grantees.
- c. Section 85.20, Standards for financial management systems.
- d. Section 85.22, Allowable costs.
- e. Section 85.26, Non-Federal audits.
- f. Section 85.32, Equipment.
- g. Section 85.33, Supplies.
- h. Section 85.34, Copyrights.
- i. Section 85.35, "Sub-awards to debarred and suspended parties."
- j. Section 85.36, Procurement.
- k. Section 85.44, Termination for convenience.
- l. Section 85.51, Later disallowances and adjustments.
- m. Section 85.52, Collection of amounts due.

OMB Circular No. A-122 and the following provisions of 24 Part 84 shall apply to Providers that are non-governmental non-profit organizations:

- a. Section 84.2, Definitions.
- b. Section 84.5, Subawards.
- c. Section 84.13, Debarment and suspension; Drug-Free Workplace.
- d. Section 84.16, Resource Conservation and Recovery Act.
- e. Section 84.21, Standards for financial management systems.
- f. Section 84.22, Payment.
- g. Section 84.26, Non-Federal audits.
- h. Section 84.27, Allowable costs.
- i. Section 84.28, Period of availability of funds.
- j. Section 84.30, Purpose of property standards.
- k. Section 84.31, Insurance coverage.
- l. Section 84.34, Equipment.
- m. Section 84.35, Supplies and other expendable property.
- n. Section 84.36, Intangible property.
- o. Section 84.37, Property trust relationship.
- p. Section 84.40, Purpose of procurement standards.
- q. Section 84.41, Recipient responsibilities.
- r. Section 84.42, Codes of conduct.
- s. Section 84.43, Competition.
- t. Section 84.44, Procurement procedures.
- u. Section 84.45, Cost and price analysis.
- v. Section 84.46, Procurement records.
- w. Section 84.47, Contract administration.
- x. Section 84.48, Contract provisions.
- y. Section 84.51, Monitoring and reporting program performance.
- z. Section 84.60, Purpose of termination and enforcement.
- aa. Section 84.61, Termination.
- bb. Section 84.62, Enforcement.
- cc. Section 84.72, Subsequent adjustments and continuing responsibilities.
- dd. Section 84.73, Collection of amounts due.

All capitalized terms used but not otherwise defined herein shall have the meaning given to them in Part I of this Agreement, in the HOME Program Rules and Regulations or the UAR.

SECTION 2 - RECORDS; RECORDKEEPING

Establishment and Maintenance of Records - Records shall be maintained under this Agreement in compliance with §92.508 of the HOME Program Rules and Regulations. Except as otherwise specifically provided therein, records shall be maintained for a period of five (5) years after the Project Completion Date or during the Affordability term and for a period of 3 years thereafter.

Documentation of Eligible Project Costs - All costs of the Project shall be supported by properly executed payrolls, time records, invoices, agreements, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, agreements, voucher orders, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. The Provider shall submit copies of all independent audits performed on the Provider during the term of this Agreement to the Lead Entity. All records must be kept according to standard accounting practices.

Employment and Tax Matters - The Provider assumes all responsibility for any and all workers' compensation premiums, unemployment compensation premiums, and federal, state and local taxes due on the compensation paid to all its employees. The Provider agrees to follow all federal, state and local laws and regulations pertaining to any employees the Provider may use to provide services under this Agreement.

Marketing - The Provider shall document the Provider's marketing of the Project to the provider. Newspaper stories, posters, mailings, speaking engagements or other techniques employed shall be recorded by the Provider. Specifically, the Provider shall document its Affirmative Marketing Activities subject to and in accordance with 24 CFR §92.351.

Project Data - The Provider shall maintain records for each family assisted including annual rental records, if applicable, and data on the Project demonstrating, among other things, participant eligibility for the Project as provided under this Agreement in compliance with 24 CFR §92.508(a) and 24 CFR §92.253.

SECTION 3 - REPORTS

At such times and in such forms as the HUD or the Lead Entity may require under the HOME Program Rules and Regulations and the UAR, there shall be furnished to HUD or to the Lead Entity statements, records, data and information, as HUD or the Lead Entity may request pertaining to matters covered by this Agreement.

SECTION 4 - AUDITS AND INSPECTIONS

Subject to and in accordance with 24 CFR Parts 44 and 45, during normal business hours and as often as the Lead Entity, HUD and/or the Comptroller General of the United States ("Comptroller General") may deem necessary, there shall be made available to the Lead Entity, HUD and/or representatives of the Comptroller General for examination all records of the Provider with respect to all matters relating to the Project, and the Provider shall permit the Lead Entity, HUD and/or representatives of the Comptroller General to audit, examine and make excerpts or transcripts from such records, and to make audits of all agreements, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to the Project.

In addition to the above-described inspections, the Lead Entity or Member Jurisdiction may perform on-site inspections of the Project and/or records at any time it deems desirable in

accordance with the HOME Program Rules and Regulations and the UAR; provided, however, that the Member Jurisdiction shall conduct an on-site inspection of the Project at least annually.

SECTION 5 - CONFLICT OF INTEREST

No employee, agent, consultant, officer or elected or appointed official of the Member Jurisdiction who exercises or has exercised any functions or responsibilities with respect to the Scope of Services or any of the activities that are in any way connected with this Agreement or who is in a position to participate in a decision-making process or gain inside information with regard to such activities or Scope of Services, may obtain a personal or financial interest or benefit from any such activity or Scope of Services, or have a financial interest with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter, and the Provider shall take appropriate steps to assure compliance.

SECTION 6 - PROCUREMENT STANDARDS AND METHODS – Intentionally deleted.

SECTION 7 - EMPLOYMENT DISCRIMINATION PROHIBITED

Subject to and in accordance with 24 CFR Part 5, during the performance of this Agreement, the Provider agrees as follows:

The Provider shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, familial status, and handicap. The Provider shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to race, religion, color, sex, national origin, familial status, and handicap. As used herein, "treated" means and includes without limitation the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship, promoted, upgraded, demoted, downgraded, transferred, laid off and terminated. The Provider agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the hiring representatives of the Provider setting forth the provisions of this nondiscrimination clause.

The Provider will, in all solicitations or advertisements for employees placed by or on behalf of the Provider, state that the Provider is an Equal Opportunity Employer.

SECTION 8 - ENVIRONMENTAL REVIEW

The Provider does not assume the Member Jurisdiction's environmental responsibilities described in 24 CFR §92.352; and the Provider does not assume the Member Jurisdiction's responsibility to initiate the review process thereunder.

SECTION 9 - LEAD REMEDIATION – Intentionally deleted.

SECTION 10 - COPYRIGHTS

If this Agreement results in a book or other copyrighted material, the author is free to copyright the work, but HUD reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use all material which can be copyrighted therefrom.

SECTION 11 - PATENTS

Any discovery or invention arising out of or developed in the course of work aided by this Agreement shall be promptly and fully reported to HUD for determination by HUD as to whether patent protection for such invention or discovery shall be sought and how the rights under any patent issued thereon, shall be disposed of and administered, in order to protect the public interest.

SECTION 12 - POLITICAL ACTIVITY PROHIBITED

None of the HOME Program funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

SECTION 13 - LOBBYING PROHIBITED

None of the HOME Program funds provided under this Agreement shall be used for publicity or propaganda purposes designated to support or defeat legislation pending before the U.S. Congress.

SECTION 14 - CHANGES; AMENDMENTS

- A. The Consortium may, from time to time, permit changes in the Scope of Services of the Agreement to be performed hereunder provided such changes are authorized by resolution of the Cuyahoga County of Cuyahoga County ("the County") and are otherwise in compliance with the HOME Program Rules and Regulations.. Any such changes shall be incorporated in written amendments to this Agreement signed by the parties.
- B. The Consortium may change the amount of the HOME Program funds allocated to the Program under this Agreement provided such changes in compensation are authorized by resolution of the County and are otherwise in compliance with the HOME Program

Rules and Regulations. Any such changes shall be incorporated in written amendments to this Agreement signed by the parties.

- C. The Consortium may upon its own initiative or upon that of the Provider, authorize changes in the time of performance as established in Part I of this Agreement subject to the time of performance requirements under the HOME Program Rules and Regulations and provided such changes in compensation are authorized by resolution of the County. As a condition precedent to the authorization of such change, the Consortium shall have determined that the Provider has exhibited the utmost in good faith in the performance of the Agreement and that there is just cause based upon the intervention of a circumstance unforeseeable at the execution of this Agreement. Any change in the time of performance shall be agreed to by the Provider and the Consortium in writing, and said writing shall be incorporated in written amendments to this Agreement signed by the parties.

SECTION 15 - PERSONNEL

- A. The Provider represents that it has or will secure at its own expense, all personnel required to perform under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the Consortium, the Lead Entity or the Member Jurisdiction.
- B. All of the services required hereunder will be performed by the Provider or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under applicable federal, state and local law to perform such services.

SECTION 16 - ASSIGNABILITY

The Provider shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or notation).

SECTION 17 - TERMINATION OF AGREEMENT

If the Provider fails to fulfill in a timely and proper manner any term or condition contained in this Agreement, or if the Provider shall violate any of the covenants, agreements, or stipulations in this Agreement, the Lead Entity shall have the right to exercise concurrently or successively any one or more of the following rights or remedies:

- A. Terminate this Agreement and the rights of the Provider hereunder;
- B. Withhold or reduce funds not yet paid to the Provider;

C. Recover funds previously paid to the Provider;

D. Exercise any and all additional rights the County may have at law or in equity.

Termination pursuant to clause (A) above shall be effective five (5) days after the date the Lead Entity has given written notice to the Provider of such termination. No action or inaction by the Consortium, the Lead Entity or the Member Jurisdiction at any time with respect to any of the terms or conditions of this Agreement shall be deemed or construed as a waiver of the same or other term or condition herein or of the timely and proper performance thereof. No waiver shall be valid against the Consortium or Member Jurisdiction, as the case may be, unless reduced to writing and signed by the County.

SECTION 18 - TERMINATION FOR NECESSITY

The Lead Entity may terminate this Agreement for necessity by giving at least thirty (30) days notice in writing to the Provider. If the Agreement is terminated by the Lead Entity as provided herein, the Provider will be paid an amount which shall be fair and reasonable compensation for the actual costs incurred in connection with the work performed on the Project under this Agreement until the date of termination hereof, such amount to be determined in the Lead Entity's discretion, subject to applicable federal regulations. If the Agreement is terminated due to the fault of the Provider, this section, relative to termination for necessity shall also apply.

SECTION 19 - HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1968 - SECTION 3. – Intentionally deleted.

SECTION 20 – INDEMNIFICATION – Intentionally deleted.

SECTION 21 – TAXES – Intentionally deleted.

SECTION 22 - INDEPENDENT RELATIONSHIP

The Provider is not to be considered an agent or employee of the Consortium, the Lead Entity or the Member Jurisdiction for any purpose and any agency, fiduciary relationship, or trust or other relationship whatsoever is created by this Agreement.

SECTION 23 - DISCRIMINATION IN PROGRAM APPLICATION PROCESS PROHIBITED– Intentionally deleted.

SECTION 24 - SECTARIAN/RELIGIOUS ACTIVITY PROHIBITED – Intentionally deleted.

SECTION 25 - LABOR STANDARDS FOR CONSTRUCTION ACTIVITIES – Intentionally deleted.

SECTION 26 - PUBLIC ACCESS TO PROGRAM RECORDS

The Provider shall provide the general public with reasonable access to records regarding the past use of HOME Program funds, consistent with applicable state and local laws regarding privacy and obligations of confidentiality.

SECTION 27 – REVERSION OF ASSETS – Intentionally deleted.

EXHIBIT D

STANDARD ACCOUNTING AND FISCAL MANAGEMENT PROCEDURES

HOME INVESTMENT PARTNERSHIPS PROGRAM

SECTION 1 - GENERAL

The Provider will be required to establish and maintain a standard accounting system which will provide effective financial controls and meet the requirements of the HOME Program Rules and Regulations as applied to the Program.

When audits are performed in accordance with the provisions of Part II, Section 4 hereof, discovery of the failure of the Provider to use generally accepted accounting procedures may result in the disallowance of expenditures for which the Provider will be liable and for the assessment of sanctions pursuant to Part II, Section 16 hereof.

The Lead Entity reserves the right to review all financial records in order to assess the financial condition of the Project. If the Lead Entity determines that the Provider's financial condition or the methods and practices it uses to manage its financial systems may jeopardize HOME Program funds under this Agreement, it may take all necessary actions to insure that those funds are not put at risk. This includes, but is not limited to, postponing or canceling all reimbursements, putting the Project under specific financial requirements until the problems have been corrected to the satisfaction of the Lead Entity, or exercise its authority to terminate the Agreement as a result of such conditions.

The Provider is fully responsible for the management and control of its financial system. Any loss of HOME Program funds as a result of the misfeasance, nonfeasance, or malfeasance of the Provider is the responsibility solely of the Provider and its officers. To insure accountability, the Lead Entity reserves the right to withhold payments, put the Provider under specific financial requirements, or terminate this Agreement.

SECTION 2 - ACCOUNTING SYSTEM STANDARDS

The Provider's financial management systems shall provide:

- A. Accurate, current and complete disclosure of the financial results of the Program including at least a monthly reconciliation of the cash balance of the Program.
- B. Records which adequately identify the source and application of funds for the Project. These records shall refer to subsidiary records and/or documentation which support the entry and which are readily accountable. These records shall contain information pertaining to this Agreement, awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income of the Program.

- C. Effective control over and accountability for all funds, property and other assets. The Provider shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.
- D. Comparison of actual amounts with budgeted amounts for each unit of the Project. Also, the relation of financial information with performance or productivity data, including the production of unit cost information whenever appropriate and required by the Lead Entity.
- E. Procedures for determining the allowability and allocability of costs in accordance with this Agreement.
- F. Accounting records which are supported by source documentation.
- G. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

SECTION 3 - GRANT PAYMENTS – Intentionally deleted.

SECTION 4 - AUDIT REQUIREMENTS – Intentionally deleted.

SECTION 5 - PROGRAM INCOME – Intentionally deleted.