



GENERAL AGREEMENT
COMPETITIVE MUNICIPAL GRANT PROGRAM

PART I

THIS AGREEMENT entered into this 1st day of September, 2012, by and between County of Cuyahoga, Ohio (hereinafter referred to as the "County") and the **City of Berea**, a political subdivision with principal offices located at 11 Berea Commons, Berea, Ohio 44017 (the "Sub-grantee").

WITNESSETH:

WHEREAS, the County of Cuyahoga, Ohio has entered into various Agreements with the United States of America providing for financial assistance to said County under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, pursuant to such Agreements, said County is undertaking by and through its Department of Development certain activities; and

WHEREAS, such activities to be performed include **CDBG-R Supplemental Funding Augmenting the Polish Village Neighborhood Improvement Project II**.

WHEREAS, the County desires to engage the Sub-grantee to render certain services and assistance in connection with said services;

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

ITEM I - SCOPE OF SERVICES:

For detailed description of Scope of Services refer to Schedule A attached. Amendment to the Scope of Services shall be subject to the provisions of Part II, Section 14, Paragraph A, hereof.

ITEM II - TIME OF PERFORMANCE:

- A. The services of the Sub-grantee are to commence **September 1, 2012** and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Agreement, but in any event, all of the services required herein shall be completed by **September 30, 2012 with project close out to be completed within 90 days**.
- B. Amendment to the time of performance shall be subject to the provisions of Part II, Section 14, Paragraph C, hereof.

- C. If the activities covered in the Agreement are not competitively bid by N / A the County reserves the right to terminate this Agreement.
- D. If this Agreement is not executed by the Sub-grantee by N / A, the County may withdraw this grant award and de-obligate the funds for this project.

ITEM III - COMPENSATION AND METHOD OF PAYMENT:

- A. It is expressly understood and agreed that in no event will the total compensation and reimbursement to be paid hereunder exceed the maximum sum of **\$42,641.88** for all of the services required. It is further expressly understood and agreed that in no event will the Agreement exceed any budget line item of the latest approved budget by greater than ten percent (10%) prior to receiving, in writing, a budget revision from the County authorizing the excess. In no case shall any approved budget line item excess cause the total agreed compensation and reimbursement to be exceeded.
- B. The total compensation referred to in paragraph (A) above shall be paid on a month-to-month basis reimbursing the Sub-grantee for actual expenditures involved in performing the necessary work as set forth in the Scope of Services and Budget.

ITEM IV – REPORTING:

The Sub-grantee shall submit to the County on a semi-annual basis a progress report. The report must include the current status of the project and milestones articulated in your schedule.

ITEM V - EQUAL EMPLOYMENT OPPORTUNITY:

The Sub-grantee agrees to comply with:

- A. Title VI of the Civil Rights Act of 1964, (P.L. 88-352) and the 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 Sub-grantee, this assurance shall obligate the Sub-grantee, 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 Sub-grantees and under Federally assisted construction contracts.
- G. County of Cuyahoga, Ohio's Resolution Number 1895 dated July 4, 1975 et seq. adopting an expanded program for Equal Opportunity in all activities funded by or through the County of Cuyahoga, Ohio.
- H. The National Affordable Housing Act of 1990 (P.L. 101-625) adds religion as a basis on which Sub-grantees may not discriminate in the programs and activities funded under CDBG.
- I. U.S. Department of Housing and Urban Development Federal Labor Standards Provision, as set forth in HUD Form 4010, copy attached here.

ITEM VI - PERSONNEL ASSIGNED

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

Cuyahoga County	City of Berea
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<u>Harry Conard, Jr.</u>	<u>Cyril Kleem</u>
Name	Name

Development Administrator, Regulatory	Mayor
Title	Title

Department of Development	City of Berea
Reserve Square, 1 st floor	11 Berea Commons
1701 East 12th Street	
Cleveland, Ohio 44114	Berea, Ohio 44017

<u>(216) 443-7260</u>	<u>(440) 826-5800</u>
Telephone	Telephone

<u>(216) 443-7528</u>	<u>(440) 826-4800</u>
Fax	Fax

ITEM VII - DISPUTE RESOLUTION

The parties agree to utilize good-faith efforts to amicably resolve any dispute, controversy, claim, or breach, arising out of or relating to this Agreement. In the event that an amicable resolution is not reached, the parties shall initiate a resolution of the dispute by binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered may be entered in any court having jurisdiction thereof.

ITEM VIII - PUBLIC RECORDS

Sub-grantee acknowledges and agrees that as a political subdivision, County is subject to the requirements of the Ohio Public Records Law. When Sub-grantee submits documents and/or information that properly and legally qualifies as a trade secret under Ohio law, Sub-grantee must segregate all protected information and/or documents submitted to County and conspicuously mark each page as "CONFIDENTIAL – TRADE SECRET."

This Item shall survive the completion of the performance of the work hereunder and the termination of this Agreement.

ITEM IX- TRADE SECRETS;CONFIDENTIALITY

Sub-grantee shall take all steps necessary to protect County's trade secrets.

Sub-grantee shall also treat as proprietary and confidential any and all information belonging to County which is disclosed to Sub-grantee in the course of performance of services under this Agreement (the "Confidential Information"). Sub-grantee shall only use Confidential Information for the purposes of this Agreement. Sub-grantee agrees not to disclose or reveal to any outside party or use for its own benefit, either directly or indirectly, any information which it may acquire or develop or, has acquired or developed concerning the technical or business affairs or other private or confidential matters, information, or data of County without prior written permission of County. County will abide by law in granting or denying any permission for disclosure.

If Sub-grantee fails to meet its obligations to protect the Confidential Information, County may seek equitable relief.

Confidential Information shall not include information that is in the public domain.

This entire Item shall survive the completion of the performance of the work hereunder and the termination of this Agreement unless County releases Sub-Grantee of its obligations through a written signed communication from County's Director of Law at an earlier date.

ITEM X - LIABILITY AND INSURANCE

Sub-grantee hereby agrees to save harmless and indemnify County, and its officers, employees, agents, representatives, departments, agencies, boards, commissions, and other authorities from any and all claims and liability, caused by the negligence, errors or omissions due to the activities of Sub-Grantee, their agents and/or employees and subcontractors in the performance of the services under this Agreement.

ITEM XI – 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 Ohio will have exclusive jurisdiction over any claim arising out of this Agreement, and each party consents to the exclusive jurisdiction of such courts. Sub-Grantee 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. **No Indemnity.** PROVIDER acknowledges that as an Ohio political subdivision, County is prohibited by law from agreeing to indemnify any person or entity, and agrees that no Item of this Agreement or any other contract or agreement between Sub-Grantee and County may be interpreted to obligate County to indemnify or defend Sub-Grantee or any other party.

- c. **Findings for Recovery.** Sub-Grantee 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 to be false, this Agreement is void ab initio, and Sub-grantee must immediately repay to County any funds paid under this Agreement and must make County whole for any damages sustained by County.
- d. **Declaration of Material Assistance.** Sub-Grantee represents and warrants that it has not provided any material assistance as that term is defined in Ohio Revised Code Section 2909.33(c), to any organization identified by and included on the United States Department of State Terrorist Exclusion list. Sub-Grantee further represents and warrants that either (1) it does not meet the monetary threshold under Ohio law to be required to complete and submit a Declaration of Material Assistance ("DMA") form in connection with this transaction; (2) it is not required to submit a DMA form under Ohio law because it is certified with the State of Ohio's Office of Budget and Management and its certification is current and up-to-date; or (3) it has completed a current DMA form with an answer of "no" to all questions and submitted it to County in connection with this Agreement. If any of these representations and warranties is found to be false, this Agreement is void ab initio, and Sub-Grantee shall immediately repay to County any funds paid under this Agreement.

It is Sub-Grantee's responsibility to ensure compliance with the DMA requirements, including monitoring the threshold of its business with County and filing all required forms with County as required by law. Information regarding these forms and requirements may be found on the Ohio Homeland Security website at: http://homelandsecurity.ohio.gov/dma/dma_forms.asp.

- e. **Agreement to Remain in Compliance with Certifications, Representations, and Warranties as Continuing Commitments/Verification.** Sub-grantee 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, County has the unequivocal right to review and audit Sub-grantee's continuing certifications, representations, and warranties.

Sub-grantee warrants and represents that it has not employed or retained any company, firm or person, other than a bona fide employee working for the Sub-grantee, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company, firm or person, other than a bona fide employee working for Sub-grantee, 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, 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.

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

- H. **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.
- I. **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.
- J. **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.
- K. **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.
- L. **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.
- M. **Authority.** This Agreement has been properly authorized pursuant to the required provisions of any and all charter provisions, ordinances, resolutions and regulations of County and Sub-grantee. The individuals signing on behalf of the parties to this Agreement are authorized to execute this Agreement on behalf of the County and the Sub-grantee.

ITEM XII - CONDITIONS & ATTACHMENTS

It is expressly understood and agreed that Attachment I-Budget Details and Schedule "A" Scope of Services, Part II, "Terms and Conditions", and Part III, "Accounting and Financial Management" attached hereto are made a part hereof as if fully rewritten herein.

All County Contracts/Agreements and amendments are subject to all applicable County ordinances, including, but not limited to, the Cuyahoga County Ethics Ordinance, Cuyahoga County Inspector General Ordinance, and Cuyahoga County Board of Control, Contracting and Purchasing Ordinance, and the successful bidder shall comply with all such ordinances as an integral part of all County contracts.

By entering into this contract I agree on behalf of the contracting entity, its officers, employees, subcontractors, sub grantees, 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.

By: Gill Deem
Mayor

COUNTY OF CUYAHOGA, OHIO
Edward Fitzgerald, County Executive
By: Edward Fitzgerald, Mayor
Edward Fitzgerald, County Executive
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