

WV DEPARTMENT OF ECONOMIC DEVELOPMENT
CDBG-MITIGATION
TERMS AND CONDITIONS
CONTRACTS FOR ALL PROFESSIONAL SERVICES

**CONTRACT FOR PROFESSIONAL SERVICES
PART I – TERMS AND CONDITIONS**

1. Termination of Contract for Cause

If through any cause the Consultant shall fail to fulfill in a timely and proper manner his/her obligations under this Contract, or if the Consultant shall violate any of the covenants, agreements, or stipulations of this Contract, the Subrecipient shall thereupon have the right to terminate this Contract by giving written notice to the Consultant 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 Consultant under this Contract shall, at the option of the Subrecipient, become its property and the Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Consultant shall not be relieved of liability to the Subrecipient for damages sustained by the Subrecipient by virtue of any breach of the Contract by the Consultant and the Subrecipient may withhold any payments to the Consultant for the purpose of set-off until such time as the exact amount of damages due the Subrecipient from the Consultant is determined.

2. Termination for Cause and Convenience of the Subrecipient

The Subrecipient may terminate this Contract at any time by giving at least thirty (30) day's notice in writing to the Consultant. If the Contract is terminated by the Subrecipient as provided herein, the Consultant will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Consultant.

3. Reports and Information

The Consultant, at such times and in such forms as the Subrecipient may require, shall furnish the Subrecipient 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 in connection therewith and any other matters covered by this Contract.

4. Copyrights and Inventions

No report, 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 Consultant.

5. Records and Audits

The Consultant shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the Subrecipient to assure proper accountability for all project funds, both federal and non-federal shares. These records will be made available for audit purposes to the Subrecipient, HUD, the Comptroller General of the United States, the State of West Virginia, or any authorized representative, and will be retained for three years after the expiration of this Contract unless permission to destroy them is granted to the Subrecipient.

6. Changes

The Subrecipient may, from time to time, request changes in the scope of services of the

Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, which are mutually agreed upon by and between the Subrecipient, Consultant, and the State of West Virginia shall be incorporated in written amendments to this Contract.

7. Compliance with Local Laws

The Consultant shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Consultant shall save the Subrecipient harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Contract.

8. Nondiscrimination

P.L. 88-352: Refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.) 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 subjected to discrimination under any program or activity receiving Federal financial assistance. Implementing regulations are found in 24 CFR Part I. P.L. 90-284: Refers to Title VII of the Civil Rights Act of 1968 (42 U.S.C. 3601-20 et. seq.) popularly known as the Fair Housing Act which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including otherwise making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, handicap, or familial status. The Subrecipient further certifies that it will take actions necessary to affirmatively further fair housing. Executive Order 11063, as amended by Executive Order 12259, requires that taking of all actions necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use of occupancy thereof. Implementing regulations are contained in 24 CFR 107.

Section 109 of P.L. 93-383 requires 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 with community development funds.

Section 109 of the Act further provides any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et. seq.) or with respect to an otherwise qualified person as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply.

The Subrecipient shall ensure that its activities are consistent with requirements of both § 5-11A which discusses the additional protected classes under the West Virginia State Fair Housing Act and § 5-11 which discusses the additional protected classes under the West Virginia State Human Rights Act.

9. Section 109 of the Housing and Community Development Act of 1974

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 with funds made available under this title.

10. Architectural Barriers Act of 1968 (24 CFR 570.606)

Every building or facility (other than a privately owned residential structure) designed, constructed or altered with funds made available under this part, shall comply with the requirements of the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117, 1-R 19 subject to the exceptions contained in 41 CFR Subpart 101-19.604, issued pursuant to the Architectural Barriers Act of 1968, 42 USC-4151. Procurement procedures and Contracts for the design, construction alteration (including rehabilitation) of public or private structures subject to this requirement should include provisions obligating the Contractor to comply with the Specifications.

11. Interest of Member of a Subrecipient

No member of the governing body of the Subrecipient and other officers, employees or agents of the Subrecipient and the Regional Planning and Development Council who exercises any functions or responsibilities in connection with the planning and carrying out of the program shall have any personal financial interest, direct or indirect, in the Contract and the Consultant shall take appropriate steps to assure compliance.

12. Interest of Other Local Public Officials

No member of the governing body of the locality and no other public official of such locality who exercises any functions or responsibilities in connection with the planning and carrying out of the program shall have any personal financial interest, direct or indirect, in the Contract, and the Consultant shall take appropriate steps to assure compliance.

13.

Interest of Consultant and Employees

The Consultant covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.

14. Rights to Inventions and Materials





Contracts or agreements, the principal purpose of which is to create, develop or improve products, processes or methods; or for exploration into fields which directly concern public health, safety or welfare; or experience outside of work funded by federal assistance, shall contain a notice to the effect that matters regarding rights to inventions and materials generated under the contract or agreement are subject to the regulations issued by the federal grantor agency. Although HUD presently has no regulations governing these matters, use of the following contract provisions reflects current Department policy:

- a. If the Contractor or an employee of the contractor produces patentable items, patent rights, process or inventions as a result of this agreement, the Contractor shall promptly and fully report such production to the Regional Planning and Development Council which shall in turn report it to HUD. HUD shall determine whether protection on such invention or discovery shall be sought in the name of the United States Government and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administered in order to protect the public interest consistent with "Government Patent Policy."

b. If the Contractor or an employee of the Contractor produces a book or other copyrightable material as a result of this agreement, the author or authors may copyright the book or material, but HUD reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the material for government purposes.

15. Access to Records

All negotiated contracts awarded by Subrecipient s shall include a provision to the effect that the Subrecipient ,HUD the State of West Virginia, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and descriptions.

 Subrecipient Signature	 Date
 Vendor Signature	 Date