

**RIDER B**  
**METHOD OF PAYMENT AND OTHER PROVISIONS**

1. **AGREEMENT AMOUNT** \$ \_\_\_\_\_

2. **INVOICES AND PAYMENTS** The Department will pay the provider as follows:

\_\_\_\_\_ As provided in the CDBG Financial Handbook and supporting documents \_\_\_\_\_

Payments are subject to the Provider's compliance with all items set forth in this Agreement and subject to the availability of funds. The Department will process approved payments within 30 days.

3. **BENEFITS AND DEDUCTIONS** If the Provider is an individual, the Provider understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for his/her Income Tax records.

4. **INDEPENDENT CAPACITY** In the performance of this Agreement, the parties hereto agree that the Provider, and any agents and employees of the Provider shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.

5. **DEPARTMENT'S REPRESENTATIVE** The Agreement Administrator shall be the Department's representative during the period of this Agreement. He/she has authority to curtail services if necessary to ensure proper execution. He/she shall certify to the Department when payments under the Agreement are due and the amounts to be paid. He/she shall make decisions on all claims of the Provider, subject to the approval of the Commissioner of the Department.

6. **AGREEMENT ADMINISTRATOR** All progress reports, correspondence and related submissions from the Provider shall be submitted to:

Name: \_\_\_\_\_  
Title: Development Program Manager  
Address: 59 State House Station, Augusta, Maine 04333-0059

who is designated as the Agreement Administrator on behalf of the Department for this Agreement, except where specified otherwise in this Agreement.

7. **CHANGES IN THE WORK** The Department may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment, signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to execution of the work.

8. **SUB-AGREEMENTS** Unless provided for in this Agreement, no arrangement shall be made by the Provider with any other party for furnishing any of the services herein contracted for without the consent and approval of the Agreement Administrator. Any sub-agreement hereunder entered into subsequent to the execution of this Agreement must be annotated "approved" by the Agreement Administrator before it is reimbursable hereunder. This provision will not be taken as requiring the approval of contracts of employment between the Provider and its employees assigned for services thereunder.

9. **SUBLETTING, ASSIGNMENT OR TRANSFER** The Provider shall not sublet, sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Agreement Administrator. No subcontracts or transfer of agreement shall in any case release the Provider of its liability under this Agreement.

10. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Agreement, the Provider agrees as follows:

a. The Provider shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Provider shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

b. The Provider shall, in all solicitations or advertising for employees placed by or on behalf of the Provider relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

c. The Provider shall send to each labor union or representative of the workers with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section and

shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.

e. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.

f. Contractors and subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.

g. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

11. **EMPLOYMENT AND PERSONNEL** The Provider shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Contractor shall not engage on a full-time, part-time or other basis during the period of this Agreement, any other personnel who are or have been at any time during the period of this Agreement in the employ of any State Department or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, the Provider shall not engage on this project on a full-time, part-time or other basis during the period of this Agreement any retired employee of the Department who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

12. **STATE EMPLOYEES NOT TO BENEFIT** No individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly due to his employment by or financial interest in the Provider or any affiliate of the Provider, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

13. **WARRANTY** The Provider warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Agreement and that it has not paid, or agreed to pay, any company or

person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Department shall have the right to annul this Agreement without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

14. **ACCESS TO RECORDS** As a condition of accepting a contract for services under this section, a contractor must agree to treat all records, other than proprietary information, relating to personal services work performed under the contract as public records under the freedom of access laws to the same extent as if the work were performed directly by the department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not proprietary information. The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

15. **TERMINATION** The performance of work under the Agreement may be terminated by the Department in whole, or in part, whenever for any reason the Agreement Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Provider of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination, and modified accordingly.

16. **GOVERNMENTAL REQUIREMENTS** The Provider warrants and represents that it will comply with all governmental ordinances, laws and regulations.

17. **GOVERNING LAW** This Agreement shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Agreement shall be brought in State of Maine administrative or judicial forums. The Provider consents to personal jurisdiction in the State of Maine.

18. **STATE HELD HARMLESS** The Provider agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as "claims") resulting from or arising out of the performance of this Agreement by the Provider, its employees, agents, or subcontractors. Claims to which this indemnification applies include, but without limitation, the following: (i) claims suffered or incurred by any contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity (hereinafter in this paragraph referred to as "person") providing work, services, materials,

equipment or supplies in connection with the performance of this Agreement; (ii) claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Agreement; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Agreement; (iv) claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this Agreement; and (v) all legal costs and other expenses of defense against any asserted claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) the Department's negligence or unlawful act, or (ii) action by the Provider taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Department in accordance with this Agreement.

19. **NOTICE OF CLAIMS** The Provider shall give the Contract Administrator immediate notice in writing of any legal action or suit filed related in any way to the Agreement or which may affect the performance of duties under the Agreement, and prompt notice of any claim made against the Provider by any subcontractor which may result in litigation related in any way to the Agreement or which may affect the performance of duties under the Agreement.

20. **APPROVAL** This Agreement must have the approval of the State Controller and the State Purchases Review Committee before it can be considered a valid, enforceable document.

21. **LIABILITY INSURANCE** The Provider shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Agreement with adequate liability coverage to protect itself and the Department from suits. Providers insured through a "risk retention group" insurer prior to July 1, 1991 may continue under that arrangement. Prior to or upon execution of this Agreement, the Provider shall furnish the Department with written or photocopied verification of the existence of such liability insurance policy.

22. **NON-APPROPRIATION** Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

23. **SEVERABILITY** The invalidity or unenforceability of any particular provision or part thereof of this Agreement shall not affect the remainder of said provision or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

24. **INTEGRATION** All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the terms of Rider B (except for expressed exceptions to Rider B included in Rider C), followed in precedence by Rider A, and any remaining Riders in alphabetical order.

25. **FORCE MAJEURE** The Department may, at its discretion, excuse the performance of an obligation by a party under this Agreement in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe,

sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The Department may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Agreement.

26. **SET-OFF RIGHTS** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Agreement up to any amounts due and owing to the State with regard to this Agreement, any other Agreement, any other Agreement with any State department or agency, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

27. **ENTIRE AGREEMENT** This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Agreement, or to exercise an option or election under the Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Agreement or at law.

**RIDER C**

**Exceptions to RIDER B**

(NONE)

## RIDER D

### STANDARD TERMS AND CONDITIONS

1. **DEFINITIONS.** As used in this Agreement, unless the context otherwise indicates, the following terms shall have the following meanings:
  - a. 24 CFR Part 85. 24 CFR Part 85 means Office of Management and Budget circular Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments
  - b. "Project". Project means the community development program and activities, including administration thereof, with respect to which grant funds are provided under this Agreement.
2. **GRANTOR'S REPRESENTATIVE.** The Agreement Administrator, referenced in Rider A shall be the Grantor's representative during the period of this Agreement. S/he has the authority to stop work on the Project if necessary to insure its proper execution.
3. **SUBLETTING, ASSIGNMENT OR TRANSFER.** The Grantee shall not sublet, sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its right, title, or interest therein, without written request to and written consent of the Agreement Administrator. No subcontract or transfer of agreement shall in any case release the Grantee from liability under this Agreement.
4. **PROHIBITION OF INTEREST**
  - a. No individual employed by the Department of Economic & Community Development at the time of this Agreement shall receive any share or part of this Agreement or any benefit that may arise directly or indirectly there from.
  - b. No State or Local elected official, director, officer, agent, or employee of the Grantee shall, directly or indirectly, have any financial interest in any property to be included in, or any contract for property, materials, equipment, or services to be furnished or used in connection with the construction or operation of the Project. Notwithstanding the foregoing, whenever the Grantor determines that it is in the best interest of the Grantee to contract with any interested director, officer, agent, or employee, and that person (i) has previously fully disclosed the nature of his or her interest to the Grantor, (ii) has refrained from deliberation and voting on the matter, and (iii) has not been counted towards a quorum at any meeting at which the contract was deliberated; and the requirements of 24 CFR part 570 have been met, then, and only then, the Grantor may approve that contract. Any request for the Grantor's approval shall be accompanied by (i) full disclosure in writing of the pertinent facts and circumstances surrounding the contract, and (ii) certified copies of the Grantee's corporate proceedings showing full compliance with the provisions of this section.



**5. WARRANTY.** The Grantee warrants that it has not employed any company or person, other than a bona fide employee working solely for the Grantee, to solicit or secure this Agreement, and that it has not paid, or agreed to pay any company or person, other than a bona fide employee working solely for the Grantee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Grantor shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the grant funds or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

**6. STATE HELD HARMLESS.** The Grantee agrees to indemnify, defend and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material men, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Grantee in the performance of this Agreement and against any liability, including costs and expenses, for violation of proprietary rights, copyrights, or rights of privacy, arising out of publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Agreement or based on any libelous or other unlawful matter contained in such data. In relation to this Agreement, the State and the Grantor shall have no obligation for reimbursement to the Federal government resulting from audit exceptions for any other reason, and all such obligations shall be assumed by the Grantee.

**7. PROJECT WORK.** In connection with all phases of the Project, including all work to be performed in the development thereof, the Grantee agrees as follows:

- a. The Grantee agrees to execute and complete the Project in accordance with the terms of this Agreement, including all Riders and attachments hereto. Subsequent to this Agreement, any change in the Project design or arrangement must have the prior written approval of the Grantor.
- b. The Grantee shall complete the project in accordance with all applicable Federal regulations and statutes including 42 USC ch. 69 and 24 CFR Part 570.
- c. The Grantee shall provide the Grantor reasonable notice of all pre-construction conferences and afford the Grantor the option of participating in such conferences.

**8. GRANT FUNDS**

- a. Grant funds shall be used only for the purposes and activities specified in Rider A of this Agreement. Grant funds shall be used and administered in a manner consistent with the Final Statement of the State of Maine Community Development Block Grant Program, and in accordance with applicable Federal and State laws and regulations and State of Maine Community Development Block Grant Program Administrator's Guide and accompanying handbooks. **Please take special note** of the **requirement** that if the

- b. community cannot provide documentation acceptable to the DECD Office of Community Development that CDBG program benefit has been met as outlined in this contract, attachments, and any agreements incorporated in this contract by reference, **the community is responsible for and must immediately pay back to the DECD an amount equal to all funds disbursed for under this contract.**
- c. Grant funds may not, without advance written approval by the Grantor, be obligated prior to the effective date or subsequent to the completion date of this contract. Obligations outstanding as of the contract end date shall be liquidated within 90 days. Such obligations must be related to goods or services provided during the grant period, except, reasonable costs associated solely with grant close-out, e.g. audits, final reports, not obligated by the contract end date may be incurred within 90 days after the contract end date.

**9. PROGRAM INCOME.** The Grantee must administer all program income generated from activities funded with this grant as outlined in an approved Program Income Plan in accordance with the State of Maine OCD Policy Letter #2.

#### **10. GRANTEE FINANCIAL MANAGEMENT SYSTEM**

- a. Except where inconsistent with Federal requirements and State of Maine CDBG Program Administrator's Guide, local standard procedures and practices will be adhered to with regard to accounting for funds.
- b. The Grantee must establish fiscal control and fund accounting procedures, which assure proper disbursement of, and accounting for, grant funds and any required nonfederal matching expenditures. This responsibility applies to funds disbursed to and by sub grantees and contractors as well as to funds disbursed in direct operations of the Grantee. The Grantee shall maintain a financial management system which complies with 24 CFR Part 85, 85.20, "Standards for Financial Management Systems" or such other equivalent system as the Grantor may require. Requests for payment shall be made according to Grantor's invoicing procedure.

#### **11. BONDING AND INSURANCE**

- a. Local units of governments shall follow their own customary requirements relating to bid guarantees, provided they comply with applicable laws.
- b. The Grantee covenants that each of its officials or employees having custody of the project funds during acquisition, construction, development, and operation shall be bonded at all times for the amount normally carried by the municipality.
- c. When the Grantee awards a contract or subcontract exceeding \$100,000 for the construction, alteration or repair of any public building or other public improvement or public work, including highways, the Grantee shall require each contractor and subcontractor to carry payment and performance bonds for 100% of the value of the contract. (14 M.R.S.A. 871).

## 12. RECORDS

- a. The Grantee agrees to maintain such records and provide such periodic reports as the Grantor may require.
- b. The Grantee, its contractors and subcontractors shall establish, maintain, and preserve property management, project performance, financial management, reporting documents and systems, and such other books, records, and data as the Grantor may require. Such records shall be retained for a period of three years following completion of the project and receipt of final payment by the Grantee, or until an audit is completed and all questions arising there from are resolved, whichever is later.

**13. PROCUREMENT.** The Grantee's Procurement procedures will be consistent with Federal, State, and Local procurement practices and regulations, provided that procurements made with grant funds adhere to the standards set forth in the State of Maine's CDBG Program Administrator's Guide.

## 14. AUDIT

- a. The Grantee shall make arrangements for an audit of its grant accounts and records. The audit will be conducted according to the standards established in the State of Maine's CDBG Financial Handbook, OMB Circular A-133, and the Single Audit Act Amendments of 1996.
- b. The Grantee agrees to repay any funds received for costs determined to be non-allowable by an audit of the Project accounts. The Grantor shall determine what costs are non-allowable according to the terms of this Agreement and applicable laws and regulations.
- c. The Grantee agrees that the Grantor, the Comptroller General of the United State, or his/her duly authorized representatives and the Secretary of Housing and Urban Development or his/her duly authorized representatives shall, until the expiration of three (3) years after completion of the project for which this grant was made or used, have access to and the right to examine any books, documents, papers, payrolls and records of the Grantee involving transactions related to this grant or the project. The Grantee agrees to make such materials available for inspection at its offices at all reasonable times, and the Grantee shall furnish copies thereof if requested. The Grantee shall include the substance of this paragraph in all subgrants, contracts, and subcontracts payable or reimbursable from Grant funds in whole or in part.

**15. STATUTORY REQUIREMENTS.** The Grantee shall comply, and require each contractor to comply, with all applicable Federal, State, and Municipal laws, standards, orders, or regulations including without limitation:

## a. Nondiscrimination.

1. Title VI of the Civil Rights Act of 1964, as amended, (42 USC 2000d et seq) and the requirements imposed by Regulation (15 CFR Part 8, and 24 CFR Part 1). No person in the United States shall, on the grounds of race, color, religion, sex, handicap, familial status, national origin or sexual orientation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Grantee receives federal financial assistance. The Grantee will immediately take any measures necessary to effectuate this agreement.
2. Rehabilitation Act of 1973, (29 USC 794, 24 CFR Part 8, and Executive order 11914 Section 504). No otherwise qualified handicapped individual shall, solely by reason of his/her handicap, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.
3. Equal Employment Opportunity, Executive order 11246, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Chapter 60). The Grantee shall require language prescribed in the rules and regulations of the Secretary of Labor at 41 CFR Chapter 60, to be inserted in full in any construction contract for more than \$10,000 or modification thereof, which is paid for in whole or in part with assistance provided under this agreement.
4. Certification of Non-segregated Facilities as required by the May 19, 1967, Order (32 F.R. 7439) on Elimination of Segregated Facilities, by the Secretary of Labor. Prior to the award of any construction contract or subcontract exceeding \$10,000, the Grantee shall require the prospective prime contractor and each subcontractor to submit the following certification:

By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he/she does not maintain or provide his/her employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any location, under his/her control where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she will not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, handicap, familial status, national origin or sexual orientation, because of habit, local custom, or otherwise. He/she further agrees that (except where he/she have obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications form proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal

Opportunity clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

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**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NON SEGREGATED FACILITIES**

A Certification of Non segregated Facilities, as required by the may 9, 1967 Order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000 (which is not exempt from the provisions of the Equal Opportunity clause). The Certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

**NOTE:** The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

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5. The Age Discrimination Act of 1975 (42 USC §6101 et seq). No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
6. Section 109 of the Housing and Community Development Act of 1974 (42 USC §5309). No person in the United States shall on the grounds of race, color, religion, sex, handicap, familial status, national origin or sexual orientation, 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 Title I of the Housing and Community Development Act of 1974 funds.
7. Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u and 24 CFR Part 135). In connection with planning and implementation of any project assisted with CDBG funds and to the greatest extent feasible, opportunities for training and employment should be given to lower-income persons residing within the unit of local government in which the project is located. Contracts for work in connection with the project should be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the same unit of local government in which the project is located.
8. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq. and 24 CFR Part 100); popularly know as the Fair Housing Act, and Executive Order 11063 as amended by Executive Order 12259. It is illegal to discriminate against, and in any way make unavailable or deny a dwelling to, any person because of race, color, religion, sex, handicap, familial status, national origin or sexual orientation in the following activities: sale or rental of housing or residential lots; advertising the sale or rental of housing; financing of housing; provision of real estate brokerage services; and the appraisal of housing. Recipients of federal funds required to administer programs and activities relating to housing and urban development in a manner that affirmatively furthers fair housing.

b. Labor Standards

1. Davis-Bacon Act as amended (40 U.S.C. 276a – 276a-7 and 29 CFR Part 5). All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.
2. Contract Work Hours and Safety Standards Act (40 U.S.C. 327 – 334). All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with, and subject to, the provision of the Contract Work Hours and Safety Standards Act. Contractors and subcontractors shall comply with all regulations issued pursuant to these acts and with other applicable Federal laws and regulations pertaining to labor standards.
3. Copeland Anti-Kickback Act (40 U.S.C. §276c and 29 CFR Part 3). All workers must be paid at least once a week, and without any deductions or rebates except those permissible.

c. Title IV of the Lead Based Paint Poisoning Prevention Act (42 U.S.C. §4831 and 24 CFR Part 35).

**LEAD-BASED PAINT HAZARDS.** The use of any paint containing more than 0.5% lead by weight or for paint manufactured after June 22, 1977 containing more than 0.6% lead by weight, is prohibited from use on any interior or exterior surface in any building being rehabilitated with CDBG funds. Any evidence of a health hazard (cracking, scaling, peeling and loose lead-based paint) must be treated to prevent ingestion of the contaminated Material. Any of the above conditions constitute an immediate or potential hazard and must be corrected using appropriate methods.

d. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, (42 U.S.C. ch. 61 and 49 CFR Part 24) and as provided by 1. M.R.S.A. ch. 23 requires that activities consisting of acquisition of real property, or acquisition made necessary by CDBG funded activities and/or displacement of families, individuals, businesses, nonprofit organization or firms must provide appropriate compensation.

e. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq); The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq); and Executive Order No. 11593 (36 FR 8921). The chief executive officer of the Grantee consents to assume the status of responsible Federal official under the National Environmental Policy Act 1969 (NEPA) HUD review procedures, and other applicable provisions of Federal law as specified in 24 CFR 58. The chief executive officer is authorized and consents to accept the jurisdiction of the federal courts for the purpose of enforcement of his responsibilities as an agent of the Grantee. The release of funds for activities in this Agreement is subject to the completion of the environmental review process.

- f. The Flood Disaster Protection Act of 1973 (42 U.S.C. 4106), as amended. The Grantee will fulfill any flood insurance requirements under this Act and any regulations issued there under which may be issued by NOAA.
- g. The Architectural Barriers Act (42 U.S.C. 4151), as amended, and the regulations issued or to be issued there under, prescribing standards for the design and construction of any building or facility intended to be accessible to the public or which may result in the employment of handicapped persons therein.
- h. The Clean Air Act, as amended, (42 U.S.C. 1857 et seq), the Federal Water Pollution Control Act, as amended, (33 U.S.C.1251 et seq) and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time. In no event shall any amount of assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under section 113(c)(1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act.
- i. Minority Business Enterprises referenced in Executive Order #11625, (24 CFR 85.36 Procurement). Grantees are to give priority to Minority Business Enterprises in purchase of supplies, equipment, construction, and services.
- j. CDBG Certification. Grantee shall provide any certification required under Sections 104(b), 106(d)(5) or under any other provision of Title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. ch. 69), including Amendments made by the Housing and Urban Rural Recovery Act of 1983, and shall comply with the terms of such certifications.
- k. Restrictions on Lobbying: (Section 319 of Public Law 101-121 and 24 CFR Part 87). The Grantee shall comply with Federal requirements regarding government wide restrictions on lobbying.
- l. Protection of Individuals Engaged in Nonviolent Civil Rights Demonstration. The Housing and Community Development Act of 1974, as amended (42 U.S.C. §5304(i)) requires that each recipient of CDBG Title I funds to adopt and enforce these policies:
  - 1) prohibit the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and
  - 2) enforce applicable State and Local laws against physically barring entrance to or exit from a facility or location which is the subject of nonviolent civil rights demonstrations within its jurisdiction.
- m. Anti-Piracy: Subsection 105(h) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) specifically prohibits the use of CDBG funds to facilitate the relocation of for-profit businesses from one labor market to another if the relocation is likely to result in significant job loss.

*“(h) PROHIBITION ON USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES. – Notwithstanding any other provision of law, no amount from a grant under section 106 made in fiscal year 1999 or any succeeding fiscal year may be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs.”.*

**16.** The Grantee warrants that it will follow all procedures as outlined in the State of Maine Community Development Block Grant Program Administrator’s Guide, and other subsequent handbooks issued by the Grantor.

**17. AMENDMENTS.** Amendments to this Agreement will be considered only for the purpose of altering the amount, extending the Agreement end date, or adding or deleting and activity. Amendments must be submitted as outlined in the CDBG Program Administrator’s Guide. Requests for amendments must be based on problems encountered in administering the CDBG Program according to the original design and schedule. Amendments may be requested as the need arises during the course of grant administration and will be evaluated to assure that:

- a. the level of benefit will be maintained or increased
- b. all new activities are eligible
- c. the nature of the project as originally submitted has not changes
- d. public hearings (with appropriate notice) are held prior to submission if the project goals are substantially changed
- e. the appropriate municipal officials have approved the amendment

**18. MODIFICATIONS.** Requests for alterations to grant activities, budget line items of less than 10 percent, or schedules which are non-substantive in nature, but necessary to bring the project into conformity with grant requirements, shall be submitted to the Development Program Manager for approval.

## **19. SUSPENSION OR TERMINATION**

- a. **Suspension.** The Grantor reserves the right to suspend the grant, withhold further payments, or prohibit the Grantee from incurring additional obligations, pending corrective action by the Grantee.
- b. **Termination.** The Grantor reserves the right to terminate this Agreement in whole, or in part, at any time upon a 30 day written notice to the Grantee that it has failed to comply with the conditions of the grant. Any such termination shall be effected by the delivery to the Grantee of a notice of termination specifying the extent to which the agreement is terminated and the date on which such termination becomes effective.
- c. **Appeals.** The Grantee may appeal any determination by the Project Development Specialist to the Director of the Office Community Development according to procedures set forth by the Grantor.



**20. TERMINATION BY MUTUAL AGREEMENT.** This Agreement may be terminated, whole or in part, prior to the completion of the contracted work when both parties agree that continuation is not feasible or would not produce beneficial results. The parties must agree on the termination conditions, including the effective date and the activities to be terminated. The Grantee shall not incur new obligations for the terminated activities after the effective date, and shall cancel as many outstanding obligations as possible.

**21. AVAILABILITY OF FUNDS CLAUSE.** The funds granted in this Agreement are contingent upon those funds being available to the State by the U.S. Department of Housing and Urban Development. The State of Maine shall not be obligated to reimburse the grantee for costs incurred beyond the total amount obligated to the State of Maine by the U.S. Department of Housing and Urban Development.

**22. ACQUISITION, CONSTRUCTION, RENOVATION, CHANGE OF USE AND DISPOSITION OF REAL PROPERTY:** Subject to the obligations and conditions set forth here and in 24 CFR 570.490 and 24 CFR 85.31, title to real property acquired, constructed, and/or renovated in whole or in part using CDBG funds will vest upon acquisition in the Grantee. The Grantee shall ensure, at the time of accepting title, or final payment of CDBG funds for construction/renovations inclusion of a deed restriction indicating the Grantee must notify the OCD of any intent to change the use of, or the disposition of any real property, acquired in whole or in part with CDBG funds under this grant. The Grantee must not proceed with any action toward change of use or disposition of the real property prior to receiving instructions and written approval from the OCD.

RIDER G  
IDENTIFICATION OF COUNTRY  
IN WHICH CONTRACTED WORK WILL BE PERFORMED

**Please identify the country in which the services purchased through this contract will be performed:**



**United States. Please identify state: State of Maine**



**Other. Please identify country: \_\_\_\_\_**

**Notification of Changes to the Information**

The Provider agrees to notify the Division of Purchases of any changes to the information provided above.