

CONTRACT BETWEEN CITY OF INDEPENDENCE AND

Truman Heritage Habitat for Humanity, Inc.

FOR

Independence Home Repair Program

THIS AGREEMENT, entered this _____ day of _____, 2021, by and between the City of Independence, (hereafter referred to as City) and **Truman Heritage Habitat for Humanity, Inc.** (hereafter referred to as Sub-recipient).

WHEREAS, the City of Independence has applied for and received \$821,542 in Community Development Block Grant (CDBG) funds under Title I of the Housing and Community Development Act of 1974, as amended, for FY 2021-22; and,

WHEREAS, on August 19, 2021, the City issued Request for Proposal #21066 seeking qualified firms to manage and administer the City's Home Repair Program; and,

WHEREAS, the City of Independence wishes to engage the Sub-recipient to assist the City in utilizing such funds to carry out the minor home repair program described in the City's Annual Action Plan; and,

WHEREAS, the City of Independence has approved the request of the Sub-recipient for a grant of funds in the amount of **\$371,514.00** to provide home repair services for the benefit of qualifying low- and moderate-income households in Independence, subject to the following terms and conditions.

NOW, THEREFORE, in consideration of the grant to be made to the Sub-recipient and of the mutual agreements herein contained, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. Activities

The Sub-recipient will be responsible for administering the CDBG Program Year 47 **Independence Home Repair Program** in a manner satisfactory to the City of Independence and consistent with any standards required as a condition of providing these funds. This program will provide grants to low- and moderate-income homeowners for necessary repairs on their houses. CDBG funds will be used to provide direct home repair costs, as well as salary and personnel costs for the Housing Manager and certain other operating expenses.

B. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Sub- recipient agrees to provide the following levels of program services: 15-20 low- and moderate-income households will benefit from sustained decent and affordable housing through the provision of qualifying home repairs.

All construction work will be performed in accordance with the provisions of attached *Exhibit A: Contract Provisions for CDBG & HOME-Assisted Construction/Rehabilitation Projects*; and all projects are to be conducted in accordance with the City of Independence CDBG Home Repair Program Policies and with the Sub-recipient's CDBG Home Repair Program funding application dated September 20, 2021, as detailed in the attached Exhibit B.

Budget

Project Management & Administration	\$55,727.00
Repair Costs (includes professional services, marketing and training)	\$315,787.00
Total Budget	\$371,514.00

C. Performance Monitoring

The City of Independence will monitor the performance of the Sub-recipient against goals and performance standards required herein. Substandard performance as determined by the City of Independence will constitute non-compliance with this agreement. If action to correct such substandard performance is not taken by the Sub-recipient within a reasonable period of time after being notified by the City of Independence, contract suspension or termination procedures will be initiated.

D. Performance Measurement

The Sub-recipient will be subject to HUD requirements for establishing project outcomes and reporting on project performance. Program objectives will be measured in a manner suited to each program and reported in the annual Objectives and Outcomes Tables of the City's Consolidated Action Plan Evaluation Report (CAPER).

II. TIME OF PERFORMANCE

Services of the Sub-recipient shall start on the 15th day of November 2021, and end on the 15th day of November 2023. The term of this Agreement may, at the discretion of the City, be extended if the Sub-recipient requires additional time to complete activities stated in Section I, Scope of Service.

III. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed **\$371,514.00**. Drawdowns for the payment of eligible expenses shall be made against the line-item budgets specified in Paragraph **I.B.** herein and in accordance with performance. Expenses for general administration shall also be paid against the line-item budgets specified in Paragraph **I.B.** and in accordance with performance.

Payments may be contingent upon certification of the sub-recipient's financial management system in accordance with the standards specified in OMB Circular A-122.

IV. NOTICES

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

	SUB-RECIPIENT
City Of Independence	Truman Heritage Habitat for Humanity, Inc.
Tom Scannell	Christina Leakey
Community Development Director	Executive Director
111 E. Maple Avenue	505 S Dodgion
Independence, MO 64050	Independence, MO 64050

V. SPECIAL CONDITIONS

The Sub-recipient agrees to comply with the requirements of Title 24 Code of Federal Regulations, Part 570 of the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG) and all Federal regulations and policies issued pursuant to these regulations. The Sub-recipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

VI. GENERAL CONDITIONS

A. General Compliance

The Sub-recipient agrees to comply with all applicable Federal, State, and local laws and regulations governing the funds provided under this Agreement.

B. Independent Contractor

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Sub-recipient shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. The City of Independence shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Sub-recipient is an independent Sub-recipient.

C. Hold Harmless

The Sub-recipient shall hold harmless, defend, and indemnify the City from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Sub-recipient performance or nonperformance of the services called for in this Agreement.

D. Workers' Compensation

The Sub-recipient shall provide Workers' Compensation Insurance coverage for all employees involved in the performance of this Agreement.

E. Insurance and Bonding

The Sub-recipient shall carry sufficient insurance coverage to protect assets connected with this Agreement from loss due to theft, fraud and/or undue physical damage, and

as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City.

The Sub-recipient shall comply with the bonding and insurance requirements of Attachment B of OMB Circular A-122, Bonding and Insurance.

F. Grantor Recognition

The Sub-recipient shall insure recognition of the role of the grantor agency in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Sub-recipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

G. Amendments

The City or the Sub-recipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the City's governing

body. Such amendments shall not invalidate this Agreement, nor relieve or release the City or Sub-recipient from its obligations under this Agreement.

The City, in its discretion, may amend this Agreement to conform with Federal, State or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City and Sub-recipient.

H. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the Scope of Services in Paragraph I above may only be undertaken with the prior approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by Sub-recipient under this Agreement shall, at the option of the City of Independence, become the property of the City, and Sub-recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The City may also suspend or terminate this Agreement, in whole or in part, if Sub-recipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare Sub-recipient ineligible for any further participation in City contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe Sub-recipient is in noncompliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of the funds payable under this Agreement until such time as Sub-recipient is found to be in compliance by the City, or is otherwise

adjudicated to be in compliance.

In the event sufficient funds shall not be appropriated or are not otherwise legally available for payment for the services to be provided under this Contract, the City may terminate this contract. In the event of termination for non-appropriation, the City agrees that it shall, to the extent it is lawful, not expend any funds for the same or similar purpose before the date this Contract would have terminated but for the non-appropriation. Furthermore, in the event that funding is re-appropriated within 12 months of the non-appropriation, appropriation priority will be given to interrupted projects.

I. Reversion of Assets

Upon the expiration of this Agreement, **Truman Heritage Habitat for Humanity, Inc.** shall transfer to the City any CDBG funds on hand at time of expiration and any accounts receivable attributable to the use of CDBG funds. It shall also ensure that any real property under **Truman Heritage Habitat for Humanity, Inc.** control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 is either:

- a. used to meet one of the national objectives in Section 570.208 of the Federal Regulations, until five years after expiration of the agreement or such longer period of time as determined appropriate by the City; or
- b. is disposed of in a manner which results in the City being reimbursed in the amount of the current fair market value of the property less any portion thereof attributable to expenditures of non CDBG funds for acquisition of, or improvement to, the property. Such reimbursement is not required after the period of time specified in accordance with (a) above.

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards – Sub-recipient agrees to comply with the audit standards of OMB Circular A-122 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles – Sub-recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable [and if the sub-recipient is a governmental or quasi- governmental agency, the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,"] for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained - The Sub-recipient shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506, and that are pertinent to the activities to be funded under this Agreement. Such records shall include, but are not limited to:

- a. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program.
- b. Records required to determine the eligibility of activities;
- c. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved
- d. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- e. Financial records as required by 24 CFR Part 570.502, and OMB Circular A-122; and
- f. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention - The Sub-recipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement, or after the resolution of all Federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final disposition of such property. Records for any displaced person must be kept for three (3) years after he/she has received final payment.

3. Client Data - The Sub-recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

4. Property Records - The Sub-recipient shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Parts 570.503(b)(8).

5. National Objectives - The Sub-recipient agrees to maintain documentation that demonstrates that the activities carried out with funds provided under this Agreement meet one or more of the CDBG program's national objectives - 1) benefit low/moderate income persons, 2) aid in the prevention or elimination of slums or blight, 3) meet community development needs having a particular urgency - as defined in 24 CFR Part 570.208.

6. Close-Outs – Sub-recipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of Program assets (including the return of all unused materials, equipment, unspent cash advances, Program income balances, and receivable accounts to the City), and determining the custodianship of records.

7. Audits & Inspections - All of Sub-recipient's record with respect to any matters covered by this Agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts of

transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Sub-recipient within 30 days after receipt by the Sub-recipient. Failure of the Sub-recipient to comply with the above audit requirement will constitute a violation of this Agreement and may result in the withholding of future payments. Sub-recipient hereby agrees to comply with the audit requirements of OMB Circular A-122.

C. Reporting and Payment Procedures

1. Budgets - The Sub-recipient will submit a detailed Agreement budget of a form and content prescribed by the City for approval by the City. The City and the Sub-recipient may agree to revise the budget from time to time in accordance with existing City policies.

2. Program Income - The Sub-recipient shall report monthly all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this Agreement. The use of Program income by the Sub-recipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitation, the Sub-recipient may use such income during the Agreement period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such Program income balances on hand. All unused Program income shall be returned to the City at the end of the Agreement period. Any interest earned on cash advances from the U.S. Treasury is not Program income and shall be remitted promptly to the City.

3. Payment Procedures - The City will pay to the Sub-recipient funds available under this Agreement based upon information submitted by the Sub-recipient and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Sub-recipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and Program income balances available in Sub-recipient's account. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of Sub-recipient.

4. Progress Reports - The Sub-recipient shall submit regular Progress Reports to the City in the form, content, and frequency as required by the City.

D. Procurement

1. Compliance - The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain an inventory record of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All Program assets (unexpended Program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. OMB Standards - The Sub-recipient shall procure materials and services in accordance with the requirements of Attachment O of OMB Circular A-110, Procurement Standards, and shall subsequently follow Attachment N, Property Management Standards, covering utilization and disposal of property.

3. Relocation, Acquisition and Displacement - The Sub-recipient agrees to comply with 24 CFR 570.606 relating to the acquisition and disposition of all real property utilizing grant funds, and to the displacement of persons, businesses, non-profit

organization and farms occurring as a direct result of any acquisition of real property utilizing grant funds. The Sub-recipient agrees to comply with applicable City Ordinances, Resolutions, and Policies concerning displacement of individuals from their residences.

VIII. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance - The Sub-recipient agrees to comply with Chapter 213, RsMO, and Article 3 of Chapter 4 of the Code of the City of Independence and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

2. Nondiscrimination - The Sub-recipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability, age, marital status, or status with regard to public assistance. The Sub-recipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Sub-recipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Land Covenants - This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570, Part 1. In regard to the sale, lease, or other transfer of land acquired, cleared, or improved with assistance provided under this Agreement, the Sub-recipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Sub-recipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504 - The Sub-recipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 706) which prohibits discrimination against persons with disabilities in any federally assisted program. The City shall provide the Sub-recipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. Affirmative Action

1. Approved Plan - The Sub-recipient agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The City shall provide Affirmative Action guidelines to the Sub-recipient to assist in the formulation of such Program.

2. W/MBE - The Sub-recipient will use its best efforts to afford minority and women- owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Sub-recipient may rely on written representations by the enterprises regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records - The Sub-recipient shall furnish and cause each of its sub-Sub- recipients to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications - The Sub-recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Sub-recipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement 0 The Sub-recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Sub-recipient state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions - the Sub-recipient will include the provisions of Paragraphs VIII A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each Sub-recipient- Sub-recipients or vendor.

C. Employment Restrictions

1. Prohibited Activity - The Sub-recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities; sectarian, or religious activities; lobbying, political patronage, and nepotism activities.

2. OSHA - Employees shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participants' health or safety. Where an

activity is covered by the Occupational Safety and Health Act of 1970, compliance with the standards established pursuant to that Act shall be deemed to constitute the provision of a safe workplace.

3. Labor Standards - The Sub-recipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours, the safety Standards Act, the Copeland "Anti-Kickback" Act (40

U.S.C. 276, 327-333) and all other applicable Federal, State and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Sub-recipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

The Sub-recipient agrees that, except with respect to the rehabilitation or construction of residential property designed for residential use for less than eight (8) households, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR, Parts 3, 1, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under the regulations are imposed by State or local law, nothing hereunder is intended to relieve the Sub-recipient of its obligation, if any, to require payment of the higher wage. The Sub-recipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph, for such contracts in excess of \$10,000.00.

4. "Section 3" Clause -

a Compliance with the provisions of "Section 3", as that regulation is set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the City, the Sub-recipient and any sub-Sub-recipients. Failure to fulfill these requirements shall subject the City, the Sub-recipient and any sub- Sub-recipients, their successors and assigns, to those sanctions specified by the agreement through which Federal assistance is provided.

The Sub-recipient further agrees to comply with these "Section 3" requirements and, if applicable, to include the following language in all subcontracts executed under this Agreement:

The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701.

Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

The Sub-recipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

b. Notifications - The Sub-recipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts - The Sub-recipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the sub-Sub-recipient is in violation of regulations issued by the Grantor Agency. The Sub-recipient will not subcontract with any sub-Sub-recipient where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the sub-Sub-recipient has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Drug-Free Workplace

The Sub-recipient agrees to have as part of its policies a drug-free workplace statement consistent with the Drug-Free Workplace Act and similar to the one that follows. The agency will provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about -
 - a. The dangers of drug abuse in the workplace;
 - b. The grantee's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs;
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will -
 - a. Abide by the terms of the statement;
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4b from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4b, with respect to any employee who is so convicted -
 - a. Taking appropriate personnel action against such an employee, up to an including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purpose by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5, and 6.

E. Conduct

1. Assignability - The Sub-recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.
2. Hatch Act - The Sub-recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.
3. Conflict of Interest - The Sub-recipient agrees to abide by the provisions of 24

CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Sub-recipient further covenants that in the performance of this contract no person having such a financial interest shall be employed or retained by the Sub-recipient hereunder. These conflict-of-interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or Sub-recipient which are receiving funds under the CDBG Entitlement Program.

4. Subcontracts

a. Approvals - The Sub-recipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the City prior to the execution of such agreement.

b. Monitoring - The Sub-recipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content - The Sub-recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process - The Sub-recipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open compensation basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

5. Copyright - If this Agreement results in any copyrightable material, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work for government purposes.

6. Religious Organization - The Sub-recipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

IX. ENVIRONMENTAL CONDITIONS

A. Environmental Review

The Sub-recipient agrees to comply with all requirements and conditions applicable to HUD funded projects under 24 CFR Part 58 concerning Environmental Review and the associated statutes, laws and authorities; and to coordinate completion of the required environmental review process with the

Grantee prior to a contractual commitment of CDBG funding.

- B. Flood Disaster Protection
The Sub-recipient agrees to comply with the requirements of the Flood Disaster Protection Act of 1973 (P.L. 2234) in regard to the sale, lease, or other transfer of land acquired, cleared or improved under the terms of this Agreement, as it may apply to the provisions of this Agreement.
- C. Lead-Based Paint
The Sub-recipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, and in particular Sub-Recipient-Part B thereof. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

City of Independence, Missouri

**Truman Heritage Habitat for Humanity,
Inc.**

By: _____
Zachary Walker, City Manager

By: _____
Christina Leakey, President &
CEO

Attest: _____
Rebecca Behrens, City Clerk

Attest: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Jeremy Cover, City Counselor

Federal ID: _____

Exhibit A

Contract Provisions for CDBG & HOME- Assisted Construction/Rehabilitation Projects

INTRODUCTION

This project is being financially supported by federal funds awarded by the U.S. Department of Housing and Urban Development under the Community Development Block Grant (CDBG) or HOME Programs. The City of Independence Community Development Department administers the local CDBG/HOME Programs. As a result of using federal funds on this project there are a number of regulations that must be adhered to in order to receive prompt payment for work done under the program.

The information provided on the following pages outlines a number of conditions that the Contractor must abide by in order to enter into a contract for the work described in the specifications and contract drawings.

The following conditions take precedence over any conflicting conditions in the contract:

SEC. 1. APPLICATION TO SUBCONTRACTORS. No money under this contract shall be disbursed by the Contractor to any sub-contractor or agency except pursuant to a written contract which incorporates the conditions listed below to the extent they are applicable.

SEC. 2. ACCESS TO RECORDS AND RECORDS RETAINAGE.

- A. **Records to be Kept.** Records shall be maintained in accordance with requirements prescribed by HUD or the City with respect to all matters covered by this contract. Except as otherwise authorized by HUD, such records shall be maintained for a period of five (5) years after receipt of the final payment under this contract.
- B. **Documentation of Costs.** All costs shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers, orders, or other accounting documents. All documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.
- C. **Inspection of Records.** At any time during normal business hours and as often as the City, HUD and/or the Comptroller General of the United States may deem necessary, the Contractor shall make available to the City, HUD and/or representatives of the Comptroller General for examination all of its records, with respect to all matters covered by this contract, and will permit the City, HUD and/or representatives of the Comptroller General to audit, examine and make excerpts or transcripts from such records including contracts, invoices, materials, payrolls, records of personnel, conditions of employment and any other data relating to matters covered by this contract.

SEC. 3. LOBBYING. The Contractor certifies, to the best of his or her knowledge and belief, that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection
2. With the awarding of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any

federal contract, grant, loan or cooperative agreement.

3. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
4. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements.
5. This certification is a material representation of fact upon which reliance was placed when this contract was made or entered into. Agreement to this certification is a prerequisite for making or entering into this contract imposed by Section 1352, title 31, U.S. Code. Any person or agency that makes an expenditure prohibited by this section is subject to a civil penalty from \$10,000 up to \$100,000 for each failure. This penalty also applies to any person or agency that fails to submit or amend the disclosure form (LLL), when required. Failure to submit the required certification may result in payment under this contract being delayed or denied.

SEC. 4. DISCRIMINATION. Contractors shall comply with all relevant requirements of the following federal laws and regulations dealing with discrimination in federally assisted programs:

- A. **Title VI of the Civil Rights Act of 1964 (42 U.S.C. 20000d)** which provides that no person shall, on the ground of race, color, or national origin, be excluded from employment or participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- B. **Section 109 of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309) and regulations at CFR 570.602** which provide that no person shall on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, be denied employment in, or be subjected to discrimination under any CDBG/HOME program or activity.
- C. **Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794)** which provides that no otherwise qualified handicapped individual shall, solely by reason of his/her handicap, be excluded from the participation in, be denied the benefits of, be denied employment in, or be discriminated against under any program or activity receiving federal assistance.
- D. **Age discrimination Act of 1975, as amended (42 U.S.C. 6101)** which provides that no person 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 assistance.
- E. **Executive Order 11246, as amended by Executive Order 12086, and regulations in 41 CFR 60**, which provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federally assisted construction contracts and subcontracts. Contractors and subcontractors shall take affirmative action to ensure fair treatment in employment, including recruitment, training, promotion, demotion, transfer, layoff, termination, and pay.

1. The Contractor will not discriminate against any employee or applicant for

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

2. The Contractor will, in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advertising the labor union or worker's representative of the Contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, and orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or purchase order as the contracting agency and may direct the subcontractor or vendor as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contract becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

F. **Section 3 Clause.** Projects involving construction where federal funding exceeds \$200,000 and any contract or subcontract exceeds \$100,000, the Contractor shall comply with the provisions of **Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u), and regulations at 24 CFR Part 135.**

1. Section 3 requires that, to the greatest extent possible:

a. Training and employment opportunities shall be

made available to low-income residents of the metropolitan area in which the project is located; and

b. Subcontracts shall be awarded to businesses owned by low-income residents or to businesses in which at least 30% of their permanent employees are low-income residents.

2. Contractors and subcontractors shall be required to provide to the City plans for complying with these provisions and reports on the extent to which they have met them.

3. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project. The Contractor will not subcontract with any subcontractor where it has notice that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided a preliminary statement of ability to comply with the requirements of these regulations.

SEC. 5. LABOR STANDARDS. Contractors shall comply with all relevant requirements of the following federal laws and regulations dealing with labor standards in federally assisted programs:

A. **Davis-Bacon Act Provisions.** All contracts for construction work in excess of \$2,000 awarded by grantees and subgrantees shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276 a to a.7) as supplemented by Department of Labor Regulations (29 CFR Part 5). However, these requirements apply to the **rehabilitation** of residential property only if such property contains eight (8) or more units. The Davis Bacon Act is **not** triggered when CDBG/HOME funds are used for non-construction work such as acquisition, purchase of equipment, architectural and engineering fees, other services (legal, accounting, construction management), etc.

1. All workers employed by Contractors or subcontractors on construction work costing over \$2,000 and financed in whole or in part under this Contract shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor and specified in a wage determination.

2. In construction projects subject to the Davis-Bacon Act, Contractors and subcontractors shall submit weekly payroll information for each worker in the form prescribed by HUD and shall post a notice listing the minimum wage rates at the work site or sites. In addition, Contractors and subcontractors shall be required to pay wages at least once a week.

B. **Copeland "Anti-Kick Back Act" (18 U.S. C. 876) as supplemented in Department of Labor regulations (29 CFR Part 3).** This Act provides that the Contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled.

C. **Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.).** Contracts awarded by grantees and subgrantees in excess of \$2,000 which involve the employment of mechanics or laborers shall comply with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor Regulations contained in 29 CFR Parts 3, 5 and 5a.

1. Under Section 103 Of the Act, the Contractor and any of his subcontractors, shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty hours. Work in excess of the standard work week is permissible, provided the worker is compensated at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in any work week.
2. Section 107 of the Act provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety, as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market.

SEC. 6. Clean Water, Clean Air, E.O. 11738 and EPA Regulations Provision Compliance with Air and Water Acts apply to assisted construction contracts and related subcontracts exceeding \$100,000. In compliance with Section 306 of the Clean Air Act, as amended, (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended, (33 U.S.C. 1368), Executive Order 11738, and the Regulations (40 CFR, part 15) of the Environmental Protection Agency with respect thereto the Contractor agrees that:

1. Any facility to be utilized in the performance of this contract or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to 40 CFR 15.20.
2. They will comply with all requirements of Section 306 of the Clean Air Act, as amended, and Section 508 of the Clean Water Act, as amended, and all regulations and guidelines issued thereunder.
4. They will promptly notify the City of any notification received from the EPA Office of Federal Activities, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
5. They will include the provisions of paragraph 1 through 4 of this subpart in every nonexempt subcontract, and take such action as the Government may direct as a means of enforcing such provisions.

SEC. 7. LEAD BASED PAINT. The use of lead-based paint in the federally assisted construction or rehabilitation of residential structures (including day cares, senior centers, and community facilities) is prohibited by Section 401(b) of the Lead-Based Paint Poisoning Prevention Act [42 U.S.C. 4831(b)] and regulations in 24 CFR 35B. To the extent that contracted work involves residential structures, the Contractor and subcontractors must follow the new regulations issued under sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X ("ten") of the Housing and Community Development Act of 1992. Sections 1012 and 1013 of Title X amended the Lead-Based Paint Poisoning Prevention Act of 1971, which is the basic law covering lead-based paint in federally associated housing. The new regulation appears within title 24 of the Code of Federal Regulations as part 35 (24 CFR 35).

1. The Contractor and subcontractors shall not use lead-based paint in residential structures and shall eliminate any lead-based paint hazards in residential structures rehabilitated.
2. At a minimum the Contractor and subcontractors must comply with the Lead Hazard Reduction Methods in 24 CFR 35.1330 and 1325.
3. All workers involved in the disturbance of lead-based paint bearing surfaces should be trained in lead safe work practices.

4. At the conclusion of residential rehabilitation, the property must pass a lead hazard clearance test by a certified technician and lab. The lead level must meet the federal and Missouri standard lead level threshold. Clearance is not required if rehabilitation did not disturb painted surfaces of a total area more than that set forth in 24 CFR 35.1350(d).

SEC. 8. USE OF DEBARRED, SUSPENDED OR INELIGIBLE CONTRACTORS. CDBG/HOME funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any Contractor or subrecipient during any period of debarment, suspension or placement in ineligibility status under the provisions of 24 CFR Part 24. (Government Debarment and Suspension Regulations).

SEC. 9. CONFLICT OF INTEREST.

A. Interest of Members, Officers, or Employees of the Recipient, Members of Local Governing Body, or Other Public Officials. No member, officer, or employee of the recipient, subrecipient, or its agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any financial interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. This provision shall be incorporated in all such contracts or subcontracts.

B. Contractor's Responsibilities. The Contractor shall take appropriate steps to assure compliance with paragraph (A) of this section, and will incorporate the following provision into every sub-contract:

"Interest of Sub-Contractor and Employees. The Sub-Contractor covenants that no person who presently exercises any functions or responsibilities in connection with the Community Development Block Grant Program has any personal financial interest, direct or indirect, in this Contract. Any interest on the part of the Sub-Contractor or his employees must be disclosed to the Recipient and the Town, provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation by residents of the area."

SEC. 10. DISPUTES, DEFAULT AND TERMINATION

A. Disputes. In the event of dispute arising under this Contract, the Contractor shall notify the City promptly in writing of their contentions and submit the claim. If the dispute arises before performance of the related work, the written notice shall be submitted prior to commencing such work. In any event, the Contractor shall proceed with such work in compliance with the instructions of the City; such compliance shall not be a waiver of the Contractor's rights to make a claim, provided they have notified the City in writing as above stipulated.

B. Default and Remedies.

1. Default shall consist of any failure by the Contractor to perform under this contract or written amendments thereto or any breach of any covenant, agreement, provision or warranty provided by the Contractor as a part of this contract. Actions which constitute a default include, but are not limited to:

a. Failure to submit to the City reports which are required pursuant to this contract or the submission of required reports that are incorrect or incomplete.

- b. Submission of requests for payment or reimbursement of amounts that are incorrect or incomplete.
 - c. The failure of the Contractor to accept any additional conditions which may be provided by law, by executive order, by regulation or by other policy announced by the City, the state or any federal agency.
 - d. Failure to perform any activity required by this contract.
2. Upon occurrence of any default, the City shall advise the Contractor in writing of the action constituting the default and specify the actions that must be taken to cure the default. The City may suspend payment under the contract. If a default is not cured within 30 days from receipt of written notice of such default by the Contractor, the City may continue the suspension or, by written notice of termination, may terminate the contract.
3. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damage sustained by the City by virtue of any default or breach of the contract; and the City may deduct the amount of damages from any outstanding payments to the Contractor or may withhold payments until such time as the exact amount of the damages is determined.

C. Termination.

1. If federal funding for this project is terminated and no other funding is available for continuation of this project, the City will not be obligated to continue funding for the services contained in this contract and may terminate the contract.
2. In the event of termination, all property and finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by or purchased with CDBG/HOME funds by the Contractor under this contract shall, at the option of the City, become its property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Exhibit B

Truman Heritage Habitat for Humanity, Inc. Home Repair Program Application