

Be it Remembered that the Common Council of the City of Plymouth, Indiana, met in regular session on November 23, 2020. The meeting was held in the Council Chambers, on the second floor of the City Building, 124 N. Michigan St., Plymouth, Indiana and was called to order at 6:30 p.m.

Mayor Senter led the Pledge of Allegiance while attending the meeting virtually. Council Member Ecker offered prayer.

Senter presided for Council Members Duane Culp and Don Ecker. As allowed by Governor Holcomb's Executive Orders, Council Members Jeff Houin, Robert Listenberger, Randy Longanecker and Shiloh Milner attended the meeting virtually. Council Member Greg Compton was absent. City Attorney Sean Surrisi and Clerk-Treasurer Jeanine Xaver attended the meeting.

Council Members Ecker and Culp moved and seconded to approve the minutes of the Common Council regular session of November 9, 2020 as presented. The motion carried.

The following legal notices were advertised on November 13, 2020.



Council Members Culp and Milner moved and seconded to open the public hearing. The motion carried, and the mayor declared the public hearing open.

Greg Hildebrand of MCEDC was present to speak on behalf of the tax abatement. He stated that this investment is very important for the company and MCEDC endorses this. He then introduced Pete Sabo the Business Development Manager of AK Industries, Inc. to talk more about this investment.

Sabo explained that AK Industries was starting to expand into injection molding. They will be investing in seven machines in the future and that any help would be greatly appreciated.

Mayor Senter asked if this machinery will be present on Stanley Drive. Sabo confirmed that it will be in the main building on Stanley Drive.

Ecker then asked if this abatement was for the replacement of one piece of machinery for 750,000 dollars or it was the seven machines. Sabo clarified that this was just for the one piece of machinery. He was just explaining what the company was doing overall and what will be happening in the future.

There being no further comments or questions, Council Members Culp and Milner moved and seconded to close the public hearing. The motion carried.

City Attorney Surrisi presented the following Memorandum of Understanding MCEDC Manufacturing Center Project:

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into by Marshall County Economic Development Corporation ("MCEDC") and the City of Plymouth for the purpose of addressing the utility system development charges and water tap fees (domestic and fire suppression) and for providing stormwater drainage runoff control for the construction of a manufacturing center at 2857 Jim Neu Drive, Plymouth, IN 46563.

The City of Plymouth agrees that MCEDC may defer payment of utility system development charges and water tap fees (domestic and fire suppression) until such time as the building is occupied and utilities are to be used by the manufacturing center's end user.

MCEDC and the City of Plymouth agree that MCEDC shall construct the stormwater and erosion control measures as detailed in plans and specifications, as approved by the City of Plymouth, for the construction of the manufacturing center, without the need to place the financial guarantees ordinarily associated with such infrastructure.

MCEDC agrees to the following timeline.

- MCEDC intends to start this project in the fall of 2020.
- MCEDC agrees to complete the project by the summer of 2021.

This Memorandum of Understanding is the complete agreement between MCEDC and the City of Plymouth and may be amended only by written agreement signed by each of the parties.

**Marshall County Economic
Development Corporation**


William Davis, Board Chairman
2864 Miller Dr.
Plymouth, IN 46563
Telephone: (574) 935-8499

City of Plymouth

Mark Senter, Mayor
900 Oakhill Ave.
Plymouth, IN 46563
Telephone: (574) 936-3614

Surrisi explained that Utility Superintendent Davidson suggested that they create a Memorandum of Understanding like the council had done previously with projects like the aquatic center project. The agreement explained that the system development fees for utilities and tap fees would be deferred and the financial guarantee for storm water and drainage will be waived.

Council Members Houin and Culp moved and seconded to approve the Memorandum of Understanding MCEDC Manufacturing Center Project. The motion carried.

City Attorney Surrisi presented the Rees Theatre Grant Agreements.

**STATE OF INDIANA—OFFICE OF COMMUNITY AND RURAL AFFAIRS
STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
GRANT NUMBER # A192-21-ST-20-103**

Contract #00000000000000000047606

This Grant Agreement (this "Grant Agreement"), entered into by and between Indiana Office of Community and Rural Affairs (the "State") and CITY OF PLYMOUTH (the "Grantee"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Purpose of this Grant Agreement; Funding Source. The purpose of this Grant Agreement is to enable the State to award a Grant of **\$1,139,500.00** (the "Grant") to the Grantee for eligible costs of the services or project (the "Project") described in **Exhibits A and B** of this Grant Agreement, which are incorporated fully herein.

The funds shall be used exclusively in accordance with the provisions contained in this Grant Agreement and in conformance with United States Department of Housing and Urban Development ("HUD") laws and regulations found in Indiana Code §4-4-9.7-6 as well as 42 U.S.C. §§ 3531-3549 and Title I of the Housing and Community Development Act, 42 U.S.C. §§ 5301-5321 (the "Act") and 24 C.F.R. part 570, establishing and governing the CDBG program establishing the authority to make this Grant, as well as any rules adopted thereunder. The funds received by the Grantee pursuant to this Grant Agreement shall be used only to implement the Project or provide the services in conformance with this Grant Agreement and for no other purpose.

FUNDING SOURCE:

If Federal Funds: Program Name per Catalog of Federal Domestic Assistance (CFDA):

CFDA No.:	14.228
TITLE:	State Administered CDBG Program
AWARD NO.:	B20DC180001 - Awarded: 07/31/2020
FEDERAL AGENCY:	U.S. Housing & Urban Development (HUD)
STATE:	Office of Community and Rural Affairs (OCRA)

2. Representations and Warranties of the Grantee.

A. The Grantee expressly represents and warrants to the State that it is statutorily eligible to receive these Grant funds and that the information set forth in its Grant Application is true, complete and accurate. The Grantee expressly agrees to promptly repay all funds paid to it under this Grant Agreement should it be determined either that it was ineligible to receive the funds, or it made any material misrepresentation on its grant application.

B. The Grantee certifies by entering into this Grant Agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Grant Agreement by any federal or state department or agency. The term "principal" for purposes of this Grant Agreement is defined as an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Grantee.

C. The Grantee certifies that it has verified the state and federal suspension and debarment status for all contractors and subcontractors receiving funds under this Grant Agreement and

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shall be solely responsible for any recoupment, penalties, or costs that might arise from use of a suspended or debarred subcontractor. The Grantee shall immediately notify the State if any contractor or subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the contractor or subcontractor for work to be performed under this Grant Agreement.

3. Implementation of and Reporting on the Project.

A. The Grantee shall implement and complete the Project in accordance with **Exhibit A** and with the plans and specifications contained in its Grant Application, which is on file with the State and is incorporated by reference. Modification of the Project shall require prior written approval of the State.

B. The Grantee shall submit to the State written progress reports until the completion of the Project. These reports shall be submitted on a **Semi-Annual** basis and shall contain such detail of progress or performance on the Project as is requested by the State.

4. Term.

This Grant Agreement shall commence on **September 21, 2020** and shall remain in effect through **April 5, 2023** (the "Expiration Date"), unless sooner terminated as described in this Grant Agreement. The Project funded by this Grant Agreement must be completed by **April 5, 2022** (the "Completion Date"). All claim vouchers for grant disbursements must be received prior to the Completion Date. The closeout process must be initiated within 30 days after the Completion Date or the last grant disbursement, whichever comes first. The Grantee may request in writing that the Completion Date be extended.

5. Grant Funding.

A. The State shall fund this Grant in the amount of **\$1,139,500.00**. The approved Project Budget is set forth as **Exhibit B** of this Grant Agreement, attached hereto and incorporated herein. The Grantee shall not spend more than the amount for each line item in the Project Budget without the prior written consent of the State, nor shall the Project costs funded by this Grant Agreement and those funded by any local and/or private share be changed or modified without the prior written consent of the State.

B. Administrative, architectural, preliminary engineering design and environmental review costs may be incurred (i.e. execute contracts or other binding documents) by the Grantee prior to the effective date of this Grant Agreement, as referenced in the "Notice of Grant Award". Any expenditure other than those listed above requires prior written consent of the State.

However, authorization by the State to incur costs prior to the effective date of this Grant Agreement does not constitute a representation or guarantee that such costs will be paid or reimbursed by the State. All costs incurred by the Grantee prior to the Grant Agreement's execution and receipt of a "Notice of Release of Funds and Authorization to Incur Costs" are incurred voluntarily and the Grantee, upon its own credit and expenses, assumes the sole risk that costs incurred prior to the Grant Agreement's execution will ultimately be included in the eligible costs of the Project.

Payment of grant funds for costs incurred prior to the execution of this Grant Agreement shall be governed by the provisions of this Grant Agreement, including compliance with all applicable statutes, rules, regulations, policy memoranda and other authority, and subject to the availability of CDBG Program funds.

C. **Environmental Review.** It is understood by the Grantee that an Environmental Review must be completed to the State's satisfaction before State will authorize the incurrence of any cost for any activity. Only activities that are essential to completion of the Environmental Review will be

authorized by the State prior to the satisfactory completion of the Environmental Review. The Environmental Review must also be completed prior to the Grantee incurring cost from the "local match", "private match", or "other funds" line items of the budget.

D. **Program Income.** Any Program Income generated by the Grantee as a result of an activity financed in whole or in part with CDBG funds is subject to the terms and conditions set forth in 24 CFR 570.489(e). Pursuant to 24 CFR 570.489(e)(2), if the total amount of income generated is less than \$35,000 in a single year, these amounts will not be considered program income.

6. Payment of Claims.

A. All payments shall be made thirty five (35) days in arrears in conformance with State fiscal policies and procedures. As required by IC §4-13-2-14.8, all payments will be by the direct deposit by electronic funds transfer to the financial institution designated by the Grantee in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Grant Agreement except as permitted by Ind. Code § 4-13-2-20 or by the statute authorizing this Grant.

B. Requests for payment will be processed only upon presentation of a Claim Voucher in the form designated by the State. Such Claim Vouchers must be submitted with the budget expenditure report detailing disbursements of state, local and/or private funds by project budget line items.

C. The State may require evidence furnished by the Grantee that substantial progress has been made toward completion of the Project prior to making the first payment under this Grant. All payments are subject to the State's determination that the Grantee's performance to date conforms to the Project as approved, notwithstanding any other provision of this Grant Agreement. The payment of grant funds under this Grant Agreement shall be made in accordance with the following terms and conditions:

- (1) This Grant must be fully executed.
- (2) All the evidentiary materials required by **Exhibit D**, attached hereto and incorporated herein, must be submitted to and approved by the State.
- (3) Any other grant conditions must be met to the State's satisfaction.

D. The State will accept a drawdown request for review and approval provided that the State has no reason, through monitoring procedures or review of attached invoices, to determine that the Grantee is not performing or completing the project in accordance with its responsibilities under this Grant Agreement. Such responsibilities will include, but are not limited to, timely submission of required reports and monitoring responses.

E. Claims must be submitted with accompanying supportive documentation as designated by the State. Claims submitted without supportive documentation will be returned to the Grantee and not processed for payment. Failure to comply with the provisions of this Grant Agreement may result in the denial of a claim for payment.

F. Failure to complete the Project and expend state, local and/or private funds in accordance with this Grant Agreement may be considered a material breach and shall entitle the State to seek any or all legal remedies against the Grantee including, but not limited to, suspension of all grant payments, and/or suspension of the Grantee's participation in State grant programs until such time as all material breaches are cured to the State's satisfaction. Said remedies may also include repayment of all state funds expended that are not in the scope of this Project or the Project Budget.

7. Project Monitoring by the State. The State may conduct on-site or off-site monitoring reviews of the Project during the term of this Grant Agreement and for up to ninety (90) days after it expires or is otherwise terminated. The Grantee shall extend its full cooperation

and give full access to the Project site and to relevant documentation to the State or its authorized designees for the purpose of determining, among other things:

- A. whether Project activities are consistent with those set forth in **Exhibit A**, the Grant Application, and the terms and conditions of the Grant Agreement;
- B. the actual expenditure of state, local and/or private funds expended to date on the Project is in conformity with the amounts for each Budget line item as set forth in **Exhibit B** and that unpaid costs have been properly accrued;
- C. that Grantee is making timely progress with the Project, and that its project management, financial management and control systems, procurement systems and methods, and overall performance are in conformance with the requirements set forth in this Grant Agreement and are fully and accurately reflected in Project reports submitted to the State.

8. Compliance with Audit and Reporting Requirements; Maintenance of Records.

A. The Grantee shall submit to an audit of funds paid through this Grant Agreement and shall make all books, accounting records and other documents available at all reasonable times during the term of this Grant Agreement and for a period of three (3) years after final payment for inspection by the State or its authorized designee. Copies shall be furnished to the State at no cost

B. If the Grantee is a "subrecipient" of federal grant funds under 2 C.F.R. 200.330, Grantee shall arrange for a financial and compliance audit that complies with 2 C.F.R. 200.500 *et seq.* if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements).

C. If the Grantee is a non-governmental unit, the Grantee shall file the Form E-1 annual financial report required by IC § 5-11-1-4. The E-1 entity annual financial report will be used to determine audit requirements applicable to non-governmental units under IC § 5-11-1-9. Audits required under this section must comply with the State Board of Accounts *Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources*, https://www.in.gov/sboa/files/erfa_2016.pdf. Guidelines for filing the annual report are included in **Exhibit C** (Guidelines for Non-governmental Entities).

9. Compliance with Laws.

A. The Grantee shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Grant Agreement shall be reviewed by the State and the Grantee to determine whether the provisions of this Grant Agreement require formal modification.

B. The Grantee and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, *et seq.*, IC § 4-2-7, *et seq.* and the regulations promulgated thereunder. **If the Grantee has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Grant, the Grantee shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Grant Agreement.** If the Grantee is not familiar with these ethical requirements, the Grantee should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Grantee or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate

this Grant immediately upon notice to the Grantee. In addition, the Grantee may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

C. The Grantee certifies by entering into this Grant Agreement that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State. The Grantee agrees that any payments currently due to the State may be withheld from payments due to the Grantee. Additionally, payments may be withheld, delayed, or denied and/or this Grant suspended until the Grantee is current in its payments and has submitted proof of such payment to the State.

D. The Grantee warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Grantee agrees that the State may suspend funding for the Project. If a valid dispute exists as to the Grantee's liability or guilt in any action initiated by the State or its agencies, and the State decides to suspend funding to the Grantee, the Grantee may submit, in writing, a request for review to the Indiana Department of Administration (IDOA). A determination by IDOA shall be binding on the parties. Any disbursements that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest.

E. The Grantee warrants that the Grantee and any contractors performing work in connection with the Project shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Grant Agreement and grounds for immediate termination and denial of grant opportunities with the State.

F. The Grantee affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

G. As required by IC § 5-22-3-7:

(1) The Grantee and any principals of the Grantee certify that:

(A) the Grantee, except for de minimis and nonsystematic violations, has not violated the terms of:

(i) IC § 24-4.7 [Telephone Solicitation Of Consumers];

(ii) IC § 24-5-12 [Telephone Solicitations]; or

(iii) IC § 24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

(B) the Grantee will not violate the terms of IC § 24-4.7 for the duration of this Grant Agreement, even if IC § 24-4.7 is preempted by federal law.

(2) The Grantee and any principals of the Grantee certify that an affiliate or principal of the Grantee and any agent acting on behalf of the Grantee or on behalf of an affiliate or principal of the Grantee, except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC § 24-4.7 for the duration of this Grant Agreement even if IC § 24-4.7 is preempted by federal law.

10. Debarment and Suspension.

A. The Grantee certifies by entering into this Grant Agreement that it is not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from entering into this Grant by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for purposes of this Grant Agreement means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Grantee.

B. The Grantee certifies that it has verified the suspension and debarment status for all subcontractors receiving funds under this Grant Agreement and shall be solely responsible for any recoupments or penalties that might arise from non-compliance. The Grantee shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Grant Agreement.

11. Drug-Free Workplace Certification. As required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana, the Grantee hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Grantee will give written notice to the State within ten (10) days after receiving actual notice that the Grantee, or an employee of the Grantee in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of grant payments, termination of the Grant and/or debarment of grant opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total amount set forth in this Grant Agreement is in excess of \$25,000.00, the Grantee certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them 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 violations of such prohibition; and
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Grantee's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace; and
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment the employee will: (1) abide by the terms of the statement; and (2) notify the Grantee of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; and

- D. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction; and
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance

or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

12. Employment Eligibility Verification. As required by IC § 22-5-1.7, the Grantee hereby swears or affirms under the penalties of perjury that:

- A. The Grantee has enrolled and is participating in the E-Verify program;
- B. The Grantee has provided documentation to the State that it has enrolled and is participating in the E-Verify program;
- C. The Grantee does not knowingly employ an unauthorized alien.
- D. The Grantee shall require its contractors who perform work under this Grant Agreement to certify to Grantee that the contractor does not knowingly employ or contract with an unauthorized alien and that the contractor has enrolled and is participating in the E-Verify program. The Grantee shall maintain this certification throughout the duration of the term of a contract with a contractor.

The State may terminate for default if the Grantee fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

13. Funding Cancellation. As required by Financial Management Circular 2007-1 and IC § 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Grant Agreement, it shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

14. Governing Law. This Grant Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

15. Information Technology Accessibility Standards. Any information technology related products or services purchased, used or maintained through this Grant must be compatible with the principles and goals contained in the Electronic and Information Technology Accessibility Standards adopted by the Architectural and Transportation Barriers Compliance Board under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. §794d), as amended. The federal Electronic and Information Technology Accessibility Standards can be found at: <http://www.access-board.gov/508.htm>.

16. Insurance. The Grantee shall maintain insurance with coverages and in such amount as may be required by the State or as provided in its Grant Application.

17. Nondiscrimination. Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Grantee covenants that it shall not discriminate against any employee or applicant for employment relating to this Grant with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other

characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, Grantee certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

The Grantee understands that the State is a recipient of federal funds, and therefore, where applicable, Grantee and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

18. Notice to Parties. Whenever any notice, statement or other communication is required under this Grant, it will be sent by E-mail or first class U.S. mail service to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

Mr. Eric Ogle
State CDBG Program Director
1 N. Capitol Avenue, Suite 600
Indianapolis, IN 46204
EOgle1@ocra.IN.gov

B. Notices to the Grantee shall be sent to:

Mr. Mark Senter, Mayor
City of Plymouth
124 N. Michigan Street
Plymouth, IN 46563
mayor@plymouthin.com

As required by IC § 4-13-2-14.8, payments to the Grantee shall be made via electronic funds transfer in accordance with instructions filed by the Grantee with the Indiana Auditor of State.

19. Order of Precedence; Incorporation by Reference. Any inconsistency or ambiguity in this Grant Agreement shall be resolved by giving precedence in the following order: (1) requirements imposed by applicable federal or state law, including those identified in paragraph 22, below, (2) this Grant Agreement, (3) Exhibits prepared by the State, (4) Invitation to Apply for Grant; (5) the Grant Application; and (6) Exhibits prepared by Grantee. (7) The CDBG Handbook. All of the foregoing are incorporated fully herein by reference.

20. Public Record. The Contractor acknowledges that the State will not treat this Grant as containing confidential information, and will post this Grant on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Grant shall not be considered an act of the State.

21. Termination for Breach.

A. Failure to complete the Project and expend State, local and/or private funds in accordance with this Grant Agreement may be considered a material breach, and shall entitle the State to suspend grant payments, and to suspend the Grantee's participation in State grant programs until such time as all material breaches are cured to the State's satisfaction.

B. The expenditure of State or federal funds other than in conformance with the Project or the Budget may be deemed a breach. The Grantee explicitly covenants that it shall promptly repay to the State all funds not spent in conformance with this Grant Agreement.

22. Termination for Convenience. Unless prohibited by a statute or regulation relating to the award of the Grant, this Grant Agreement may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in the best interest of the State. Termination shall be effected by delivery to the Grantee of a Termination Notice, specifying the extent to which such termination becomes effective. The Grantee shall be compensated for completion of the Project properly done prior to the effective date of termination. The State will not be liable for work on the Project performed after the effective date of termination. In no case shall total payment made to the Grantee exceed the original grant.

23. Travel. No expenses for travel will be reimbursed unless specifically authorized by this Grant.

24. Federal and State Third-Party Contract Provisions. If part of this Grant involves the payment of federal funds, the Grantee and, if applicable, its contractors shall comply with the federal grant / contract provisions referenced in the CDBG Handbook and incorporated fully herein. All applicable state and federal statutes, rules, regulations, OMB circulars, executive orders, circulars, Exhibits, Attachments or other documents referred to in this Grant Agreement are specifically incorporated herein by reference.

25. Provision Applicable to Grants with tax-funded State Educational Institutions: "Separateness" of the Parties. Omitted, not applicable.

26. Duties and Responsibilities of the Grantee.

A. Compliance with Approved Program and Laws. All activities performed by the Grantee pursuant to this Grant Agreement shall be done in conformance with the Act and all applicable rules, regulations, policy memoranda and other authority thereunder; and the directives of the State. The Grantee agrees that it will comply with all future requirements determined by the State to be necessary, as well as all then current applicable state and federal laws and regulations to which the State and/or the Grantee are subject.

The Grantee agrees to abide by all provisions of the CDBG Handbook, which is fully incorporated herein by reference, except in the event that applicable authority has been modified and the CDBG Handbook does not reflect those modifications. The State will attempt to inform the Grantee of applicable authority through the CDBG Handbook and through updates to that Handbook. However, the Grantee expressly agrees to be solely responsible to insure that the use of the funds received under this Grant Agreement is in compliance with all federal, state and local statutes, rules and other legal authority affecting the use of the grant funds.

The Grantee further acknowledges that where applicable, any Subrecipient is subject to and shall abide by all applicable requirements of the Act as more fully outlined in **Exhibit E**, attached hereto and incorporated fully herein.

In order to be reimbursed from State funds, all services obtained prior to the execution of this Grant Agreement must be competitively procured under federal procurement regulations. Grantee shall also ensure that all contractors and subcontractors for non-professional services shall complete a contract addendum as outlined in **Exhibit F**, which is herein incorporated and made a part of this Grant Agreement.

B. Lack of Compliance. If the Grantee fails to comply with any of the applicable laws, rules, regulations, terms and conditions of this Grant Agreement or other requirements, and such failure continues for a period of sixty (60) days following Grantee's receipt of a Notice of Default from the State, the State, in its sole discretion, may require the Grantee to repay any Grant funds already disbursed. Grantee agrees to promptly repay such funds at the request of the State.

C. Reports, Records & Evaluations. The Grantee shall submit to the State such records and reports as may be required by the State or HUD, including but not limited to the reports listed in

the CDBG Handbook. Grantee's signature to this Grant Agreement signifies its confirmation of receipt of the CDBG Handbook.

The State may carry out monitoring and evaluation activities as deemed appropriate by the State. The Grantee will ensure the cooperation of the Grantee's employees, subrecipients, or subcontractors in such monitoring and evaluation efforts. The Grantee will take all actions necessary to correct or cure any problems or deficiencies identified by the State during its monitoring and evaluations.

The State has provided all applicable information for State or Federal examiners of this Grant Agreement as shown in **Exhibit C**, which is incorporated herein. The Grantee will ensure this information is included in all agreements and records for subrecipients of this Grant.

Special Reporting Requirements. The Grantee shall continue to provide semi-annual or other reports, as may be required by the State, until the Project and all its objectives are complete. In the event that such reports are not submitted within the time frame allotted by the State, the State shall withhold authorization for drawdown on grant funds until such time as the deficiency is corrected.

27. Indemnification. Grantee agrees to indemnify, defend and hold harmless the State, its agents, officials and employees from all claims and suits including court costs, attorney's fees and other expenses caused by any act or omission of the Grantee and/or its subcontractors, if any, in the performance of this Grant Agreement. The State shall not provide such indemnification to the Grantee.

28. Survival. The covenants, agreements and representations of Grantee in this Grant Agreement shall survive the Expiration Date or earlier termination of this Grant Agreement.

29. State Boilerplate Affirmation Clause. I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State's standard contract clauses (as contained in the *2018 OAG/ IDOA Professional Services Contract Manual* or the *2018 SCM Template*) in any way except as follows:

Paragraph 1. Program Specific Language

Paragraph 2. Program Specific Language. Added Paragraph 2C

Paragraph 4. Program Specific Language.

Paragraph 5. Replaced Paragraph 5B with program specific language. Added Paragraph 5C & 5D.

Paragraph 6. Changed Paragraph 6A to program specific language. Added additional language to Paragraph C. Replaced Paragraph 6D with program specific language. Added Paragraph 6F.

Paragraph 19. Added program specific language.

Paragraph 24. Added program specific language.

Paragraph 25. Removed – Not Applicable

Paragraph 26, 27, 28. Added Duties/Responsibilities, Indemnification & Survival.

Non-Collusion, Acceptance

The undersigned attests, subject to the penalties of perjury, that the undersigned is the Grantee, or that the undersigned is the properly authorized representative, agent, member or officer of the Grantee. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Grantee, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Grant Agreement other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Grant, the Grantee attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

Agreement to Use Electronic Signatures

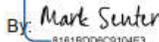
I agree, and it is my intent, to sign this Contract by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Contract to the State of Indiana. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein. I understand that this Contract will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database:

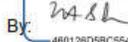
https://fs.qmis.in.gov/psp/guest/SUPPLIER/ERP/c/SOI_CUSTOM_APPS.SOI_PUBLIC_CNTRCT_S.GBL

In Witness Whereof, the Grantee and the State have, through their duly authorized representatives, entered into this Grant Agreement. The parties, having read and understood the foregoing terms of this Grant Agreement, do by their respective signatures dated below agree to the terms thereof.

CITY OF PLYMOUTH

Indiana Office of Community and Rural Affairs

By:  Mark Senter

By:  Mark Senter

Title: Mayor

Title: Interim Executive Director

Date: 10/23/2020 | 13:59 EDT

Date: 10/23/2020 | 14:03 EDT

Electronically Approved by: Department of Administration By: Lesley A. Crane, Commissioner (for)	
Electronically Approved by: State Budget Agency By: Zachary Q. Jackson, Director (for)	Electronically Approved as to Form and Legality by: Office of the Attorney General By: Curtis T. Hill Jr., Attorney General (for)

EXHIBIT A

GRANTEE – City of Plymouth - Cage Code: 6HDS6

PREVIOUSLY AWARDED & ONGOING GRANTS - Not Applicable

CURRENT AWARD - ST-20-103 - \$1,139,500.00

TOTAL AMOUNT OF AWARDED FUNDS \$1,139,500.00

PROJECT DESCRIPTION

1. IDENTIFY THE NATIONAL OBJECTIVE TO BE ADDRESSED AS A RESULT OF THIS PROJECT:

Benefit to Low- and Moderate-Income Persons - Area Benefit

2. IDENTIFY THE NUMBER OF INDIVIDUALS BENEFITING AS A RESULT OF THIS PROJECT:

TOTAL BENEFICIARIES: 9,785

TOTAL LOW/MOD BENEFICIARIES: 5,325

3. DESCRIBE THE PROPOSED ACTIVITY DESIGNED TO ADDRESS THE COMMUNITY'S NEEDS AS SPECIFIED IN THE APPLICATION. QUANTIFY IF POSSIBLE.

The basement will comprise 1,920 square feet of space and house a small dressing area for those using the above stage for things such as theatrical plays, restroom, and storage area. The main level will include a lobby area, an ADA restroom, and a small concession stand. This area can also be open for public use during downtown festivals and park events. The large theatre room will be converted into a 3,000 square foot, free span, open community room. It will have four (4) tiered levels that can accommodate up to 290 people with chairs set up auditorium style, or 160 people with round tables and chairs for banquets and weddings. At the far end of this room, there will be a 550 square foot raised stage area that can be used for things such as TED talks, high-school band performances, or pre-school graduation ceremonies. The main level will also contain a catering kitchen that will have basic kitchen amenities such as a sink, refrigerator, and warming oven. This kitchen area will be available for use during public and private events. The second level will contain additional restroom facilities and a new balcony will be constructed. The balcony will overlook the main room and can provide an additional seating area for performances; however, on a day to day basis it will be sat up with tables and chairs and provide a space for small club meetings and craft workshops. This meeting area will be able to accommodate up to 30 people. The third floor, which amounts to 840 square feet, will be rough finished (wiring, insulation, etc.) but, due to budget constraints, will not be cosmetically completed. This area will not be open to the public.

EXHIBIT B**PROJECT BUDGET AND COST SHARING SCHEDULE**

Grantee Name: City of Plymouth

Grant Number: ST-20-103

ITEM #	ACTIVITY DESCRIPTION	CDBG FUNDS	%	LOCAL FUNDS	%	OTHER FUNDS	%	TOTAL FUNDS	%
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03E	Construction	\$1,139,500.00	76	\$360,500.00	24	\$0.00	0	\$1,500,000.00	91
03E	Professional Fees	\$0.00	0	\$95,000.00	100	\$0.00	0	\$95,000.00	6
03E	Labor Standards	\$0.00	0	\$5,000.00	100	\$0.00	0	\$5,000.00	< 1
21A	Administration	\$0.00	0	\$45,000.00	100	\$0.00	0	\$45,000.00	3
	TOTAL	\$1,139,500.00	69	\$505,500.00	31	\$0.00	0	1,645,000.00	100

Cost Sharing Schedule: Grantee shall expend federal CDBG funds on a pro-rata basis for Project costs incurred as determined by the percentage distribution shown in each line item of the budget found in this Grant Agreement. The State will disburse grant funds under the percentage distribution, or maximum line item amount specified, whichever may be less. Any unexpended grant funds will be de-obligated at the Expiration Date of this Grant Agreement.

Exhibit C**Annual Financial Report for Non-governmental Entities****Guidelines for filing the annual financial report:**

1. Filing an annual financial report called an Entity Annual Report (E-1) is required by IC 5-11-1-4. This is done through Gateway which is an on-line electronic submission process.
 - a. There is no filing fee to do this.
 - b. This is in addition to the similarly titled Business Entity Report required by the Indiana Secretary of State.
 - c. The E-1 electronic submission site is found at <https://gateway.ifionline.org/login.aspx>
 - d. The Gateway User Guide is found at <https://gateway.ifionline.org/userguides/E1guide>
 - e. The State Board of Accounts may request documentation to support the information presented on the E-1.
 - f. Login credentials for filing the E-1 and additional information can be obtained using the notforprofit@sboa.in.gov email address.
2. A tutorial on completing Form E-1 online is available at https://www.youtube.com/watch?time_continue=87&v=nPqotPcdUcs
3. Based on the level of government financial assistance received, an audit may be required by IC 5-11-1-9.

EXHIBIT D**OTHER GRANT CONDITIONS, EVIDENTIARY MATERIALS AND REQUIREMENTS FOR RELEASE OF CDBG GRANT FUNDS****A. TITLE TO ASSETS ACQUIRED OR IMPROVED WITH CDBG GRANT FUNDS:**

The Grantee shall retain title to the CDBG assets acquired, improved or otherwise assisted by CDBG grant funds **unless** the Grantee, with prior written approval of the State, assigns an interest in the CDBG-assisted assets to a subrecipient by means of a lease agreement or

subrecipient agreement approved in writing by the State. If Grantee applied for CDBG funds on behalf of a subrecipient, the application will serve as notice to the State that Grantee does not have title to the assets for the Project. The Grantee shall ensure that the Grantee retains either direct or reversionary control of the CDBG-assisted facilities or assets until the State issues a Certificate of Completion for the Project.

B. USE OF ASSETS ACQUIRED OR IMPROVED WITH CDBG FUNDS:

Pursuant to 24 CFR 570.489, the Grantee shall ensure that CDBG-assisted assets or facilities are used in a manner that complies with the Grantee's approved Project for a five-year period, or until Grantee is issued a Certificate of Completion by the State. Grantee shall ensure that any subrecipient complies with the use requirements of the CDBG program. In the event the Grantee or its lessee or subrecipient fails to comply with the prescribed use requirements, the State shall request reimbursement of the current fair market value of the property less any portion of value attributable to non-CDBG funds pursuant to 24 CFR 570.503(b)(7)(i) and 24 CFR 570.489.

C. INSURANCE COVERAGE FOR CDBG-ASSISTED FACILITIES AND ASSETS:

1. For all projects for which the State provides CDBG funds for the acquisition, construction or rehabilitation of improvements to real property and fire safety vehicles, the Grantee shall maintain property damage, comprehensive, and liability insurance in an amount equal to the replacement cost of such property improvements or vehicle(s). Such insurance coverage shall be carried by the Grantee, at the Grantee or subrecipient's (if applicable) expense during the term of this Grant Agreement and until the State issues a Certificate of Completion for the Project.
2. The Grantee shall be named as the loss payee of all such policies of insurance coverage. The Grantee shall maintain proof of such insurance coverage in its files for purpose of audit by the State or its representatives for the five year period following the date of issuance of a Certificate of Completion to the Grantee by the State respective to this Project. The Grantee shall ensure that the minimum level of such coverage is equivalent to the State's financial interest in the CDBG-assisted property

D. ASSIGNMENT OR LIENS AGAINST CDBG-ASSISTED FACILITIES AND ASSETS:

The Grantee, its lessees and its subrecipient(s) shall not assign, pledge, or otherwise encumber the Grantee's interest in the CDBG-assisted facilities or assets without the prior written consent of the State. Grantee's lessees or subrecipient(s) shall not pledge or mortgage the CDBG-assisted facilities or assets as collateral for loans without the prior written consent of the both the Grantee and the State. Grantee's lessees or subrecipient(s) shall cure and otherwise perfect all liens placed against the CDBG-assisted facilities or assets.

E. DEADLINE AND REQUIREMENTS FOR RELEASE OF CDBG GRANT FUNDS:

All materials listed below must meet with the approval of the State and must be submitted to the State in time to allow a "**Notice of Release of Funds and Authorization to Incur Costs**" to be issued by the State to the Grantee not later than **June 7, 2021**. Failure to complete and submit these documents in a timely manner or by the deadline set forth herein shall result in the issuance of a Termination Notice pursuant to paragraph 19 of this Grant Agreement.

Activities/documentation required to secure a "**Notice of Release of Funds and Authorization to Incur Costs**" are as follows:

1. **Project Financing:** Grantee must submit to the State information sufficient to document that Grantee has secured all necessary funding to fully implement the Project
2. **Procurement of Grant-Related Services:** Grantee shall procure all necessary architectural, engineering, environmental, legal, administrative and other required professional or consultative services using procurement methods prescribed by applicable federal and state procurement statutes and regulations
3. **Environmental Review:** Pursuant to 24 CFR 58 the Grantee shall complete the necessary assessment of environmental impact of the Project and shall complete an Environmental Review Record for the Project. Upon satisfactory completion of the State's environmental review process pursuant to 24 CFR Part 58, State shall issue to Grantee a "**Notice of Removal of Environmental Conditions**". The Grantee must complete the CDBG Environmental Review process in sufficient time to allow the State to issue a "**Notice of Removal of Environmental Conditions**" not later than **December 7, 2020**.
4. **Architectural/Engineering Documents** (as applicable): The Grantee shall ensure that all project-related preliminary and final architectural and engineering services are completed. Such services shall include the completion of architectural and engineering plans and construction specifications necessary to accomplish public bidding requirements of Indiana Code Titles 5 and 36.
5. **Permits:** The Grantee must secure all necessary permits from federal, state and local authorities.
6. **Site Control Evidentiary Documents:** Interests in real property are to be acquired in accordance with the federal Uniform Relocation and Acquisitions Policies Act of 1970, as amended (42 U.S.C. 4601-4655, the "URA") and 24 CFR 570.606:
 - a. "Acquisition Questionnaire" (if applicable) in the form prescribed by the State respective to each parcel of, or interest in, real property;
 - b. Certification by Grantee's legal counsel that applicable title searches and title opinions have been completed and all applicable parcels or interests in real property are unencumbered to the extent that the same may be dedicated to the Grantee's Project by the owner(s) of record
 - c. Documentation that the owner(s) of record of each parcel, easement or other interest has been furnished with the required HUD-1041-CPD brochure entitled "When A Public Agency Acquires Your Property" prior to the beginning of acquisition negotiations;

- d. Documentation that the owner(s) of record of each parcel, easement or other interest has been afforded, in writing, the opportunity to accompany the appraiser during the appraisal process for their property;
- e. Documentation as to written professional market estimates of the value of real property interests where the value of such interest is less than \$10,000;
- f. Documentation of all fee and review appraisals conducted respective to each parcel interest in real property;
- g. Where applicable, copies of all written waiver of rights under the URA;
 - h. Copies of all options, easement and purchase agreements completed and fully-executed by owner(s) of record; and,
 - i. Documentation of recording of all of Grantee's interests in real property under the Project in the Office of the Recorder of the applicable county
7. **Insurance Documents:** Grantee must provide proof of property damage and comprehensive liability insurance coverage as set forth in Paragraph 3 of this exhibit.
8. **Public Bidding Evidentiary Documents:** Grantee must submit to the State for examination the following bid-related documents no later than **April 5, 2021**:
 - a. Bid specifications and related documents certified by an Architect or Professional Engineer licensed in Indiana which reflect inclusion of the required federal contracting language, and applicable federal wage decision issued by the US Department of Labor to State and Grantee for Grantee's CDBG Program;
 - b. Publishers' Affidavit(s) for all public bid advertisements conducted in accordance with IC 5-3-1;
 - c. Bid tabulation certified by the Grantee's Architect or Professional Engineer; and,
 - d. Documentation as to proposed construction schedule, as applicable.
9. **Other Evidentiary Documents:** Grantee must submit to the State the following documents prior to issuance a "**Notice of Release of Funds and Authorization to Incur Costs**":
 - a. Copy of Grantee's Fair Housing Ordinance or Resolution by the Grantee's governing body, outlining measures to ensure compliance with federal and state fair housing statutes;
 - b. (2) Written notification of Grantee's designated Labor Standards Officer under this Grant Agreement who will administer compliance with federal labor standards statutes and regulations;
 - c. (3) Written notification of Grantee's designated Civil Rights Officer under this Grant Agreement who will administer compliance with federal and state civil rights statutes and regulations;
 - d. (4) If applicable, the Grantee must submit a copy of all leases, cooperative or subrecipient agreements with participating nonprofit agencies or other units of local government, respective to this Grant Agreement (Refer to **Exhibit E**).
 - e. (5) Written plan by Grantee as to its procedures for monitoring the activities and performance of subrecipients or lessees, where applicable.

F. INDIRECT COST RATE FOR FEDERAL AWARD:

1. Indirect Cost Rate. According to 2 CFR 200.414(f), the Recipient may charge a de minimis rate of 10% of modified total direct costs (MTDC). As described in 2 CFR 200.403, Factors affecting allowability of costs, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as the Recipient chooses to negotiate a rate, which the Recipient may apply to do at any time.

A proposal to establish a cost allocation plan or an indirect (F&A) cost rate, whether submitted to a Federal cognizant agency for indirect costs or maintained on file by the Recipient, must be certified by the Recipient using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in Appendices III through VII, and Appendix IX in 2 CFR part 200. The certificate must be signed on behalf of the Recipient by an individual at a level no lower than vice president or chief financial officer of the Recipient.

EXHIBIT E

SUBRECIPIENT REQUIREMENTS AND REPORTING
A. REQUIREMENTS FOR LEASE OR SUBRECIPIENT AGREEMENTS

1. Where Grantee has applied for CDBG funds on behalf of another entity, the Grantee and Grantee's lessee(s) and/or subrecipient(s) shall execute a written Lease Agreement or Subrecipient Agreement in a form approved, in writing, by the State. Such lease or subrecipient agreement shall include all applicable requirements of the Act and applicable CDBG-related regulations promulgated by HUD, and shall include the following regulatory provisions:

- 24 CFR 570.483: Criteria for CDBG National Objectives
- 24 CFR 570.489: CDBG Program Administrative Requirements
- 24 CFR 570.488 & 570.606: Applicability of Uniform Administrative Requirements
- 24 CFR 570.503 & 570.502 (b): Agreements with Subrecipients
- 24 CFR 570.489(e): CDBG Program Income Requirements
- 24 CFR 570.489: Use of CDBG-Assisted Real Property
- 24 CFR 570.490: Records to be Maintained

2. The Grantee shall require each lessee or subrecipient to maintain records in accordance with requirements prescribed by the State or the Grantee. Such records shall be maintained until the State notifies Grantee in writing that HUD has closed out the grant to the State.

3. The Grantee shall require all lessees and subrecipients to comply with the record keeping, reporting and auditing requirements prescribed by 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements) for all CDBG-activities.

4. All Grantees with Subrecipients having an interest in CDBG-assisted property must record a signed Office of Community and Rural Affairs Subrecipient Agreement with the County Recorder for the county in which the project is located.

B. REPORTING

The Grantee shall require the lessee or subrecipient to submit the following reports to Grantee:

1. Semi-Annual progress reports for the period January 1 - June 30 is due no later than July 31. For the period of July 1 - December 31, the report is due no later than January 31. Such reports outlining activities undertaken during the quarter toward completion of the Project and the progress in meeting the prescribed CDBG national objective of the Project;
2. Semi-Annual financial statements due by the 15th day following the end of each calendar quarter, such reports detailing all revenues and expenses applicable to the Project during the quarter;
3. A report at the conclusion of the Project which summarizes the successes or failures of the assisted activity, and the level of attainment respective to the CDBG national objective of the Project.

These reports shall be submitted by the lessee or subrecipient until the Grantee is issued a Certificate of Completion for the Project by the State.

All Grantees and subrecipients must jointly submit to the State semiannual subrecipient reports, using the form prescribed by the State. All such subrecipient reports must be submitted by July 31 and January 31 of each year, for the preceding six-month period, until the issuance of a "Certificate of Project Completion" by the State to the Grantee.

EXHIBIT F

ECONOMIC OPPORTUNITIES FOR LOW AND VERY LOW INCOME PERSONS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT

Grantee understands and agrees to comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) and 24 CFR 135.38 ("Section 3") for the Project carried out under this Grant Agreement. Section 3 establishes requirements for creating economic opportunities for low and very low income persons in connection with certain HUD funded projects.

All contractors and subcontractors for non-professional services working on this Project must also comply with Section 3. Grantee agrees to ensure that all contractors and subcontractors for non-professional services shall have the following addendum inserted in to their contract with Grantee:

"Addendum to Contract dated _____, 20_____, between _____ (Contractor), _____ (Grantee), and _____

(Collectively, "The Parties").

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. Upon request by contractor, the Grantee shall furnish to contractor a verbatim copy of 24 Code of the Federal Register (CFR), Subchapter B – Employment and Business Opportunity, Subparts A through E contractor's use in compliance by contractor and his/her subcontractors with applicable requirements of 24 CFR part 135.

2. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Section 3 regulations.
3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
4. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with

persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in remedies, termination of this contract for default, and debarment or suspension from future HUD assisted contracts. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b)."

**INDIANA OFFICE OF COMMUNITY AND RURAL AFFAIRS
STANDARD SUB-RECIPIENT AGREEMENT FOR CDBG-FUNDED PROJECTS**

THIS AGREEMENT is entered into this 24th day of August, 2020, by and between the City of Plymouth, State of Indiana (hereinafter referred to as the "Recipient"), by and through its City Council and The REES Theatre Inc. (hereinafter referred to as the "Subrecipient"), and approved by the Indiana Office of Community and Rural Affairs.

WHEREAS, the Recipient has received a grant under Title I of the Housing and Community Development Act of 1974, (P.L. 93-383), as amended, from the Indiana Office of Community and Rural Affairs ("IOCRA") using federal Community Development Block Grant ("CDBG") funds allocated by the United States Department of Housing and Urban Development, ("HUD") bearing the grant-identifier number assigned by the IOCRA of ST-20-103; and,

WHEREAS, pursuant to this CDBG grant the Recipient is undertaking certain activities; and,

WHEREAS, the Recipient desires to engage the Subrecipient to give certain assistance in connection with such undertakings; and,

NOW, THEREFORE, the Recipient and the Subrecipient do mutually agree as follows:

1. **DEFINITIONS:** As used in this Contract:

- A. "Subrecipient" means the entity, whether public, not-for-profit or private, which has the responsibility for administering the subject CDBG-assisted project or activity.
- B. "Area" means the corporate boundaries of the Recipient, those being the City of Plymouth, Indiana, or one or more sections of the Marshall County, Indiana as specifically delineated in the Statement of Work, Appendix I of this Agreement.
- C. "CDBG" means Community Development Block Grant.
- D. "Contractor" means an entity other than the Subrecipient (except as noted in the Labor Standards Provisions), that furnishes to the Recipient and Subrecipient services or supplies (other than standard commercial supplies, office space or printing services).
- E. "IOCRA" means Indiana Office of Community and Rural Affairs.
- F. "HUD" means the Secretary of Housing and Urban Development or a person authorized to act on his behalf.
- G. "Program" means the Community Development Program approved by IOCRA as the same may be amended from time to time.

2. **SCOPE OF SERVICES:** The Subrecipient shall perform all services according to the Program Description and Statement of Work attached as Appendix I and made part of this Agreement.

3. TERM OF AGREEMENT: This Agreement shall commence on the 24th day of August, 2020, and end on the 24th day of August, 2025. The term of this Agreement may be extended by mutual consent of the Recipient and Subrecipient, subject to termination provisions set forth herein and the expiration date of the Recipient's CDBG grant from the IOCRA. The Subrecipient agrees to comply with the minimum five-year real property usage requirements set forth under 24 CFR 570.503 (a)(8)(i) as well as usage requirements for CDBG-assisted facilities and other assets as set forth under 24 CFR 570.505.

4. AMENDMENTS: Any revision to this Agreement, including Appendices, shall only be made by written amendment to this Agreement.

5. COMPLIANCE WITH APPROVED PROGRAM: All activities authorized by this Agreement shall be performed in accordance with the approved Program Description, the approved Budget, the Grant Conditions, and the relevant Department of Housing and Urban Development regulations, as set forth in the initial grant agreement between the IOCRA and the Recipient. The Subrecipient may not use the CDBG-assisted facilities in any manner which does not meet the

1

intent and requirements of such initial CDBG grant agreement and such CDBG-facilities must be used to meet the prescribed CDBG national objective under which the IOCRA awarded said CDBG grant to the Recipient.

6. SUBCONTRACTING: The performance covered by this Contract shall not be subcontracted, assigned or delegated without the prior written consent of the Recipient, and the prior written consent of the IOCRA.

7. LIMITATION ON FUNDING: It is expressly understood and agreed that in no event will the Recipient pay the Subrecipient more than \$1,139,500 for full and complete satisfactory performance of this Agreement. The Recipient shall compensate the Subrecipient for fulfilling this Agreement as provided in accordance with the terms and conditions contained herein.

8. CDBG PROGRAM INCOME: Any gross income directly generated from the use of the CDBG grant funds shall be used only for those activities delineated in the Statement of Work and all relevant provisions of this Agreement shall apply to such activities. Disposition of CDBG Program Income received by the Subrecipient shall be governed by the requirements outlined in the Statement of Work, Appendix I, and in compliance with 24 CFR 570.504 (b) and (c).

9. FISCAL AND ADMINISTRATIVE RESPONSIBILITIES: The Subrecipient agrees to comply with the provisions of 24 CFR 570.502 (a) or (b), as applicable, and all requirements and standards which include but are not limited to the following:

A. Allowable and Allocable Costs. Costs must be necessary, reasonable and directly related to the scope of services of this Contract. In addition, costs must be legal and proper. The budget included in Appendix I shall control amounts of allowable expenditures within budget categories.

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers or other official documentation evidencing in proper detail the nature and propriety of charges. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.

C. Restriction on Disbursements. No money under this Agreement shall be disbursed by the Subrecipient to any contractor except pursuant to a written contract which incorporates the applicable requirements of this Contract and IOCRA/HUD regulations and unless the contractor is in compliance with IOCRA/HUD requirements for applicable accounting and fiscal matters.

D. Records and Reports:

(1) Establishment and Maintenance of Records:

Records shall be maintained in accordance with requirements prescribed by IOCRA or the Recipient with respect to all matters covered by this Contract. Except as otherwise authorized by IOCRA, such records shall be maintained for a period of five (5) years after final close-out of the grant by the Indiana Office of Community and Rural Affairs.

(2) Reports:

(a) At such times and in such forms as IOCRA or the Recipient may require, there shall be furnished to IOCRA or the Recipient such statements, records, data and information as IOCRA or the Recipient may request pertaining to matters covered by this Contract.

(b) The Subrecipient shall, at a minimum, submit the following reports to the Recipient:

(i) Quarterly progress reports due by the 15th day following the end of each calendar quarter, such reports outlining activities undertaken during such calendar quarter toward completion of the subject Program and the progress in meeting the prescribed CDBG national objective under the Recipient's grant agreement with the IOCRA;

(ii) Quarterly financial statements due by the 15th day following the end of each calendar quarter, such reports detailing all revenues and expenses applicable to the CDBG-assisted facilities and activities undertaken during such calendar quarter;

(iii) The reports required in Section 9D(2)(b)(i) and Section 9D(2)(b)(ii) above shall be submitted by Subrecipient to Recipient for a period of five (5) years following Administrative Closeout for the subject Program by the IOCRA to the Recipient, or until 25th day of August, 2025, whichever period is longer.

(iv) A report at the conclusion of the project for which funds are provided under this agreement which summarizes the successes or failures of the assisted activity, and the level of attainment respective to the CDBG national objective prescribed under the CDBG grant agreement between the IOCRA and the Recipient.

(3) Real and Non-expendable Property:

(a) Inventory: The Subrecipient shall keep inventory records, acceptable to the Recipient, on all real and non-expendable property purchased under this Agreement. The Subrecipient shall submit an inventory record of all items at the end of the program year and resubmit it each program year with revisions as necessary.

(b) Insurance and Maintenance: For all real and non-expendable property occupied, operated and/or purchased under this Agreement, the Subrecipient shall maintain sufficient insurance to cover the cost of replacement due to loss by fire, theft, or accidental damage. The Recipient shall be named as loss payee under such policies of insurance. The Subrecipient shall also be responsible for the maintenance and upkeep of all such property.

(4) Cooperation with Subrecipient: The Recipient shall provide all available maps, reports, and other data requested by the Subrecipient to accomplish the services which are the subject of this Contract. The Subrecipient shall pay for all articles so supplied.

10. ASSIGNMENT OR LIENS AGAINST CDBG-ASSISTED FACILITIES AND ASSETS:

The Subrecipient shall complete the form entitled "CDBG Lien and Restrictive Covenant Agreement", found in Appendix II, for all real property improved with CDBG funds awarded under this agreement. Appendix II must be duly recorded with the County Recorder in the county in which the improved property is located.

The Subrecipient shall not assign, pledge, or otherwise encumber the Subrecipient's or Recipient's interest in the CDBG-assisted facilities or assets without the prior written consent of the Recipient and the IOCRA. The Subrecipient shall not pledge or mortgage the CDBG-assisted facilities or assets as collateral for loans without the prior written consent of the Recipient and the IOCRA. The Subrecipient shall cure and otherwise perfect all liens placed against the CDBG-assisted facilities or assets.

11. ACCESS TO RECORDS: At any time during normal business hours and as often as the Recipient, IOCRA and/or the Comptroller General of the United States may deem necessary, Subrecipient shall make available to the Recipient, IOCRA and/or representatives of the Comptroller General for examination all of its records with respect to all matters covered by this Agreement. Further, the Subrecipient shall permit the Recipient, IOCRA, and/or representatives of the Comptroller General to audit, examine and make excerpts of transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

12. MONITORING AND AUDITS OF SUBRECIPIENT:

A. Subrecipient Monitoring:

The recipient is required by federal Office of Management and Budget (OMB) Circular A-133 to ensure that federal CDBG program requirements are met, that the funds are used for the purpose of the program, and that the Subrecipient complies with reporting and auditing requirements. If the Subrecipient is required to have an A-133 audit (as discussed below), the Recipient must review the A-133 audit report and follow up on any audit findings that relate to the CDBG project. If there are findings relative to the CDBG project, the Recipient must issue a management decision within six months of receipt of the audit report and ensure that the Subrecipient takes appropriate and timely corrective action. The management decision shall clearly state whether or not the audit findings are sustained, the reasons for the decision, and the expected subrecipient action to repay disallowed costs, make financial adjustments, or take other action.

Recipient procedures to ensure that the Subrecipient is meeting program requirements may also include:

- (1) Perform an analysis of financial status reports.
- (2) Determine appropriateness of disbursements through review of supporting documentation.
- (3) On-site visits by the Recipient to the Subrecipient's CDBG-assisted facilities. At regular intervals during the term of this Agreement, the Recipient may conduct reviews of the content and progress of the Subrecipient services. If, as a result of such reviews, it is the opinion of the Recipient that revisions to the Scope of Services (paragraph 2) is necessary or the methods employed by the Subrecipient are inappropriate, the Recipient may require such revisions by notifying the Subrecipient in writing. Upon receipt of such notification of revision, the Subrecipient shall, within ten (10) days, propose the manner in which the Subrecipient will comply with the revisions.
- (4) Review limited scope audit reports. If the Subrecipient expended less than **\$1,139,500** in federal awards the Recipient may require an agreed-upon procedures engagement. These engagements may address only one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching level of effort, earmarking; and reporting.
- (5) Review any financial statement audits when other type audits are not required.

The Recipient will also review the Subrecipient's fidelity bonding and fiscal and accounting procedures to determine if they meet the requirements of the Agreement.

B. Grant Information: The Recipient will provide the Subrecipient with the following information in compliance with OMB Circular A-133:

- (1) Catalog of Federal Domestic Assistance (CDFA) Number for CDBG: 14.228
- (2) CDFA Title for CDBG Project: "State Administered CDBG Program"
- (3) Name of the Federal grantor agency: U.S. Department of Housing and Urban Development
- (4) IOCRA's Grant Number assigned to the Recipient's CDBG Project
- (5) Amount of any State or Local matching funds
- (6) Advise the Subrecipient of requirements imposed upon the Subrecipient pursuant to applicable federal regulations and IOCRA policies.

C. Subrecipient Audit Requirements

- (1) A Subrecipient that expends \$500,000 or more in federal funds is required to have an audit in compliance with OMB Circular A-133. The Subrecipient is responsible for submitting a data collection form and reporting package to the federal clearinghouse within nine months of the end of the audit period. The reporting package must also be submitted to the Recipient. Per Section .505 of the OMB Circular A-133, the reporting package consists of:

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- (a) Financial Statements;
- (b) Schedule of Expenditures of Federal Awards;
- (c) Summary Schedule of Prior Audit Findings;
- (d) Corrective Action Plan for current year audit findings; and,
- (e) An Auditor's Opinion

(2) Subrecipients that receive any public funds (federal, state, or local government funds) are also subject to the audit requirements of Indiana Code 5-11-1-9 and the Indiana State Board of Accounts' Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources. A Subrecipient that is not a governmental entity must annually file an Entity Annual Report (form E-1) with the State Board of Accounts. If the Subrecipient's disbursements are less than fifty-percent (50%) from public funds they must request and receive a waiver from these audit requirements. If the Subrecipient is a not for profit corporation, and their disbursements are less than \$100,000, they may also request a waiver. Contact the Indiana State Board of Accounts at 317-232-2525 for a copy of their Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources and information on obtaining a waiver.

An audit in compliance with OMB Circular A-133 will meet the audit requirements of IC 5-11-1-9. However, a waiver from the State Board of Accounts from the audit requirements of IC 5-11-1-9 does not exempt the Subrecipient from audits required by OMB Circular A-133 or other audits provisions within this Agreement.

(3) All Subrecipient audits shall be completed within 180 days after the ending date of the Subrecipient's fiscal year. Two (2) copies of each audit report shall be delivered by the Subrecipient to the Recipient. One (1) copy will be retained and reviewed by the Recipient, with the remaining copy to be submitted by the Recipient to IOCRA.

(4) If the Subrecipient is unable or unwilling to have an audit conducted in accordance with OMB Circular A-133, the Recipient shall take one or more of the following actions:

- (a) Withhold a percentage of federal CDBG funds until the applicable audit is completed satisfactorily;
- (b) Suspend further disbursements of federal CDBG funds until the audit is conducted; or
- (c) Terminate this Agreement in accordance with Section 13 of this Agreement.

13. TERMINATION OF AGREEMENT:

A. By giving thirty (30) days written notice specifying the effective date, the Recipient may terminate this Contract in whole or in part for cause, which shall include:

- (1) Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement, including compliance with the approved program and Agreements conditions, and such statutes, executive orders, and HUD directives as may become applicable at any time;
- (2) Submission by the Subrecipient to the Recipient of reports that are incorrect or incomplete in any material respect;
- (3) Ineffective or improper use of funds provided under this Agreement;
- (4) Failure of the Subrecipient to supply the Recipient with quarterly reports and annual audits as required by the Recipient herein;
- (5) Failure of the Subrecipient to comply with the Recipient's corrective action plan respective to annual independent audits required by the Recipient herein;
- (6) Suspension or termination by IOCRA of the grant to the Recipient under which this Contract is made, or the portion of it delegated by this Agreement; provided, however, that if the grant is merely reduced and in the absence of any contrary IOCRA directive, the Subrecipient may adjust its budget and recommend Contract amendments to the Recipient.
- (7) The Recipient may also terminate, assign or transfer this Agreement when required by IOCRA direction.

B. The Subrecipient may propose to terminate this Agreement in whole or in part, for good cause only by giving at least thirty (30) days written notice specifically stating the cause for such requested termination. Any such request for termination shall be subject to the written approval of the Recipient, acted upon by the Recipient within ten (10) days of receipt of the notice of request to terminate. The decision of the Recipient shall be final and conclusive, provided that such approval shall not be unreasonably withheld.

C. This Agreement may also be terminated by either the Recipient or the Subrecipient in whole or in part, by mutual agreement setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Recipient determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Recipient may terminate the award in its entirety.

14. PROGRAM CLOSE-OUT: In the event the Subrecipient does not expend the amount allocated under this Agreement or the project is canceled, expired, assigned or terminated for any reason, any funds not claimed by the Subrecipient and approved by the Recipient for allowable costs by the end of the term or by the date of cancellation, expiration, or termination of this Agreement, as the case may be, shall no longer be payable to the Subrecipient under this Agreement.

15. USE AND REVERSION OF ASSETS: The Subrecipient shall use all CDBG-assisted property acquired under this Agreement in accordance with 24 CFR 570.505 for a period of five (5) years following the date the IOCRA issued a "Certificate of Completion" to the Recipient respective to the Recipient's CDBG Program. Unless specified otherwise within

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this Agreement, at the conclusion, cancellation, assignment or termination of this Agreement, the disposition of assets under this Agreement shall be in compliance with 24 CFR 570.503, 24 CFR 570.504, and 24 CFR 570.505, as applicable, which include but are not limited to the following:

- (1) Personal property and equipment acquired under this Agreement shall revert to the Recipient or disposition in compliance with 24 CFR 570.503., unless Subrecipient continues to carry out the same Program for which said property and equipment was acquired.
- (2) Where there is a residual inventory of unused supplies in excess of \$5,000.00 in total aggregate fair market value in which the Subrecipient has vested title through acquisitions under this Agreement, and where there is no need for said supplies for any other federally sponsored programs or projects, the Subrecipient shall compensate the Recipient for its share in compliance with 24 CFR 570.502.
- (3) The Subrecipient shall transfer to the Recipient any funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.
- (4) Real property under the Subrecipient's control that was acquired or improved in whole or in part with funds under this Contract in excess of \$25,000.00, unless otherwise specified in Scope of Services, Appendix I, shall be (a) used to meet one of the national objectives pursuant to 24 CFR 570.208 until five (5) years after the IOCRA issues a "Certificate of Completion" respective to the approved CDBG Program to the Recipient, or (b) disposed of in a manner which results in the Recipient being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment to Recipient shall constitute CDBG Program Income and shall be subject to the provisions of 24 CFR 570.489(e).
- (5) If so specified in Appendix I to this Agreement, the Subrecipient may retain CDBG-assisted real and personal property acquired under the Recipient's CDBG Program after the expiration of the five-year period covered by 24 CFR 570.503 and 24 CFR 570.505.

16. COMMUNITY DEVELOPMENT IDENTIFICATION IN PROJECT ACTIVITIES:

- A. All buildings, offices, vehicles and other such property purchased, rehabilitated, or supported in whole or in part with funds made available under this Agreement shall identify the Program as a sponsor of the activity.
- B. All pamphlets, brochures or other printed material prepared and/or distributed by the Subrecipient in connection with activities for which Community Development funding is provided under this Agreement shall identify the Program and IOCRA as sponsors of the activity by the inclusion of the following statement of all such material:

"This (brochure, pamphlet, etc.) was produced (in whole or in part) with the assistance of the Recipient of the City of Plymouth, Indiana through federal funds made available by the Indiana Office of Community and Rural Affairs under Title I of the federal Housing and Community Development Act, as amended."

- C. Failure to comply with A or B above shall result in a disallowance of all costs incurred for the activity.
17. **COPYRIGHTS:** If this Agreement results in a publication or other copyrightable material, the author may copyright the work, but the Recipient and IOCRA reserve royalty free, nonexclusive, and irrevocable licenses to reproduce, publish, or otherwise use, and to authorize others to use, all copyrighted material and all material which can be copyrighted.
18. **PATENTS:** Any discovery or invention arising out of or developed in the course of work aided by this Contract shall be promptly and fully reported to IOCRA for determination by IOCRA as to whether patent protection on such invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interest.
19. **EQUAL OPPORTUNITY AND NONDISCRIMINATION:** The Subrecipient agrees to comply with equal opportunity requirements applicable to Community Development Block Grant activities. Specifically, the Subrecipient agrees to comply with:
- A. **TITLE VI. CIVIL RIGHTS ACT OF 1964:** which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
 - B. **TITLE VIII. CIVIL RIGHTS ACT OF 1968:** which provides for fair housing throughout the United States. Kinds of discrimination prohibited include refusal to sell, rent, or negotiate, or otherwise to make unavailable; discrimination in terms, conditions and privileges; discriminatory advertising; false representation; blockbusting; discrimination in financing; and discrimination in membership in multi-listing services and real estate broker organizations. Discrimination is prohibited on the grounds of race, color, religion, sex and national origin. The IOCRA (and grantees) shall administer programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this Title.
 - C. **SECTION 109. HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1977:** which provides that no person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Title.
 - D. **AGE DISCRIMINATION ACT OF 1975:** 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 financial assistance.
 - E. **SECTION 504 OF THE REHABILITATION ACT OF 1973:** which provides that handicapped individuals may not be excluded from participation in, be denied benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance.
 - F. **EXECUTIVE ORDER 11063:** as amended by Executive Order 12259, which requires equal opportunity in housing and related facilities provided by federal financial assistance.

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G. EXECUTIVE ORDER 11246: as amended by Executive Orders 11375 and 12086, which prohibit discrimination on the grounds of race, creed, color, sex or national origin in employment under federally assisted construction contracts.

H. SECTION 3 HOUSING AND URBAN DEVELOPMENT ACT OF 1968, which provides that to the greatest extent feasible, opportunities for training and employment shall be given to lower income residents of HUD/IOCRA-assisted project areas, and that contracts for work in connection with such projects be awarded to business concerns which are located in or are owned in substantial part by project area residents. In connection with its compliance with Section 3 and the Section 3 Clause set forth below, the Subrecipient shall insert in full in all contracts and subcontracts for work financed in whole or in part with assistance provided under this Agreement the Section 3 Clause which follows:

"The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development 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 (u). Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given 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."

(1) The parties to this Agreement will comply with the provisions of Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in Title 24 Code of Federal Regulations (24 CFR), and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement.

(2) The Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding if any, a notice advising the said labor organization or workers' representative of his 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.

(3) The Contractor will include this Section 3 Clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development under 24 CFR. The Contractor will not subcontract with any subcontractor where Contractor has notice or knowledge that the latter has been found in violation of regulations under 24 CFR and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

(4) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR, and all applicable rules and orders of the Department contract, shall be a condition of the federal financial assistance provided to the project, binding upon the

applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR.

I. AMERICANS WITH DISABILITIES ACT OF 1990: which provides that no person shall on the basis of handicap, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance.

20. OTHER REQUIREMENTS: Notwithstanding the Recipient's responsibilities with respect to the requirements listed below, the Subrecipient agrees to comply with the following requirements, when applicable:

A. NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE: The Subrecipient agrees to comply with the provisions of Executive Order 11625.

B. RELOCATION AND ACQUISITION: The Subrecipient agrees to comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies of 1970 (42 U.S.C. 4601) and the regulations at 24 CFR 42, which may be amended from time to time.

C. ENVIRONMENT: The Subrecipient agrees to comply with the Clean Air Act (42 U.S.C. 1857, et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.), and the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) and the regulations pursuant to these acts, when applicable.

D. HISTORIC PRESERVATION: The Subrecipient agrees to comply with the National Historic Preservation Act (16 U.S.C. 470 et seq.) and regulations pursuant to it. The Subrecipient agrees to take into account the effect of the project for which Community Development funding is provided under this Agreement on any district, site, building, structure, or object listed in or found by the Secretary of the Interior, pursuant to 36 CFR 60.6, to be eligible for inclusion in the National Register of Historic Places.

E. LABOR STANDARDS: When applicable, the Subrecipient agrees to comply with the provisions of 24 CFR 570.603 and related requirements which may be issued from time to time by the IOCRA. The Subrecipient shall include in all applicable construction contracts the provisions of federal law imposing labor standards on federally assisted construction, including, but not limited to residential projects for use by eight (8) or more families.

F. ARCHITECTURAL BARRIERS: The Subrecipient agrees to comply with the Architectural Barriers Act of 1968 (42 U.S.C. 4151) when applicable and with handicapped access requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225).

G. CULTURAL ENVIRONMENT: The Subrecipient agrees to comply with the provisions of the Flood Disaster Act of 1973 (42 U.S.C. 4001, et seq.) and regulations pursuant to it.

21. PROHIBITIONS:

A. Prohibition Against Payments of Bonus or Commission: The assistance provided under this Agreement shall not be used in payment of any bonus or commission to obtain HUD or Recipient approval of the application for such assistance or for additional assistance, or any other approval or concurrence required under this Agreement, Title I of the Housing and Community Development Act of 1974, as amended, or IO CRA/ HUD regulations with respect thereto; provided, however, that reasonable fees or bonafide technical, consultant, managerial or other such services, rather than solicitation, are not prohibited if otherwise eligible as program costs.

B. Prohibition Against Kickbacks: The Subrecipient agrees to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) which prohibits kickbacks from public works employees.

C. Conflict of Interest:

(1) No member, officer, or employee of the Recipient, or its designees or agents, no member of the governing body of the Recipient of the City of Plymouth, Indiana or the Subrecipient (and no one with whom they have family or business ties) who exercises any functions or responsibilities with respect to the program during his or her tenure or for one year thereafter, shall have any personal or financial benefit, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the Contract.

(2) The Subrecipient agrees that it will incorporate into every written contract the following provision:

"INTEREST OF CONTRACTOR AND EMPLOYEES: The Contractor covenants that no person who presently exercises any functions or responsibilities in connection with the Community Development Program, and no one with whom they have family or business ties, has any personal financial benefit, direct or indirect in this Contract."

D. Political Activity Prohibited: None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any candidate for public office or for political activities.

E. Prohibition of, and Elimination of, Lead-Based Paint Hazard: Notwithstanding any other provision, the Subrecipient agrees to comply with the regulations set forth in 24 CFR 570.608 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in residential structures undergoing federally assisted construction or rehabilitation and require the elimination of lead-based paint hazards. Every contract or subcontract including painting, pursuant to which such federally assisted construction or rehabilitation is performed, shall include appropriate provisions prohibiting the use of lead-based paint.

F. Prohibition of Assistance for Religious Activities and/or Organizations: None of the funds, materials, property or services provided under this Agreement may be used to promote religious activities or to assist religious organizations in promoting secular activities unless specifically allowed under 24 CFR 570.200(j).

G. Lobbying Prohibited: None of the funds provided under this Contract shall be used for publicity or propaganda purposes designed to defeat or support legislation pending before Congress.

22. CERTIFICATION REGARDING LOBBYING: The undersigned representative of the Subrecipient certifies, to the best of his or her knowledge and belief, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Subrecipient, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Subrecipient, 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 representative of the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned representative of the Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, agreements) and that all subrecipients shall certify and disclose accordingly.

D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

23. COMPLIANCE WITH FEDERAL RULES AND REGULATIONS: The Subrecipient agrees to abide by all applicable federal rules and regulations, as amended from time to time, including but not limited to those federal rules and regulations referred to in this Agreement. Unearned payments under this Agreement may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by HUD at any time or if the grant to the Recipient under Title I of the Housing and Community Development Act of 1974, is suspended or terminated.

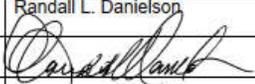
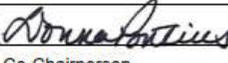
24. COMPLIANCE WITH FEDERAL CDBG THIRD-PARTY CONTRACT PROVISIONS: The Subrecipient agrees to abide by all federal and IO CRA contract provisions in carrying out the subject CDBG Program. The Subrecipient agrees to incorporate into all third-party contracts undertaken by the Subrecipient involving CDBG funds the provisions provided herein as Appendix II.

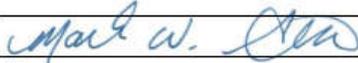
25. **CLAIMS AGAINST THE RECIPIENT:** The Subrecipient agrees to defend, indemnify and save harmless the Recipient and the IOCRA from any and all claims of any nature whatsoever which may arise from the Subrecipient's performance of this Agreement; provided, however, that nothing contained in this Agreement shall be construed as rendering the Subrecipient liable for acts of the Recipient, its officers, agents or employees. Refer to Section 26 below for requirements respective to disallowances of costs by IOCRA or HUD. The Subrecipient further agrees to include the Recipient and the IOCRA as co-insured parties under all policies of liability insurance maintained by the Subrecipient respective to the subject CDBG-funded Program.

26. **DISALLOWANCES OF PROGRAM COSTS BY IOCRA OR HUD:** The Subrecipient agrees to indemnify and save harmless the Recipient from disallowances by the IOCRA or HUD of program costs incurred by the Subrecipient which arise from the Subrecipient's performance of this Agreement due to the Subrecipient's failure to meet a national objective of the Community Development Block Grant (CDBG) Program pursuant to 24 CFR 570.200(a)(2), 24 CFR 570.208, and 24 CFR 570.483, or for failure to comply with CDBG/HUD regulations or IOCRA regulatory requirements as determined by the IOCRA or HUD. The Subrecipient agrees to promptly repay the Recipient for all such disallowed costs incurred by the Subrecipient.

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

EXECUTION/SIGNATORIES TO AGREEMENT PROVIDED ON SUCCEEDING PAGE

Name of Subrecipient:	The REES Theatre Inc.
By: Name of CEO of Chairman of Board	Randall L. Danielson
Signature:	
Title:	Co-Chairperson
Date:	August 24, 2020
ATTEST	
Name:	Donna L. Pontius
Signature:	
Title:	Co-Chairperson
Date:	August 24, 2020

Name of Recipient:	City of Plymouth
By: Name of CEO of Chairman of Board	Mark W. Senter
Signature:	
Title:	Mayor
Date:	August 24, 2020
ATTEST	
Name of Recipient's Attorney:	Sean M. Surrisi
Signature:	
Title:	City Attorney
Date:	August 24, 2020

Approved by the Indiana Office of Community and Rural Affairs

By: _____ **Date:** _____
Director, State CDBG Program

*This document was prepared by S. Kyleen Nash, J.D.,
 Office of the Lieutenant Governor, State of Indiana
 and reviewed by the attorney for the City of Plymouth, Indiana, Sean M. Surrisi*

APPENDIX I

REFERENCE/GOVERNING REGULATIONS: 24 CFR 570.503

1. **STATEMENT OF WORK TO BE PERFORMED BY SUBRECIPIENT [24 CFR 570.503(b)(1)]:**

A. DESCRIPTION OF WORK TO BE PERFORMED:

Interior renovation of the REES Theatre, including but not limited to: interior partitions, finishing the building, electrical, plumbing, HVAC, finishes, and lighting systems. Upon completion, the facility will be utilized as a community center that will host a number of events such as classic movie night, musical and theatrical performance and educational programming and classes; such as book readings, painting, dance, etc. It will also be open to the public and various organizations for general meeting purposes, the celebration of life events and community milestones.

B. PROPERTY ADDRESS AND PARCEL NUMBER OF FACILITY TO BE ASSISTED:

The address of the facility is 100 North Michigan Street, Plymouth, Indiana 46563. This is located in Marshall County, Indiana and identified as parcel number 503293104985000019.

C. SERVICE AREA OF CDBG PROGRAM:

The performing arts community building will benefit all that reside within the corporate limits of Marshall County, Indiana.

D. SCHEDULE FOR COMPLETION OF WORK/PROJECT TIMETABLE:

Public Bid Opening:	December 2020
Start of Construction:	February 2021
Substantial Project Completion:	December 2021

E. TARGETED GOALS OF SUBRECIPIENT:

The renovation of this historic structure that originated in 1865 as Plymouth's tallest brick mercantile that also housed second floor offices and a fraternal order on the third floor. In 1939 it transitioned into an art deco movie palace with the most up to date equipment and finishes of its time. The building today remains the most iconic structure in downtown Plymouth, Indiana and its preservation will serve as a catalyst in the further revitalization of the Plymouth community. However, the main goal is to fulfill a need of the residents within Marshall County given the lack of arts and cultural opportunities. The re-opening of the facility to be utilized as a community center and open to the public for public / private events will meet the growing needs of the residents, philanthropic organizations, and private sector in the way of expanded service opportunities and quality of life activities for all those residing within the corporate limits of the City of Plymouth and surrounding Marshall County area.

Specific Issues

- The REES Theatre Inc. is a separate, non-for-profit organization which is charged with the responsibility of operating and maintaining the REES Theatre property. In furtherance of that goal, the REES Theatre Inc. proposes to completely restore / renovate the existing property located in the heart of downtown Plymouth, Indiana. Upon completion, the facility will be open to the public for a number of public and private events;
- The City of Plymouth will act as the grant recipient, whereas The REES Theatre Inc. will be considered the grant sub-recipient;
- The REES Theatre Inc. will be contributing \$505,500 in cash donations at the Marshall County Community Foundation. Said funds will be deposited into the project fund, held by The REES Theatre Inc., upon grant award;
- As stated, the City of Plymouth will act as the Grantee and will help oversee all aspects of the project including, but not limited to, the bidding process, review of contracts, and financial management. The REES Theatre Inc. Board will act as the sub-recipient and will cooperate with the City of Plymouth to ensure all federal requirements are met. The REES Theatre Inc. stipulates and agrees that it will comply with any and all rules or regulations related to or a part of any grant obtained for the project. In the event there is a violation of any rules or regulations that may trigger financial liability to the City of Plymouth, The REES Theatre Inc. agrees that it shall be responsible for such liability and agrees to indemnify and hold the City of Plymouth harmless thereon;
- The REES Theatre Inc. Board will submit copies of all approved invoices and disbursements to the City of Plymouth for record keeping and State Board of Account Audit purposes;
- The REES Theatre Inc. Board will allow the City of Plymouth to review and comment upon the final plans and specifications of the renovation improvements but ultimately, The REES Theatre Inc. Board will have final approval of the plans;
- The REES Theatre Inc. Board will contract with an Indiana CDBG certified grant administrator to make sure that all federal requirements are met in full;
- If it is necessary to incur administration fees on the City level, the City of Plymouth, Indiana will be entitled to the administration fees so incurred;
- The REES Theatre Inc. Board will contract with the professional design architect to make sure all building codes and requirements are designed properly;
- The REES Theatre Inc. Board will contract with a professional building inspector to make sure all construction is completed according to the design;
- The REES Theatre Inc. Board will advertise and open bids at a public meeting and discuss the certifications, etc. of the low, responsible, responsive bidder with the City of Plymouth prior to executing a construction contract;
- The REES Theatre Inc. has established an endowment sustainability fund for the long-term operation and maintenance of the facility with the Marshall County Community Foundation. Said fund currently has \$45,000 in its balance;

- Upon project completion The REES Theatre Inc. Board will be responsible for the day to day operations and maintenance of the facility for a period no less than five (5) years. This includes but is not limited to the booking/scheduling of events, general cleaning/maintenance both inside and out, yearly inspections, stocking of paper products and furnishings, and outdoor landscaping. Said cost affiliated with these activities will be through the REES Theatre Inc.'s general fund and rental fees collected. (Snow removal will be a joint effort between the City of Plymouth and The REES Theatre Inc.);
- Upon project completion, The REES Theatre Inc. will maintain insurance on the building for a period not less than five (5) years;
- The facility will remain titled to The REES Theatre Inc., but the City of Plymouth will oversee the facility to verify that it remains utilized as a community center for a period no less than five (5) years of the project administrative close-out;

Good Faith

The execution of this Sub-Recipient indicates the parties will work in good faith and in the best business interests of each party. Each party shall conduct its business in compliance with all applicable laws and regulations in any way related to the performance of duties under this agreement.

Entire Understanding: Modification

This Sub-Recipient Agreement embodies the entire understanding of the parties as to the subject matter hereof and supersedes any and all prior agreements or understanding between the parties. The parties acknowledge and agree that no contractual or other relationship between the parties, apart from the one expressly described in this Sub-Recipient Agreement, exists at the time of execution of this Sub-Recipient Agreement. No modification of this Sub-Recipient Agreement will be valid or binding upon the parties unless made in writing and signed by an authorized representative of each party. Indiana law governs this Sub-Recipient Agreement.

PROGRAM BUDGET (ATTACH ADDITIONAL SHEETS IF NEEDED):

ACTIVITY	CDBG	LOCAL (with eligible In-Kind)	INELIGIBLE	TOTAL
Construction Costs	\$1,139,500	\$360,500	\$0	\$1,500,000
Professional Fees	\$0	\$95,000	\$0	\$95,000
Labor Standards (\$5,000 max)	\$0	\$5,000	\$0	\$5,000
Land Acquisition (if any)	\$0	\$0	\$0	\$0
Environmental Review (\$5,000 max)	\$0	\$0	\$0	\$0
Administration (Max 8% of CDBG)	\$0	\$45,000	\$0	\$45,000
TOTAL	\$1,139,500.00	\$505,500.00	\$0.00	\$1,645,000.00

2. RECORDS AND REPORTS TO BE FURNISHED BY SUBRECIPIENT [24 CFR 570.503(b)(2)]:

Refer to Sections 9, 10 and 11 of this Agreement between Recipient and Subrecipient. Additional recording and reporting requirements will include the following:

A Copy of The REES Theatre Inc. Year End Report will be provided to the City of Plymouth, Indiana for each year between 2020 and 2025.

3. FEDERAL CDBG PROGRAM INCOME RECEIVED BY SUBRECIPIENT [24 CFR 570.503(b)(3)]:

Pursuant to 24 CFR 570.504, the Subrecipient shall do one (1) of the following respective to all CDBG Program Income received resulting from operation of CDBG-assisted Program facilities and assets:

- A. **N/A** Return all such Program Income to the Recipient; or,
- B. **N/A** Retain all such Program Income generated by the Subrecipient and Subrecipient shall expend all such Program Income for the following activities, approved by the Recipient and IOCRA in writing:

Not Applicable to Project Scope

Recipient and Subrecipient agree that all CDBG Program Income shall be expended prior to drawing any additional CDBG funds from the IOCRA for Program-related expenses.

Recipient and Subrecipient further agree that in the event of reversion of CDBG-assisted facilities and assets to Recipient upon the expiration of this Agreement, or if received after the expiration of this Agreement, all CDBG Program Income shall be paid to the Recipient as required by 24 CFR 570.503(b)(7).

4. COMPLIANCE WITH UNIFORM ADMINISTRATIVE REQUIREMENTS [24 CFR 570.503(b)(4)]:

The Subrecipient shall comply with all applicable federal CDBG Uniform Administrative Requirements as described in Section 9 of this Agreement and other requirements set forth in 24 CFR 570.502.

5. COMPLIANCE WITH OTHER PROGRAM REQUIREMENTS [24 CFR 570.503(b)(5)]:

The Subrecipient shall comply with all applicable federal laws and regulations set forth under the following CDBG-related regulatory provisions:

- A. 24 CFR 570.601: Affirmatively furthering fair housing (Executive Order 11063)
- B. 24 CFR 570.602: Section 109 of the Housing and Community Development Act of 1977
- C. 24 CFR 570.603: Federal Labor Standards compliance requirements
- D. 24 CFR 570.604: Environmental standards
- E. 24 CFR 570.605: National Flood Insurance Program
- F. 24 CFR 570.606: Displacement, acquisition and relocation requirements
- G. 24 CFR 570.607: Section 3 of the Housing and Community Development Act of 1968
- H. 24 CFR 570.608: Compliance with lead-based paint requirements
- I. 24 CFR 570.609: Prohibition of use of suspended and debarred contractors and subrecipients
- J. 24 CFR 570.610: Compliance with Uniform Administrative Requirements (24 CFR 570.202)
- K. 24 CFR 570.611: Compliance with Conflict of Interest requirements (24 CFR 570.611)
- L. 24 CFR 570.612: Compliance with Executive Order 12372
- M. 24 CFR 570.613: Eligibility requirements of certain resident aliens
- N. 24 CFR 570.614: Compliance with the Architectural Barriers Act and Americans With Disabilities Act

The Recipient shall be responsible for carrying out regulatory requirements respective to environmental responsibilities described at 24 CFR 570.604 and the Recipient shall have the responsibility for initiating the environmental review process as is required by 24 CFR Part 58.

6. SUSPENSION AND TERMINATION PROVISIONS [24 CFR 570.503(b)(6)]:

As set forth in Section 13 of this Agreement and in accordance with 24 CFR 85.43, suspension or termination of this Agreement may occur if the Subrecipient materially fails to comply with any term of the CDBG award to Recipient from IO CRA; further, the Agreement may be terminated for convenience in accordance with 24 CFR 85.44.

7. USE AND REVERSION OF ASSETS [24 CFR 570.503(b)(7)]:

A. Upon expiration of this Agreement, the Subrecipient shall transfer to the Recipient any CDBG funds on hand and any CDBG-related accounts receivable.

B. All CDBG-assisted real and personal property under control of Subrecipient shall be used to meet the prescribed CDBG national objective applicable to the CDBG award to the Recipient by until five (5) years after the date a "Certificate of Completion" is issued by IO CRA respective to this project.

C. In the event the Subrecipient fails to use the CDBG-assisted real and personal property in a manner which meets the prescribed CDBG national objective, the Subrecipient shall pay the Recipient an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvements to, the property.

D. No payment by Subrecipient to Recipient as set forth in Section 7C above is required after the expiration of the period of time set forth in Section 7B above. Further, unless otherwise specified within this Agreement, the Subrecipient may retain the CDBG-assisted facilities and assets after the expiration of the five-year period cited in Section 7B above.

APPENDIX II

FEDERAL AND STATE THIRD-PARTY CONTRACT PROVISIONS

CDBG-ASSISTED NON-CONSTRUCTION CONTRACTS

(Required by Title 24 of the Code of the Federal Register as well as other selected contract provisions required by the Indiana Office of Community and Rural Affairs for CDBG-assisted grants/activities)

The following Federal Regulations, Contract Provisions and Clauses are incorporated into this agreement in their entirety, and made an integral part hereof.

1. Equal Employment Opportunity (Executive Order 11246 dated 9/24/65, as amended by Executive Order 11375 dated 10/13/67):

The contractor hereby agrees that it will incorporate or cause to be incorporated into any contract for professional services, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the federal government or borrowed on the credit of the federal government pursuant to a grant, contract, loan insurance or guarantee or undertaken pursuant to any federal program involving such grant, contract, loan insurance or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

A. 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; rate of pay or 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 setting forth the provisions of this nondiscrimination.

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B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex or national origin.

C. 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 advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, and with the rules, regulations and relevant orders of the Secretary of Labor.

E. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

F. In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or 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 or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

G. The contractor will include the portion of the sentence immediately preceding paragraph A and the provisions of paragraphs A through G 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 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 subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

H. The contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrument or subdivision of such government which does not participate in work on or under the contract.

I. The contractor agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

J. The contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate proceedings.

2. Minority and Women Business Enterprise Policy (Indiana Office of Community and Rural Affairs):

The contractor agrees to ensure that disadvantaged business enterprises as defined in 13 CFR 124.103 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 13 CFR 124.103 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of this contract. The contractor shall establish and pursue a 10% goal for participation in the proceeds of this contract.

During the performance of this contract, the contractor agrees to comply with Executive Order 12138 entitled "Women Business Enterprise Policy" which includes, but is not limited to, creating or supporting new programs responsive to the special needs of women business enterprises, establishing incentives to promote business or business-related opportunities of women business enterprises, collecting and disseminating information in support of women business enterprise in ensuring to women business enterprises knowledge of any ready access to business-related services and resources.

3. Compliance in the Provision of Training, Employment and Business Opportunities:

A. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development through the Indiana Office of Community and Rural Affairs and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC, 1701u. 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.

B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

4. Title VI Civil Rights Act of 1964:

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

A. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices.

B. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.

C. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, their sources of information and its facilities as may be determined by the Indiana Office of Community and Rural Affairs or the United States Department of Housing and Urban Development to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information is required or a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the awarding agency, the Indiana Office of Community and Rural Affairs, or the United States Department of Housing and Urban Development, as appropriate, and shall set forth what efforts it has made to obtain the information.

D. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Indiana Office of Community and Rural Affairs or the United States Department of Housing and Urban Development shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

- (1) Withholding of payments to the contractor under the contract until the contractor complies; and/or,
- (2) Cancellation, termination or suspension of the contract, in whole or in part.

E. The contractor shall include the provisions of paragraph (A) through (E) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Indiana Office of Community and Rural Affairs or the United States Department of Housing and Urban Development may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Indiana Office of Community and Rural Affairs to enter into such litigation to protect the interests of the State of Indiana, and, in addition, the contractor may request the United States Department of Housing and Urban Development to enter into such litigation to protect the interests of the United States.

5. Title VIII Civil Rights Acts of 1968 (as applicable):

The contractor shall comply with Title VIII Civil Rights Acts of 1968 which prohibits discrimination in the sale or rental of dwellings (as defined), discrimination in the financing or housing, blockbusting, and discriminatory advertising; and makes it unlawful to deny any person access to, or membership or participation in, any multiple listing service or real estate broker organization for discriminatory reasons.

6. Section 109 Housing and Urban Development Act of 1974 (as applicable):

The contractor provides that no person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part under this title.

7. Section 504 Rehabilitation Act of 1973:

A. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all demotion or transfer, recruitment, advertising, layoff or termination rates of pay or other forms of compensation, and selection for training, including apprenticeship.

B. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

C. In the event of the contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

D. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Indiana Office of Community and Rural Affairs, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

E. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 504 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

F. The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 504 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

8. Fair Housing Amendments Act of 1988 (as applicable):

The contractor shall comply with Fair Housing Amendments Act of 1988 which Amends Title VIII of the Civil Rights Act of 1968 that prohibits discrimination on the basis of race, color, religion, sex or national origin in the sale, rental and financing of dwellings. The 1988 Amendments Act extends coverage of the 1968 Act to persons with disabilities and families with children. In addition, the 1988 Amendments establish certain design and construction requirements for new multi-family housing built for first occupancy on or after March 13, 1991.

9. Age Discrimination Act of 1975:

The contractor shall comply with the Age Discrimination Act of 1975 which provides that no person, on the basis of age shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

10. Americans With Disabilities Act of 1990:

The contractor shall comply with the Americans With Disabilities Act of 1990 which provides that no person, on the basis of handicap, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

11. Certification of Nonsegregated Facilities:

The contractor certifies that he/she does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and those under his/her control. He/she certifies further that he/she will not maintain or provide for employment segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of the contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or in fact segregated on the basis of race, color, religion or national origin because of habit, local custom, or otherwise. He/she further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certification from proposed subcontractors prior to the awards of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he/she will retain such certification in his/her files; and that he/she will forward this notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

12. Retention and Access Requirements For Records (24 CFR Part 85.42):

A. The contractor shall comply with Retention and Access Requirements For Records (24 CFR Part 85.42) and State of Indiana records access and retention requirements, to wit:

Financial records, supporting documents, statistical records and all other records pertinent to a grant shall be retained for a period of five (5) years, with the following qualifications:

- (1) If any litigation, claim, negotiation, audits or other action is started before the expiration of the five-year period, the records shall be retained until all litigation, claim or audit findings involving the records have been resolved, or the five-year period, whichever is later.
- (2) Records of nonexpendable property acquired with federal funds shall be retained for five years after final disposition of such property.
- (3) When records are transferred to or maintained by the federal sponsoring agency, the five-year retention required is not applicable to the grantee.

B. The five-year retention period starts from the date of issuance of a "Certification of Completion" respective to the grant by the Indiana Office of Community and Rural Affairs.

C. The Indiana Office of Community and Rural Affairs shall request transfer of certain records to its custody from grantees when it is determined that the records possess long-term retention value. However, in order to avoid duplicate record-keeping, the Indiana Office of Community and Rural Affairs may make arrangements with grantees to retain any records that are continuously needed for joint uses.

D. The Indiana Office of Community and Rural Affairs, the United States Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records of grantee and sub-grantees to make audits, examinations, excerpts and transcripts.

E. Unless otherwise required by law, Indiana Office of Community and Rural Affairs shall not place restrictions upon grantees that will limit public access to the records of grantees that are pertinent to a grant except when the agency can demonstrate that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 USC 552) if the records had belonged to the grantor agency.

13. Conflict of Interest (24 CFR 85.36 and 24 CFR 570.611):

The contractor shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by federal funds. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Persons covered under this section include any person who is:

- (a) An employee, agent, consultant, officer, or elected or appointed official of the grantee, any designated public agency or any subrecipient agency that is receiving CDBG funds from the Indiana Office of Community and Rural Affairs;
- (b) Any member of his/her immediate family;
- (c) His or her partner; or
- (d) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements funded with CDBG funds. To the extent permitted by state or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents or by contractors or their agents.

No persons described in (a) through (d) above who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter.

14. Remedies/Sanctions or Breach of Contract Terms:

Upon written notice, the grantee may withhold payments to the contractor if the contractor shall fail to fulfill in a timely and proper manner its obligations to grantee under this contract, or if the contractor shall violate any of the conditions of this contract. The grantee shall in its written notice to contractor fully describe the nature of failure or violation by contractor, the corrective action required of contractor, and, the grantee shall allow the contractor thirty (30) days from the date of notification to correct such failure and/or violation. If such failure or violation is corrected by the contractor within thirty (30) days from the date of notification, then the grantee shall process payment(s) to the contractor. If such failure or violation is not corrected within thirty (30) days from the date of this notification, then the grantee may proceed to terminate this contract.

15. Termination of Contract for Cause - 24 CFR 85.43 (All Contracts in Excess of \$10,000):

If the contractor shall fail to fulfill in a timely and proper manner his/her obligations under this contract, or if the contractor shall continue to violate any of the covenants, agreements, or stipulations of this contract, following notices by the grantee and allowances for corrective actions specified in Paragraph 14 above, the grantee shall thereupon have the right to terminate this contract by giving written notice to the contractor of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the contractor under this contract shall, at the option of the grantee, become the property of the grantee and the contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. In the event the

contractor disputes grantee's election to terminate this contract for cause under this paragraph, contractor may pursue equitable relief or remedy.

16. Termination for Convenience - 24 CFR 85.44 (All Contracts in Excess of \$10,000):

The grantee may terminate this contract for its convenience, at any time, by giving at least thirty (30) days' notice in writing to the contractor. If the contract is terminated by the grantee as provided herein, the grantee agrees to pay the contractor, no later than thirty (30) days following the date of the written notice of contract termination by grantee. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the contractor under this contract shall, at the option of the grantee, become the property of the grantee and the contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

17. Changes to Contract:

The terms and conditions of this contract may be changed at any time by mutual agreement of the parties. Such modification shall be effective upon the signing by both parties of an addendum to this contract encompassing those changes. Where the addendum changes the compensation or time of performance, it shall also describe the change in scope, character or complexity of the work that is the basis for the change.

18. Contractor to Furnish Necessary Personnel Resources:

A. The contractor represents that it has, or will secure at its own expense, all personnel required in performing the services specified in this contract. Such personnel shall not be employees of or have, as individuals, any contractual relationship with the grantee.

B. All of the services required hereunder will be performed by the contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.

C. With the exception of the work described as being subcontracted within the contract, if any, none of the work or services covered by this contract shall be subcontracted without the prior approval of the grantee. Any additional work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this contract.

19. Reports and Information:

The contractor, at such times and in such forms as the grantee or the Indiana Office of Community and Rural Affairs may require, shall furnish grantee and/or the Indiana Office of Community and Rural Affairs such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred by grantee in connection therewith, and any other matters covered by this contract.

20. Records and Audits:

The contractor shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this contract and such other records as may be deemed necessary by the grantee to assure proper accounting for all funds applicable to this contract. These records will be made available for audit purposes to the grantee or any authorized representative, and will be retained for five years after the expiration of this contract unless permission to destroy them is granted.

21. Copyright and Patent Rights:

No reports, maps, or other documents produced in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the contractor. The US Department of Housing and Urban Development, the Indiana Office of Community and Rural Affairs and the grantee shall possess all rights to invention or discovery, as well as rights in data which may arise as a result of the contractor's services.

22. Compliance with State and Local Laws:

The contractor specifically agrees that in performance of the services herein enumerated, contractor and his/her employees/agents will comply with any applicable State, and Local Statutes, ordinances and regulations at the time this agreement is executed.

23. Disclosure Reports (HUD Reform Act of 1989 - 24 CFR Part 4.9):

Section 2 of the HUD Reform Act of 1989 requires that if the grantee receives \$200,000 or more in federal CDBG funds during a federal fiscal year, (October 1 - September 30), a HUD disclosure report must be completed for each contract funded in whole or in part with federal CDBG funds. A copy of all such Disclosure Reports must be submitted by the grantee to the Grant Services Office of the Indiana Office of Community and Rural Affairs within ten (10) days after contract execution. In order for the grantee to comply with this federal requirement, the grantee will provide to the contractor the prescribed format of Part IV to the HUD Disclosure Report, and the contractor agrees to furnish the grantee a completed Part IV to the HUD Disclosure Report within seven (7) days of execution of the agreement between contractor and grantee. Within such Part IV of the prescribed HUD Disclosure Report, the contractor will provide the grantee with the following minimum information:

- a. The name of all persons who are proprietors, partners, directors or officers of the contractor and thereby have a pecuniary interest in the proceeds of the CDBG-assisted contract;
- b. The social security account number of all proprietors listed in a. above, or the federal identification number of the partnership or corporation which is subject to the CDBG-assisted contract, as applicable;
- c. The type of participation each individual named in a. above will have in the CDBG-assisted contract. Such participation may be listed in the Part IV of the HUD Disclosure Report as "direct", or "passive", whichever applies to such proprietor, partner, director or officer, as applicable; and,
- d. The financial interest of the named individual as set forth in a. above; such interest to be expressed in dollar terms or in terms of percentage of ownership of the proprietorship, partnership, or corporation which is to receive federal CDBG funding under this contract.

24. Compliance with Copeland "Anti-Kick Back" Act:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Copeland "Anti-Kick Back" Act (18 USC 874) as supplemented in US Department of Labor regulations 29 CFR Part 3, respective to all contracts and subgrants for construction or repair services.

25. Compliance with Davis-Bacon Act:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Davis-Bacon Act (40 USC 276a to 276a-7) as supplemented in US Department of Labor regulations 29 CFR Part 5, respective to construction contracts in excess of \$2,000 awarded by grantees and subgrantees.

26. Compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Contract Work Hours and Safety Standards Act (40 USC 327-333) as supplemented in US Department of Labor regulations 29 CFR Part 5, respective to construction contracts in excess of \$2,000 awarded by grantees and subgrantees, and \$2,500 for other contracts which involve the employment of mechanics or laborers.

27. Compliance with Clean Air and Water Acts (applicable to all contracts over \$100,000):

In carrying out this agreement, the contractor agrees to comply with the requirements of the Federal Clean Air Act (42 USC 7401 et seq.), and the Federal Water Pollution Control Act (33 USC 1251 et seq.), as amended. Such statutes and regulations prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the Environmental Protection Agency's List of Violating Facilities. The provision shall require reporting of violations to the grantor agency and to the US Environmental Protection Agency.

28. Conservation:

In carrying out this agreement, the contractor agrees to comply with the requirements of mandatory standards and policies relating to energy efficiency which are contained in the State of Indiana's energy conservation plan issued in compliance with the federal Energy Policy and Conservation Act (PL 94-163, 89 Statutes 871).

29. Drug-Free Workplace Requirements:

In carrying out this agreement, the contractor agrees to comply with the requirements of the Drug-Free Workplace Act of 1988 (42 U.S.C. 701) and to certify that contractor will comply with drug-free workplace requirements in accordance with the Act and with HUD rules found at 24 CFR part 24, subpart F.

Surrisi explained that this agreement outlines the understanding that the City was the primary recipient of OCRA funding which would be passed along to the Rees Theatre project for phase three of the construction project. This phase would start in December for asking for bids on the project. He estimates that they will start to receive bids in about February and a contractor will be picked that month. Invoices for this project will be sent to the Clerk-Treasurers office where the payment will be handled after approval.

Council Members Culp and Milner moved and seconded to approve the Rees Theatre Grant Agreements. The motion carried.

City Attorney Surrisi presented Executive Order #2020-25 MCEDC Manufacturing Center Project.

Council Members Culp and Houin moved and seconded to approve the Executive Order #2020-25. The motion carried.

City Attorney Surrisi presented Resolution No. 2020-925, Resolution of the City of Plymouth Confirming the Adoption of a Declaratory Resolution Designating Certain Real Estate Within the City of Plymouth to be Within an "Economic Revitalization Area" for purposes of Personal Property Tax Abatement Pursuant to I.C. 6-1.1-12.1 et seq. (AK Industries, Inc.)

Council Members Houin and Ecker moved and seconded to pass Resolution No. 2020-925, Resolution of the City of Plymouth Confirming the Adoption of a Declaratory Resolution Designating Certain Real Estate Within the City of Plymouth to be Within an "Economic Revitalization Area" for purposes of Personal Property Tax Abatement Pursuant to I.C. 6-1.1-12.1 et seq. (AK Industries, Inc.). The motion carried.

City Attorney Surrisi presented Resolution No. 2020-926. A Resolution of the City of Plymouth to Create New Funds.

Council Members Ecker and Listenberger moved and seconded to pass Resolution No. 2020-926. A Resolution of the City of Plymouth to Create New Funds. The motion carried.

City Attorney Surrisi presented Resolutions No. 2020-927 through No. 2020-933. Resolutions Providing for the Transfer of Appropriations to Various City Departments.

Council Members Ecker and Listenberger moved and seconded to approve Resolutions No. 2020-927 through No. 2020-933. Resolutions Providing for the Transfer of Appropriations to Various City Departments. The motion carried.

Surrisi updated the council on the proposed ordinance prohibiting parking in front yards.

Surrisi and the mayor were still working on coming up with the ordinance. Senter added that he had been looking at about six communities that have an ordinance on this. Many try to do this for environmental reasons and for the beautification of the neighborhood. A few of the communities have where residents are able to put down gravel to park on, but most have where they need to be parked on asphalt. He voiced his concern that this will be a hard ordinance to get through as he had heard words from both sides. Councilmen Listenberger and Ecker stated that they too had heard words for and against this ordinance as well.

Senter then read aloud a message from a concerned resident on the subject. They voiced concern that he does not make ruts but would be willing to put down gravel. He also wanted it to be addressed as to what limitations this would have to projects and trailers in the side yard.

Houin had heard strong arguments on both sides and that the ordinance would need to be well thought out and very well planned.

Longanecker had a resident complain to him about a person parking in their front yard and when he went to look at it the car was visible from the front yard but seemed to be parked in the side yard. He stated that front versus the side versus the back yard would need to be well defined in the ordinance.

Mayor Senter asked Randy Strasser a former mayor of Delphi, Indiana, if there were any ordinances there on this topic. Strasser stated that there were no ordinances of this sort that he was aware of in Delphi.

Listenberger brought up a conversation that he had with a resident about a neighbor having a possible business that was ran out of the garage. The resident stated that they believed that they had

a business on the property and the that they had an average of 9 cars and even had a front trans axel in the front yard.

Surrisi then asked if this was the property on Kingston that they had problems with previously. Listenberger confirmed this. Surrisi then stated that Officer Owen may need to revisit this property.

Police Chief Bacon added that if the cars are parked legally there is nothing that he could do.

Surrisi then added that Keith had checked into this previously and was told by the owner that they were not running a business.

Senter then opened the Update on the discussion on the updated BIS Quote from Council Members. The members agreed that they do not want to vote on the quote at the time and that Zoom or another videoconferencing platform needs to be figured out for a city account soon.

Surrisi gave an update on the Stellar Communities project. The committee is still working on scheduling a meeting with OCRA for the projects. More updates will be available in upcoming council meetings.

Mayor Senter offered the privilege of the floor. No one accepted.

Members Ecker and Longanecker moved and seconded to accept the following communications:

- Minutes of the Board of Public Works and Safety meeting of November 9, 2020
- September 2020 Clerk-Treasurer's Financial Reports
- Minutes of the Police Pension Board meeting of November 18, 2020

The motion carried.

There being no further business to come before the Council, Councilmen Ecker and Culp moved and seconded to adjourn the meeting. The meeting was declared adjourned 7:19 p.m.

Jeanine M. Xaver, IAMC, CMC
Clerk-Treasurer

APPROVED

Mark Senter, Mayor