

City of Carson City Agenda Report

Date Submitted: June 7, 2011

Agenda Date Requested: June 16, 2011

Time Requested: Consent

To: Mayor and Board of Supervisors

From: Public Works – Planning Division

Subject Title: Action to approve and authorize the mayor to sign a Community Development Block Grant (CDBG) program agreement between Carson City and F.I.S.H. for funding in the amount of \$76,500, to be paid to F.I.S.H. from approved Housing and Urban Development (HUD) CDBG funding for the F.I.S.H. Facility Improvement Project. (Lee Plemel)

Summary: The Board of Supervisors approved the CDBG funding for the F.I.S.H. Facility Improvement Project on April 14, 2011. This agreement sets forth the provisions to meet HUD requirements in the use of the funds. The improvements to the F.I.S.H. facility will help to meet the strategies outlined in the CDBG Annual Action Plan for supporting social, community and health services.

Type of Action Requested:

Resolution
 Formal Action/Motion

Ordinance
 Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to approve and authorize the mayor to sign a Community Development Block Grant program agreement between Carson City and F.I.S.H. for funding in the amount of \$76,500, to be paid to F.I.S.H. from approved HUD CDBG funding for the F.I.S.H. Facility Improvement Project.

Explanation for Recommended Board Action: The Board of Supervisors is required to approve agreements awarded to subrecipients of CDBG funding received by Carson City.

Applicable Statute, Code, Policy, Rule or Regulation: Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383 as amended; 42 U.S.C.-5301 *et seq.*

Fiscal Impact: None

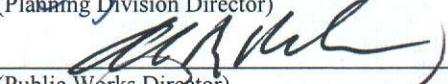
Explanation of Impact: No City funds will be expended to pay for the project. All funds are from the federal CDBG program. The \$76,500 was obligated to the project from the 2011-12 CDBG program year allocation.

Funding Source: HUD-CDBG grant funding obligated for the 2011-12 program year.

Alternatives: 1) Deny the agreement

Supporting Material: 1) Agreement between Carson City and F.I.S.H.

Prepared By: Janice Brod, Management Assistant V

Reviewed By: 
(Planning Division Director) Date: 6-7-11

(Public Works Director) Date: 6-7-11

(City Manager) Date: 6/7/11

(District Attorney's Office) Date: 6/7/11

Board Action Taken:

Motion:	Aye/Nay
1)	_____
2)	_____

(Vote Recorded By)



CARSON CITY, NEVADA CDBG GRANT PROGRAM AGREEMENT FY 2011-2012

THIS AGREEMENT, entered into as of this 1st day of July 2011, by and between **CARSON CITY**, a consolidated city-county government existing under and by virtue of the laws of the State of Nevada (hereinafter referred to as the "Grantee") and **F.I.S.H (Friends in Service Helping)** (hereinafter referred to as the "Subrecipient").

WITNESSETH:

WHEREAS, the Grantee has funds, including in some cases being the recipient of Grant Funds, that will provide for the delivery of public services or improvements or otherwise meet community needs in Carson City; and

WHEREAS, Grantee has adopted a Consolidated Plan which identifies and addresses public service needs; and

WHEREAS, as the recipient of Grant Funds pursuant to a Grant, or in making other funds available, Grantee is undertaking certain activities, programs and services necessary for the planning, implementation or execution of the Consolidated Plan to address public service needs; and

WHEREAS, the Programs outlined in this Agreement have been designated by the Grantee as consistent with the Consolidated Plan objectives for the development of housing, community and economic needs and resources, and strategies and priorities to produce a viable community in Carson City. Furthermore, the Grantee has determined that the programs will attempt to meet the strategies outlined in the Annual Action Plan for supporting social, community and health services. The programs, when funded by the Community Development Block Grant funds, also comply with one of the three broad national objectives of providing benefits to low-income and moderate-income families, aiding in the prevention or elimination of slums or blight and meeting other community development needs which have a particular urgency (24 CFR 570.200); and

WHEREAS, Carson City is the designated "Grantee" on this Agreement, desires to pass through Community Development Block Grant funds, CFDA 14.218, to the Subrecipient Agency in the amount of **\$76,500** to assist the Subrecipient in meeting the **F.I.S.H Facility Improvement Project** measurable outcomes; and

WHEREAS, the Subrecipient's legal status is as a recognized IRS 501(c)(3) nonprofit corporation and the Subrecipient is in good standing in its state of formation, a government agency or a school district; and

WHEREAS, in consideration of receipt of this funding, the Subrecipient agrees to abide by the terms and conditions of this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. DEFINITION OF TERMS

- a. **U.S. Department of Housing and Urban Development (HUD):** HUD administers the Community Development Block Grant Program, which provides annual grants on a formula basis to entitled cities and counties to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons.
- b. **Grantee:** Carson City, the organizational entity to which the Community Development Block Grant (CDBG) is awarded by HUD and which is responsible for the use of the funds provided.
- c. **The Grantee Staff:** The Grantee Staff consists of those persons working for Carson City who represent Carson City and are designated to administer the grant as identified above.
- d. **Subrecipient: F.I.S.H (Friends in Service Helping),** the legal entity which receives financial assistance to carry out a program(s) and which is accountable to the grantee for the use of funds provided.
- e. **Program Measurable Outcomes:** The program measurable outcomes which are mutually agreed to by the Grantee and the Subrecipient as outlined within the Agreement to be met by the end of the Agreement period.
- f. **Project Supervisor:** The project supervisor is the individual from the Subrecipient who will be responsible for the administration of the program and communications with the Grantee Staff.

2. NOTICES

All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

GRANTEE

Carson City Planning Division
Janice Brod, Management Assistant/CDBG Coordinator
108 E. Proctor St.
Carson City, NV 89701
775-283-7069 / FAX: 775-887-2278
jbrod@carson.org

SUBRECIPIENT

F.I.S.H
Jim Peckham, Director
138 East Long Street
Carson City, NV 89706
775-882-3474 or 775-450-9180/ FAX: 775-884-0308
jim@nvfish.com

3. PROGRAM MEASURABLE OUTCOMES

The Subrecipient shall do, perform and carry out, in a satisfactory and proper manner, as determined by Grantee Staff, the following program measurable outcomes:

a. Scope of Work:

Program Definition:

The F.I.S.H Facility Improvements project will make repairs and improvements to their facility to include replacing the roof on three shelters and the main thrift store/dining room, sealing and leveling the concrete floor in the thrift store, resurfacing and painting the parking lot, and replacing the carpet in the client services area.

Goals:

The improvements to the F.I.S.H facility will ensure a safe and available environment for all F.I.S.H clients.

Proposed Outcomes:

Improve the safety and efficiency of the facility by replacing the roof on the shelters and the main thrift store/dining room and improve the condition of the floor in the thrift store, the client services area, and the parking lot.

Performance Measures:

The kitchen will continue to serve approximately 20,000 meals each year, the Ross Medical Center (clinic) will continue to serve approximately 1235 patients each year, the educational training center will continue its 12-step community programs, the Food Bank will continue serving over 100,000 meals and approximately 8700 people will be supported by F.I.S.H. each year.

Budget: Detailed budget specifying the use of grant funds, including salaries and fringe. See *Appendix I – Program Budget*.

Any changes to Scope of Work, Outcomes or Budget shall be submitted to Grantee in writing for review and approval. Once approved, the written submittal serves as an amendment to the agreement.

b. Quarterly Reports:

Quarterly Program Reports from the Subrecipient are due for the entire period of the subgrant, whether services have been performed or not, until the grant funds have been expended and program outcomes have been met. Reports are due to the Grantee by the 15th of the month following the end of the quarter. See *Appendix II – Quarterly Report Form*. Reimbursement of expenses may be withheld if complete quarterly reports are not submitted on time.

Quarterly Project Benefits Reports are also due for the entire period of the subgrant. These reports track the number of clients being served each quarter and assist in measuring program outcomes. See *Appendix III – Quarterly Project Benefits Report*.

Quarterly Report Schedule:

Quarter:	Ending September 30, 2011	Due:	October 15, 2011
	Ending December 31, 2011		January 15, 2012
	Ending March 31, 2012		April 15, 2012
	Ending June 30, 2012		July 15, 2012

Annual Program Reports from the Subrecipient are due for five years once the grant funds have been expended. Failure to provide reports may result in the repayment of funds back to HUD.

Annual Report Schedule

<u>Year:</u>	Ending June 30, 2012	<u>Due:</u>	July 15, 2012
	Ending June 30, 2013		July 15, 2013
	Ending June 30, 2014		July 15, 2014
	Ending June 30, 2015		July 15, 2015
	Ending June 30, 2016		July 15, 2016

4. PROCEDURAL REQUIREMENTS

The Grantee Staff will monitor the performance of the Subrecipient against each of the program measurable outcomes listed in **3(a) Scope of Work** at least annually. In addition, the following requirements must be complied with:

Accessibility Plan: The Subrecipient must comply with the Federal Requirements outlined in the Americans with Disabilities Act (ADA), which includes providing reasonable access to all for facilities for employees and clients.

Affirmative Action Plan: The Subrecipient must have an Affirmative Action Policy Statement and/or Plan that establishes the agency as an equal opportunity employer. The policy should delineate a set of actions to ensure compliance, or a grievance procedure.

Staff Hiring and Firing Procedures: The Subrecipient must have a policy statement that includes a procedure for hiring and firing staff. The statement must outline a grievance procedure in the event that an employee wishes to make an appeal.

See **Section 10. Other Provisions** for more information on the above policies.

5. TERM

This Agreement is to be effective from July 1, 2011, through June 30, 2012, unless sooner terminated by either party as specified in **Section 8(q) General Terms and Conditions**. All of the services required hereunder shall be completed by June 30, 2011.

6. COMPENSATION

The Grantee and Subrecipient agree that the Subrecipient will carry out the project specified in **3(a) Scope of Work** at a cost of **\$76,500**.

7. METHOD OF PAYMENT

Reimbursement of Expenses: Reimbursement will be paid by Grantee after eligible expenses have been incurred and expended under this Agreement in conformance with the terms and conditions of said Agreement. Drawdowns for payment of eligible expenses shall be made against the line item budgets specified in *Appendix I – Program Budget*. All requests for reimbursement must be accompanied by proof of expenditures, such as but not limited to, copies of checks, time cards, paid invoices, etc. Requests may be submitted monthly or quarterly. The first request must be submitted by the end of the third quarter. See

Appendix IV – Request for Reimbursement. Reimbursement of expenses may be withheld if complete quarterly reports are not submitted on time, required information is not included with the reimbursement request, or other required reports or data are not submitted.

8. GENERAL TERMS AND CONDITIONS

- a. **Technical Assistance.** Technical assistance, training or support services may be requested from the Grantee to increase the capacity of the Subrecipient to carry out the project specified in **3(a) Scope of Work.**
- b. **Financial Management.**
 - (1) Accounting Standards – The Subrecipient agrees to comply with 24 CFR 84.21–28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
 - (2) Cost Principles – The Subrecipient shall administer its program in conformance with OMB Circulars A-122, “Cost Principles for Non-Profit Organizations,” or A-21, “Cost Principles for Educational Institutions,” as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.
- c. **Documentation and Record Keeping.**
 - (1) Records to be Maintained – The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:
 - A. Records providing a full description of each activity undertaken;
 - B. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
 - C. Records required to determine the eligibility of activities;
 - D. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
 - E. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
 - F. Financial records as required by 24 CFR 570.502, and 24 CFR 84.21–28; and
 - G. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.
 - (2) Retention – The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.
 - (3) Client Data – The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level and household size or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request. (24 CFR 570.208, including information regarding client eligibility.)

- (4) **Disclosure** – The Subrecipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the applicable State or Federal law, unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.
- (5) **Close-outs** – The Subrecipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control over CDBG funds, including program income.
- (6) **Audits & Inspections** – All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. (24 CFR Part 84.20 – Standards for Financial Management Systems)

Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning subrecipient audits and OMB Circular A-133.

If the Subrecipient receives \$500,000 or more in federal assistance during its fiscal year, it must comply with 24 CFR Part 45, 24 CFR Part 84.26, and Office of Management and Budget (OMB) Circular A-133 audit requirements.

NOTE: Audits must be completed by a certified public accountant and comply with all applicable standard accounting practices.

- d. **Personal Property.** All personal property purchased by the Subrecipient, with written prior approval of the Grantee and with funds obtained pursuant to the Agreement, shall be the property of the Grantee unless otherwise provided in writing by the Grantee. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. (24 CFR Part 84.31 through 84.37)
- e. **Purchase of Supplies and Services.**
 - (1) Supplies and or Services purchasing methods are as follows:

0 - \$499 Direct reimbursement with an invoice copy.

\$500 - \$4,999 Two or more verbal quotes; written quotes if labor or detailed product or service specifications.

\$5,000 - \$24,999 Three written quotes obtained by subrecipient agency or the City's Purchasing staff. May use "Request For Quotes", advertise, and/or use prebid conference. You must obtain a Purchase Order (PO)/Contract prior to placing order.

\$25,000-\$50,000 Three written quotes obtained by subrecipient agency or the City's Purchasing staff. May use "Request For Quotes", advertise, and/or use prebid conference. You must obtain a PO/Contract prior to placing order and you will be notified by Purchasing when to enter the Purchase Requisition.

Over \$50,000 Formal bid process with pre-bid conferences and formal bid openings. Board's approval is required prior to Purchase Requisition.

Over \$5,000 Solicit small and minority businesses and women's business enterprises by:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists when they are potential sources.
2. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises.
3. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

(2) Subcontracts

Should a Subrecipient find it necessary to subcontract in order to meet its obligations under its agreement with the City, it must enter into a written agreement with those individuals or organizations providing services. A standard subcontract form has been developed by the City and is available for your review.

Provisions Required in Subcontracts:

- a. Name, address, phone number and social security number of subcontractor.
- b. A termination clause requiring twenty days notice by which either party may terminate the agreement.
- c. A City uninvolved clause releasing the City from any liability for any breach of the subcontract by either party.
- d. A scope of services.
- e. The total dollar amount of the subcontract.
- f. A termination date no later than the end of the current CDBG program year.
- g. A clause requiring the contractor to comply with stated "Conditions of Federal Funding".

f. **Budget Changes.** The Subrecipient must submit written requests with justification to the Grantee for review and approval prior to implementation of any budget changes. See *Appendix V - Budget Revision Form*.

g. **Program Income.** Subrecipients who derive income from their loan activities as a result of service provided through the usage of grant funds must identify to the Grantee Staff the amount of this income on a timely basis. The income will be used to reduce the amount requested from the Subrecipient for disbursement. (24 CFR 570.504 and 24

- h. **Disposition of Program Income.** At the end of the program year, Grantee will require remittance of all or part of any program income balances (including investments thereof) held by the Subrecipient (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for Section 108 loan guarantee security needs). (24 CFR 570.504 and 570.705, and 24 CFR 84.24)
- i. **Reversion of Assets.** (24 CFR 570.503(b)(8)) Where CDBG funds are distributed pursuant to this Agreement, upon expiration of the Agreement the Subrecipient shall transfer to the Grantee any remaining CDBG funds at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the Subrecipient's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the Subrecipient in the form of a loan) in excess of \$25,000 is either:
 - (1) Used to meet one of the national objectives in 24 CFR 570.208 (formerly §570.901) until five years after expiration of the Agreement, or for such longer period of time as determined to be appropriate by the Grantee; or
 - (2) Not used in accordance with paragraph (1) above, in which event the Subrecipient shall pay to the Grantee 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 improvement to, the property. The payment is program income to the Grantee.
- j. **Insurance Requirements.** The Grantee has established specific insurance requirements for agreements or contracts with nonprofit agencies to assure that reasonable insurance coverage is maintained and that a nonprofit organization accepts and is able to pay for a loss or liability related to its activities. All of the requirements must be complied with prior to any reimbursement for any program. Nonprofit organizations shall purchase Industrial Insurance, General Liability and Automobile Liability as described in this Agreement. Each insurance policy shall name the Grantee as additional insured. Proof of insurance is required at the beginning of the Agreement term in the form of certificates of insurance.
 - (1) Industrial Insurance:
The Subrecipient agrees, as a condition precedent to any duty of the Grantee to make any payment under this Agreement, to furnish and maintain throughout the term of the Agreement at no cost to the Grantee, worker's compensation insurance as required by the provisions of Chapters 616 and 617 of the NRS.
Should the Subrecipient be self-funded for Industrial Insurance, the Subrecipient shall so notify the grantee in writing prior to the signing of this contract. The Grantee reserves the right to approve said retentions and may request additional documentation financial or otherwise for review prior to the signing of this Agreement.
 - (2) General Liability:
The Subrecipient agrees, as a condition precedent to any duty of the Grantee to make any payment under this Agreement, to furnish and maintain throughout the term of the Agreement at no cost to the Grantee, such general liability and property

damage insurance as shall protect him and any subcontractor performing work covered by the Agreement from claims for, but not limited to, bodily injury, sickness, disease, death, or property damage arising or resulting from the Subrecipient's performance, or by any subcontractor, person, firm or employee directly or indirectly employed by him.

Coverage: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be increased to equal twice the occurrence limit or revised to apply separately to each project or location.

(3) Automobile Liability:

\$500,000 combined single limit per accident for bodily injury and property damage. No aggregate limits may apply. Coverage should be at least as broad as: Insurance Service Office Business Auto Coverage form number CA00 01 12/90 covering Automobile Liability Code 1 any "auto" with changes in Business Auto and Trucker's Coverage forms - Insured Contract Endorsement form number CA00 29 12/88.

- k. **Legal Actions Against Subrecipient.** If any legal action is filed against the Subrecipient, the Subrecipient shall immediately notify Grantee staff.
- l. **Indemnification Agreement.** Subrecipient shall indemnify, defend and hold harmless Grantee, its officers, officials, employees, agents and volunteers, from any and all costs, liabilities, damages, claims, demands, suits, causes of action, attorneys' fees, or expenses of any kind or nature that arise out of, or are in any way related to, in whole or in part, the negligence or misconduct, or acts or omissions, of Subrecipient, its officers, officials, employees, volunteers, agents, contractors and anyone else under the direction or supervision of Subrecipient while performing or failing to perform Subrecipient's duties under this Contract.

In the event of a lawsuit against the Grantee arising out of the activities of the Subrecipient, should the Subrecipient be unable to defend the Grantee due to the nature of the allegations involved, if at the lawsuit's conclusion, it is determined that the basis for the action was the negligent acts, errors or omissions of the Subrecipient, then the Subrecipient must reimburse the Grantee, their officers, officials, employees, agents and volunteers, for their reasonable costs of defending such action.

The indemnity obligations of this Contract shall survive the termination of this Contract and shall be binding upon the parties and the parties' legal representatives, heirs, successors and assigns.

- m. **Assignment of Agreement.** It is agreed by and between the parties hereto that neither this Agreement nor any part thereof may be assigned by the Subrecipient, and that in the event that the Subrecipient does so assign, the Grantee Staff may, at their option, terminate this Agreement and be relieved of further obligation to the Subrecipient.
- n. **Federal Procurement Eligibility.** The Subrecipient certifies that a non-federal entity, the Subrecipient and its principals have not been themselves or contracted with any entity that has been suspended or debarred by the Federal Government, and are not listed in the list of parties excluded from the Federal procurement or non-procurement programs issued by the General Services Administration. This regulation applies not only to physical improvements and construction, but also services. (24 CFR 84.13 and 570.609)

- o. Confidentiality.** The Subrecipient shall keep confidential all information, in whatever form, produced, prepared observed or received by the Subrecipient to the extent that such information is confidential by law or otherwise required by this Agreement.
- p. Grounds for Reduction of Compensation or Termination of the Agreement.** The Grantee Staff reserves the right to terminate this Agreement or to reduce the Agreement compensation amount upon written notification to the Subrecipient where any one or more of the following has occurred:

 - (1) Failure of the Subrecipient to file quarterly reports by the 15th day of the month following the end of the quarter;
 - (2) Failure of the Subrecipient to meet any standards specified in this Agreement;
 - (3) Expenditures under this Agreement for ineligible activities, services, or items;
 - (4) Failure to comply with written notice from Grantee Staff of substandard performance in scope of services under the terms of this Agreement;
 - (5) Failure of the Subrecipient to comply with the State and Federal Accounting Laws;
 - (6) Subrecipient employees, officers or its designees or agents using their positions for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties;
 - (7) Where applicable, notification by HUD to the Grantee Staff that said programs are ineligible because of services provided, location of services provided, or that the programs funded with the Community Development Block Grant Funds are not deemed to be related to the Consolidated Plan;
 - (8) Where applicable, notification by HUD to the Grantee Staff that said programs funded by the Community Development Block Grant Funds are deficient and that continued support of the programs would not provide an adequate level of services to low income and minority people;
 - (9) Failure of the Grantee or the Subrecipient to secure or obtain other funding from sources which are needed in combination with the grant funds provided by the Grantee to completely carry out the programs provided in this Agreement;
 - (10) Where applicable, written notification from HUD or the State of Nevada to the Grantee Staff that the program funds made available to the Grantee are being curtailed, withdrawn, or otherwise restricted;
 - (11) If Subrecipient receives funds from other sources prior to or during the program year to cover costs under this Agreement, the Grantee Staff reserves the right to reduce the Agreement amount; or
 - (12) Failure of the Subrecipient to pay debts owed to the Grantee or other debts when due.

q. Personnel.

- (1) The Subrecipient represents that it has hired or will hire all personnel required in performing the services under this Agreement. Such personnel shall not be employees of, or have any contractual relationship with, the Grantee.
- (2) All of the services required hereunder will be performed by the Subrecipient, and all personnel engaged in the work shall be fully qualified.

- r. **Compliance with Laws.** The Subrecipient agrees to follow all federal, state and local laws pertaining to the operation of said agency.
- s. **Funding.** Funding under this grant is to be used only for eligible and approved activities.
- t. **Integration.** This Agreement, including the Recitals, which are incorporated by reference as a part of this Agreement, constitute the complete and integrated agreement between the parties with respect to the matters recited herein, and supersedes any prior or contemporaneous written or oral agreements or understandings with respect thereto.
- u. **Amendment; Waiver.** This Agreement shall not be modified, amended, rescinded, canceled or waived, in whole or in part, except by written amendment signed by duly authorized representatives of the parties. No additional grants, monetary increase amendments, or time extension amendments, will be approved unless all financial and performance reports are current. No waiver of any other provisions of this Agreement shall be deemed to be a waiver of any other provisions, regardless of similarity, and no waiver shall constitute a continuing waiver. Forbearance or failure to declare a default or pursue a remedy shall not constitute a waiver except as provided in this Agreement.
- v. **Drafting Presumption.** The parties acknowledge that this Agreement has been agreed to by both parties, that both parties have consulted or have had the opportunity to consult with attorneys with respect to the terms, and that no presumption shall be created against the Grantee as the drafter of this Agreement.

9. JURISDICTION AND GOVERNING LAW

It is understood and agreed by and between the parties hereto that this Agreement shall be deemed and construed to be entered into and to be performed in Carson City-County, State of Nevada, and it is further understood and agreed by and between the parties hereto that the laws of the State of Nevada shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement.

10. OTHER PROVISIONS

During the performance of this Agreement, the Subrecipient must follow:

a. Equal Employment Opportunity.

- (1) The Subrecipient will not discriminate against any employee or applicant for employment or individual receiving the benefit of the Subrecipient's services because of race, creed, religion, color, age, national origin, political affiliation, sex, sexual orientation, familial status, or disability (as provided in Section 504 of the Rehabilitation Act of 1973, as amended). The Subrecipient will take action to ensure that all applicants are considered equally. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Such action shall include individuals benefiting from program services / activities.

- (2) Vietnam Veterans. The Subrecipient agrees to comply with Section 402 - Affirmative

Action for Disabled Veterans and Veterans of the Vietnam Era Act.

(3) The Subrecipient agrees to comply with any federal regulations issued pursuant to the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended.

b. **Business and Employment Opportunities for Lower Income/ Minority Residents.** To the greatest extent feasible, the Subrecipient will provide opportunities for training and employment to lower income / minority residents of the program 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. In all solicitations for bids, the contractor must, before signing the contract, provide a preliminary statement of the work force needs and plans for possible training and employment of lower income persons. When a Subrecipient utilizes the bidding procedure to let a bid, the invitation or solicitation for bids shall advise prospective contractors of the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, regulations. If a Subrecipient solicits or requests for invitation for bids, every effort feasible will be made to contact minority organizations for a response to the solicitations or invitations for bidders. (Executive Order 11246 and 41 CFR Chapter 60)

c. **Nondiscrimination in Federally Assisted Programs.** The Subrecipient will not discriminate in the provision of services or benefits to any person on the basis of race, creed, religion, color, age, national origin, political affiliation, sex, sexual orientation, marital status or disability.

d. **Hatch Act.** Neither the Subrecipient program nor the funds provided therefore, nor the personnel employed in the administration of the program shall be in any way or to any extent engaged in the conduct of political activities in contravention of United States Code (USC) Title 5 Chapter 15.

e. **Religious Activities.** In addition to, and not in substitution for, other provisions of this Agreement regarding the provision of essential services and/or the payment of operational costs, the Subrecipient:

(1) Represents that if it is, or may be deemed to be, a religious or denominational institution or organization or an organization operated for religious purposes which is supervised or controlled by, or in connection with, a religious or denominational institution or organization, in connection with such essential services and operation costs:

A. It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

B. It will not discriminate against any persons seeking emergency shelter and related services on the basis of religion and will not limit such services or give preference to persons on the basis of religion; and

C. It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing and exert no other religious influence in the provision of services or the use of facilities or furnishings assisted in any way under this Agreement.

- f. **Drug-Free Workplace Requirements.** The Subrecipient agrees to conform to the guidelines set forth in the certification regarding Drug-Free Workplace Requirements. The Subrecipient is required to submit an executed copy of the certification prior to the encumbrance of grant funds. See *Appendix VI – Certification for a Drug-Free Workplace*.
- g. **Influence/Lobbying Requirements.** The Subrecipient agrees to conform to the guidelines set forth in the certification regarding Influence / Lobbying Requirements. The Subrecipient is required to submit an executed copy of the certification prior to the encumbrance of grant funds. See *Appendix VII - Certification Regarding Influence / Lobbying Requirements*.
- h. **Conflict of Interest.**
 - (1) If the Subrecipient has a member of the Board of Directors who is in a position to obtain a financial benefit or interest from the proposed project, it may be ineligible for CDBG funds (See *Appendix VIII – Section 24 CFR 570.611 Conflict of Interest*). A written request for an exception from HUD may be required.
 - (2) The Subrecipient shall prohibit any conflicts of interest as defined in Section 24 CFR 570.611. This section covers employees, agents, consultants, officers or elected or appointed officials of the Subrecipient and relates to procurement of supplies, equipment and services, as well as acquisition or disposition of property.
- i. **Environmental Standards 24 CFR 570.604.** This Agreement is subject to the National Environmental Policy Act of 1969, as detailed in implementing regulations 24 CFR Part 58.
- j. **Labor Standards and Davis Bacon Act 24 CFR 570.603.** Section 110(a) of the Act contains labor standards that apply to non-volunteer labor financed in whole or in part with assistance provided under the Act. The Contract Work Hours and Safety Standards Act also applies. Contractors or subcontractors on construction work shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

11. AUTHORITY TO ENTER INTO AGREEMENT.

The undersigned person signing as an officer on behalf of the Subrecipient, a party to this Agreement, hereby warrants and represents that said person has actual authority to enter into this Agreement on behalf of said Subrecipient and to bind the same to this Agreement, and, further, that said Subrecipient has actual authority to enter into this Agreement and that there are no restrictions or prohibitions contained in any article of incorporation or bylaws against entering into this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date entered into on the first page hereof.

SUBRECIPIENT

By: _____
Chairperson, Board of Directors

By: _____
Executive Director

CITY OF CARSON CITY

By: _____ Attest: _____
Robert L. Crowell, Mayor Alan Glover, Clerk-Recorder

APPROVED AS TO FORM ONLY:

By: _____
Deputy District Attorney

APPENDIX I

Program Budget

(Show whole dollars only, not cents)

PROJECT TITLE	FY 2011-2012 TOTAL CDBG	FY 2011-2012 TOTAL All other funding sources	Total Funds
F.I.S.H. F.I.S.H. Facility Improvement Project			
PROJECT EXPENSES			
PERSONNEL			
Salaries (List name, rate of pay and percent of time spent on project)			
CONSTRUCTION			
OPERATING COSTS			
Rent/Lease			
Utilities			
Communications			
Insurance			
Supplies and Materials			
Reproduction/Printing			
Postage/Shipping			
Mileage			
Other project costs (Specify below):		\$43,000	\$43,000
Shelter roof repair	\$16,000	\$5000	\$21,000
Parking lot repair/repaint	\$24,000		\$24,000
Thrift store/dining room roof repair	\$26,500		\$26,500
Client services carpet	\$9000		\$9000
Seal/level thrift store floor	\$1000		\$1000
TOTAL EXPENSES	\$76,500	\$48,000	\$124,500



APPENDIX II

CDBG Quarterly Program Report

NAME OF GRANTEE (AGENCY): F.I.S.H.	QUARTER ENDING: <input type="checkbox"/> September 30, 2011 <input type="checkbox"/> December 31, 2011 <input type="checkbox"/> March 31, 2012 <input type="checkbox"/> June 30, 2012
PROJECT NAME & GRANT NUMBER: F.I.S.H. Facility Improvement Project	
NAME OF PERSON PREPARING REPORT:	FINAL REPORT: Yes _____ No _____
PROJECT EXPENDITURES THROUGH END OF QUARTER: \$	PROJECT COMPLETE: Yes _____ No _____
Activities Performed During Quarter	Outcomes Met
Problems Encountered During Quarter	
Technical Assistance Needed from Carson City CDBG/Economic Development Staff	

I certify this information is correct:

Signature

Date



APPENDIX III

CDBG Quarterly Project Benefits Report

NAME OF GRANTEE (AGENCY): F.I.S.H.	QUARTER ENDING: <input type="checkbox"/> September 30, 2011 <input type="checkbox"/> December 31, 2011 <input type="checkbox"/> March 31, 2012 <input type="checkbox"/> June 30, 2012
PROJECT NAME: F.I.S.H. Facility Improvement Project	
NAME OF PERSON PREPARING REPORT:	FINAL REPORT: _____ Yes _____ No

Verification of income: Required for all clients served with this grant. Make sure that your agency qualifies clients by using the income table below for 2011-12, as the income levels may change from year to year.

Persons per Family	1	2	3	4	5	6	7	8
Moderate (M) (80%)	\$36,400	\$41,600	\$46,800	\$52,000	\$56,200	\$60,350	\$64,500	\$68,650
Low (L) (50%)	\$22,750	\$26,000	\$29,250	\$32,500	\$35,100	\$37,700	\$40,300	\$42,900
Very Low (VL) (30%)	\$13,650	\$15,600	\$17,550	\$19,500	\$21,100	\$22,650	\$24,200	\$25,750

Only count the following clients:

Clients served with this grant money

Unduplicated clients

TOP ROW – Clients for this Month/Quarter

BOTTOM ROW – Year-to-Date Totals

	Total	Mod	Low	Very Low	W	BLK	ASN	NA/AN	NH/PI	NA/AN & W	ASN &W	BLK &W	NA/AN &BLK	Other	HIS &W	HIS &BLK	HIS &ASN	HIS &NA/AN	HIS &NH/PI	FHH
# Clients (This Quarter)																				
Year-to-Date # Clients																				

W = White; BLK = Black/African American; ASN = Asian; NA/AN = American Indian/Alaskan Native; NH/PI = Native Hawaiian/Other Pacific Islander; HIS = Hispanic; FHH = Female Head of Household



APPENDIX IV

CDBG Request for Reimbursement

All requests for reimbursement must be accompanied by proof of expenditures, such as copies of checks, time cards, etc.

Project Title:

F.I.S.H.

F.I.S.H. Facility Improvements Project

Total Subgrant Amount:

\$76,500

Request No.:

Reporting Period
(Enter date covered):

OR

Month / Year (mm/dd/yy)

Quarter Ending
(mm/dd/yy)

EXPENDITURE TYPE	DETAIL	AMOUNT	COMMENTS
Salaries, incl. Fringe Benefits (Manager, Counselor, etc.):			
Position: Position: Position:			
Salaries Subtotal:			
Supplies			
Office Operating			
Supplies Subtotal:			
Miscellaneous			
Contractor payments: Fees, Licenses, etc.: Other project costs: (Specify Below) 1. 2. 3. 4. 5.			
Misc. Subtotal:			
TOTAL EXPENDITURES THIS PERIOD:		\$0.00	
TOTAL EXPENDITURES TO DATE:			
BALANCE OF SUBGRANT:			
Subgrantee Authorization: I certify the above information is correct. Project Supervisor Signature: _____			
FOR CARSON CITY CDBG USE ONLY: Grantee Authorization for payment: I verify that expenditures are consistent with contracted scope of work. Carson City CDBG Staff Signature _____			

This form is available in an Excel format to assist in calculation of the sub-totals and total. If you would like this form emailed to you, please contact the Carson City CDBG representative at 887-2180.



APPENDIX V

CDBG Budget Revision Request

NAME OF GRANTEE (AGENCY): F.I.S.H.		QUARTER ENDING: <input type="checkbox"/> September 30, 2011 <input type="checkbox"/> December 31, 2011 <input type="checkbox"/> March 31, 2012 <input type="checkbox"/> June 30, 2012	
PROJECT NAME: F.I.S.H. Facility Improvement Project			
EXPENDITURE TYPE	AMOUNT BUDGETED	BUDGET CHANGE	DIFFERENCE
Justification:			
Subgrantee Approval: Project Supervisor Signature _____ Date _____			
FOR CARSON CITY CDBG USE ONLY: Carson City CDBG Staff Signature _____ Date _____			



APPENDIX VI

Certification Regarding Drug-Free Workplace Requirements

NAME OF GRANTEE (AGENCY): F.I.S.H.

PROJECT NAME: F.I.S.H. Facility Improvement Project

The Subgrantee certifies that it will or will continue to provide a drug-free workplace by:

Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

Establishing an ongoing drug-free awareness program to inform employees about:

- (a) The dangers of drug abuse in the workplace;
- (b) The grantee's policy of maintaining a drug-free workplace;
- (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will –

- (a) Abide by the terms of the statement; and
- (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (4)(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (4)(b), with respect to any employee who is so convicted –

- (c) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- (d) Requiring such employee to participate satisfactorily 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;

Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5) and (6).

Name of Authorized Official (Please Print)

Title

Signature

Date



APPENDIX VII

Certification Regarding Influence/Lobbying Requirements

Approved by OMB

NAME OF GRANTEE (AGENCY): F.I.S.H.

PROJECT NAME: F.I.S.H. Facility Improvement Project

The Undersigned certifies, to the best of his or her knowledge and belief, that:

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 an agency, 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 grant, 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.

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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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 section 1352, title 31, U.S. Code. 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.

Name of Authorized Official (Please Print)	Title
Signature	Date

0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
 (See next page for public burden disclosure)

Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	Status of Federal Action: <input type="checkbox"/> a. bid/offer/ application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For material change only: Year _____ quarter _____ Date of last report _____
Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if Known:	If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:	
Congressional District, if known:	Congressional District, if known:	
Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
Federal Action Number, if known:	9. Award Amount, if known: \$	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503



APPENDIX VIII

CDBG – Conflict of Interest 24 CFR 570.611

TITLE 24-HOUSING AND URBAN DEVELOPMENT

CHAPTER V – OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 570–COMMUNITY DEVELOPMENT BLOCK GRANTS –Table of Contents

Subpart K – Other Program Requirements

Sec. 570.611 Conflict of interest.

Applicability.

- (1) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, shall apply.
- (2) In all cases not governed by 24 CFR 85.36 and 84.42, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient or by its subrecipients to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to Sec. 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to Sec. 570.203, 570.204, 570.455, or 570.703(i)).

Conflicts prohibited. The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, 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 or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such financial interest or benefit during, or at any time after, such person's tenure.

Persons covered. The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.

Exceptions. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.

- (1) Threshold requirements. HUD will consider an exception only after the recipient has provided the following documentation:
 - (i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
 - (ii) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.
- (2) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
 - (i) Whether an opportunity was provided for open competitive bidding or negotiation;
 - (ii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
 - (iii) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
 - (iv) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;
 - (v) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
 - (vi) Any other relevant considerations.

[60 FR 56916, Nov. 9, 1995]