

CITY OF CLAYTON, OHIO

RESOLUTION NO. R – 08 – 22 - 52

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN
AGREEMENT FOR DELEGATION OF ACTIVITIES WITH THE BOARD OF COUNTY
COMMISSIONERS OF MONTGOMERY COUNTY, OHIO RELATIVE TO THE CITY
OF CLAYTON WESTBROOK PARK ADA RESTROOM RENOVATION (GRANT NO.
B-20-UC-39-0004)**

WHEREAS, City staff requests authority for the City to enter into an Agreement for Delegation of Activities relative to the City of Clayton Westbrook Park ADA Restroom Renovation (Grant No. B-20-UC-39-0004) to accomplish reallocation of CDBG funds in the amount of \$48,570.00 toward said project.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
CLAYTON, STATE OF OHIO:**

1. That the City Manager is authorized to enter into an *Agreement for Delegation of Activities* (“*Agreement*”) with the Board of County Commissioners of Montgomery County, Ohio in substantially the same form as the *Agreement* appended hereto relative to the City of Clayton Westbrook Park ADA Restroom Renovation (Grant No. B-20-UC-39-0004) to accomplish reallocation of CDBG funds in the amount of \$48,570.00 toward said project.

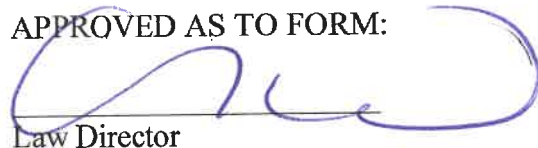
ADOPTED BY COUNCIL ON AUGUST 18, 2022.

AUTHENTICATION:


Mayor (Presiding Officer of Council)


Clerk of Council

APPROVED AS TO FORM:


Law Director

CERTIFICATION OF PUBLICATION

This shall certify that that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper

Brookville Star

Date of publication

August 24, 2022

Barbara Sim
CLERK

AGREEMENT FOR DELEGATION OF ACTIVITIES

Montgomery County Community Development Block Grant Program

Grant No. B-20-UC-39-0004

THIS AGREEMENT is entered into as of this 18th day of August, 20 22 including attached conditions, by and between the BOARD OF COUNTY COMMISSIONERS OF MONTGOMERY COUNTY, OHIO, BY AND THROUGH THE OFFICE OF ECONOMIC DEVELOPMENT hereinafter referred to as the "County" and the **CITY OF CLAYTON**, Ohio, hereinafter referred to as the "Delegate".

WHEREAS, the County is a grantee of funds from the United States Department of Housing and Urban Development, hereinafter referred to as "HUD", responsible for the development, implementation, administration, and evaluation of HUD's Community Development Block Grant Program, hereinafter referred to as "CDBG" in Montgomery County, exclusive of the cities of Dayton and Kettering.

WHEREAS, the Delegate possesses statutory authority and management capability necessary to assist the County in the execution of its responsibilities as a CDBG grantee and has been determined by the County to be the most appropriate party to assume the primary administration of an activity described as the **"CITY OF CLAYTON WESTBROOK PARK ADA RESTROOM RENOVATION"** in HUD CDBG Program Grant No. **B-20-UC-39-0004**.

WHEREAS, by this Agreement, the parties are making provision for the administration and conduct of that activity by the Delegate.

NOW, THEREFORE, WITNESSETH, the County and the Delegate do mutually agree as follows:

1. WORK TO BE PERFORMED. The Delegate shall, in a timely and satisfactory manner as determined by the County, perform the work program described by the goals and objectives set forth in Appendix A.
2. FUNDS AUTHORIZED AND SCHEDULE OF PAYMENTS. Subject to receipt of funds from the United States Treasury, the County agrees to reimburse the Delegate for authorized expenditures which can be verified by reference to vouchers and similar documentation supporting expense disbursements which are maintained under those generally accepted accounting principles and procedures approved by the County and outlined in the Office of Management and Budget 2 CFR Part 200.

All payments will be made to the Delegate who will within ten (10) working days after the last day of each month covered under the terms of this Agreement submit to the County, Appendix E, along with a monthly financial statement and back up materials for actual expenses incurred during the previous month. The County will within ten (10) working days of the receipt of the invoice, approve, disapprove, or adjust payment of the invoice, and will make the subsequent payment equal to the amount of approved expenditures to the Delegate, or notify the Delegate in writing of

2. FUNDS AUTHORIZED AND SCHEDULE OF PAYMENTS. (Continued)
its decision to disapprove and the conditions to be met for approval. In no event will the Delegate receive reimbursement in excess of the sum of **\$48,570 (FORTY-EIGHT THOUSAND FIVE HUNDRED SEVENTY DOLLARS)** which is the total amount of CDBG funds authorized by this Agreement and detailed in the budget set forth in Appendix B.
3. COMPLIANCE WITH APPROVED PROGRAM. All activities authorized by this Agreement will be performed in accordance with the goals and objectives set forth in Appendix A, the budget set forth in Appendix B, and the conditions, assurances, and requirements set forth in HUD CDBG Program Grant No. B-20-UC-39-0004 as detailed in the provisions of the County's application which are set forth as Appendix C. The Delegate further agrees that it will notify the County prior to undertaking any activity or authorizing an expenditure that is not clearly consistent with the terms of this Agreement and its appendices and/or with the conditions, assurances, and requirements of HUD CDBG Program Grant No. B-20-UC-39-0004 and that no such activity or expenditure of a questionable nature shall be authorized without prior approval of the County.
4. PROGRAM INCOME. Any amount of money received by the Delegate which was generated from the use of CDBG funds is known as CDBG program income and, as such, is governed by the appropriate CDBG administrative regulations and is to be retained by and utilized at the sole option of Montgomery County, pursuant to 24 CFR 570.504 of the CDBG administrative regulations. The Delegate shall report all program income to the County's authorized representative as soon as it is received.
5. REVERSION OF ASSETS. Upon the expiration of this Agreement, the Delegate shall transfer to the County any CDBG funds on hand at the time of the expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the Delegate's control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 must either:
 - (A) be used to meet one of the national objectives outlined in 24 CFR 570.208 until:
 - i) if the Delegate is a unit of local government, five (5) years after the date that the Delegate is no longer a part of the Montgomery County "Urban County", (that is, five years from the date the Delegate decides to "opt out" of the County's CDBG Program);
 - ii) if the Delegate is a non-profit agency, ten (10) years after the expiration of this Agreement;
 - OR
 - (B) be disposed of in a manner that results in the County's 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 improvements to the property.

5. REVERSION OF ASSETS. (Continued)

If there is real property being acquired or improved under this Agreement with CDBG funds, the Delegate and the County must have reached a prior agreement as to which of the above options will be used and enforced. The option for this Agreement is Ai.

6. REPORTS, RECORDS, MONITORING, AND EVALUATION. The County will monitor, evaluate, and provide guidance, direction, and technical assistance to the Delegate in the conduct of activities delegated by the terms of this Agreement. The Delegate will submit to the County within ten (10) working days after the end of each month covered under the terms of this Agreement the following reports:

- (A) Progress report of Delegate's activities and accomplishments during the period with emphasis on the provisions set forth as specified objectives of the project in Appendix A.
- (B) Financial statement of CDBG expenditures made by the Delegate during the period pursuant to the project with additional emphasis on a comparison of accumulative CDBG expenditures made by the Delegate in the conduct of the project to the specific cost categories set forth in the budget in Appendix B. The financial statement will serve as the Delegate's invoice for payment to the County.
- (C) Any special report made necessary by the imposition of the County or HUD or additional reasonable requirements pursuant to HUD CDBG Program Grant No. B-20-UC-39-0004.

The Delegate will include the activities delegated by the terms of this Agreement in its annual audit which shall be undertaken in accordance with the provisions of OMB 2 CFR Part 200 as implemented at 24 CFR Part 44 and which shall include a compliance review as per 24 CFR 44.5. The audit must then be submitted to the County for review immediately upon completion.

The Delegate also agrees to prepare, retain for a period of at least three (3) years after the date of grant close-out, and permit access by the County, HUD, and the Comptroller General to inspect, as deemed necessary, program records, which includes the following:

- (D) Final records and documentation sufficient to support payment of expenses,
- (E) Property inventories,
- (F) Meeting announcements, agendas, and minutes,
- (G) Time sheets and personnel records,
- (H) Documentation supporting Delegate's accomplishments in the conduct of the

project,
6. REPORTS, RECORDS, MONITORING, AND EVALUATION. (Continued)

- (I) All specifications, advertisements, and terms of contracts for goods and services procured by the Delegate in the conduct of the project, and
- (J) Documentation of the Delegate's continued compliance with the HUD requirements set forth in Appendix C.

The Delegate further agrees to ensure the cooperation of its staff and other responsible officials in the efforts of the County to monitor and evaluate the Delegate's activities in the following manners:

- (K) Regular on-site visits by the County to the Delegate to monitor the progress of the activities delegated under the terms of this Agreement, to review compliance with the terms of this Agreement, and to offer assistance in the conduct of the project. Such on-site visits will be undertaken according to the schedule set forth in Appendix D.
- (L) Evaluation by the County and/or its agent(s) of the results of the activities delegated under the terms of this Agreement in relationship to the stated long and short-term goals of the County's CDBG Program and to the purpose and intent of the Housing and Community Development Act of 1984, as amended. Such evaluations will be conducted according to the schedule set forth in Appendix D.
- (M) Any special monitoring or evaluation activities made necessary by the imposition by the County or HUD of additional reasonable requirements pursuant to HUD CDBG Grant No. B-20-UC-39-0004.

- 7. COMPLIANCE WITH STATE AND LOCAL LAWS. The Delegate shall comply with all applicable laws, ordinances, and codes of state and local governments.
- 8. CHANGES. The County or HUD may, from time to time, impose other reasonable conditions in connection with the activities delegated under the terms of this Agreement and the Delegate agrees to comply with such conditions upon receiving written notice from the County or HUD or to invoke the provisions of Paragraph 12 of this Agreement. Any amendment to this Agreement must be signed by the authorized representative of both parties and will be incorporated as a written appendix to this Agreement.
- 9. COVENANT AGAINST CONTINGENT FEES. The Delegate warrants that no person or selling agency or other organization has been employed or retained to solicit or secure brokerage, or contingent fee. For breach or violation of this warrant, the County shall have the right to annul this contract without liability or, in its discretion,

to deduct from the contract or otherwise recover the full amount of such commission, percentage brokerage, or contingent fee, or to seek such other remedies as legally may be available.

10. PUBLIC INFORMATION. The Delegate will not knowingly or deliberately conceal its delegate status with respect to the County in public meetings and in publicity settings through any of the news media, newsletters and flyers, or in lecture or information speeches by Delegate officers or program staff, when the delegated program is the main item of attention or discussion. The Delegate shall state on all letterheads, flyers, signs, displays, and newsletters that they are a Delegate of the County.
11. NON-DISCRIMINATION. During the performance of this Agreement, the Delegate will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, handicap, age, political belief or place of birth. The Delegate will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, national origin, ancestry, handicap, age, political belief or place of birth. Such action shall include, but is not 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 Delegate shall proffer to the County an Equal Opportunity Plan within thirty (30) calendar days of the effective date of this Agreement; or request that the County certify its employment conditions for compliance with the federal non-discrimination legislation; or request the County's assistance in developing and implementing such a program within one hundred eighty (180) calendar days from the effective date of this Agreement.

The Delegate further assures that no person will be denied equal access to, excluded from participation, or be denied the proceeds of any Community Development Block Grant funded project subject to this Agreement; and will adhere to the non-discrimination provisions promulgated pursuant to the Executive Orders and federal statutes referenced in Appendix C, attached hereto. The Delegate understands that the County may request certain data or reports related to Equal Employment Opportunity/Affirmative Action and ensures the cooperation of its staff in the compilation and submission of such information.

12. ENFORCEMENT. The County may for cause, undertake one or more of the following courses of action: (1) withhold funds until the situation has been corrected; (2) suspend the Delegate's authority to spend funds or to conduct the program until the situation is corrected; or (3) terminate this contract in whole or in part. Cause shall include, but not be limited to, (1) failure, for any reason, of the Delegate to fulfill in a timely and proper manner its obligations under this Agreement, including compliance

with the approved program and attached conditions, and such statutes, Executive Orders, and HUD directives as may become generally applicable at any time; (2) submission by the Delegate to HUD or to the County of reports that are incorrect or incomplete in any material respect; (3) ineffective or improper use of funds provided under or generated by this contract; and/or (4) suspension or termination by HUD of the grant to the County under which this Agreement is made, or the portion thereof delegated by this Agreement. The County shall initiate one or more of the above courses of action by giving reasonable written notice specifying no earlier than fifteen (15) calendar days from the issuance of the notice the effective date of one or a combination of, the above courses of action.

If the Delegate is unable or unwilling to comply with such additional conditions as may be lawfully applied by the County or HUD, the Delegate shall terminate the contract by giving reasonable written notice to the County, signifying the effective date of termination no later than fifteen (15) calendar days from the date of notice. In such event the County may require the Delegate to ensure that adequate arrangements have been made for the transfer of the delegated activities to another Delegate or to the County.

In the event of any termination, all property and finished or unfinished documents, data, studies, and reports purchased or prepared by the Delegate under this contract shall become the property of the County and the Delegate shall be entitled to compensation for any unreimbursed expenses reasonably and necessarily incurred in satisfactory performance of the Agreement. Notwithstanding the above, the Delegate shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the contract by the Delegate and the County may withhold any reimbursement to the Delegate for the purpose of setoff until such time as the exact amount of damages due the County from the Delegate is agreed upon or otherwise determined.

13. OTHER CONDITIONS. The Delegate agrees to comply with the following conditions:

- (A) None of the work or services authorized by this Agreement shall be contracted without prior approval of the County.
- (B) The County will be provided with copies of plans, reports, studies, or other documentation signifying and giving evidence of the completion of the activities authorized by the terms of this Agreement at such time as the Delegate has fulfilled its responsibilities in executing the terms of this Agreement.
- (C) The County and the **CITY OF CLAYTON** are separate political subdivisions of the State of Ohio, and each shall assume responsibility for any loss, cost or damages caused by or arising out of any acts, errors and omissions of its own

respective employees and agents in the performance of this Agreement. Each is entitled to common law and statutory immunities and defenses, none of which are waived by this Agreement.

- (D) This contract must be signed and returned to the Montgomery County Community Development Office by the Contractor within thirty (30) calendar days after date of notifications or contract may be canceled and voided by Montgomery County.
 - (E) If for any reason other than that as is found identified in paragraph 12 hereof, either party decides this project is not in their best interest, they may terminate this Agreement upon thirty (30) calendar days written notice.
14. The County's authorized representative for this contract shall be Erik Collins, Director, Community and Economic Development 451 West Third Street, P. O. Box 972, County Administration Building, 10th Floor, Dayton, Ohio 45422-1090.

END OF PAGE

15. EFFECTIVE DATES. This Agreement shall be in force through July 31, 2023.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 18th day of August, 2022.

WITNESSES:

BOARD OF COUNTY COMMISSIONERS
OF MONTGOMERY COUNTY, OHIO

BY _____

BY _____

BY _____

OR

BY _____
MICHAEL B. COLBERT
COUNTY ADMINISTRATOR
MONTGOMERY COUNTY, OHIO

CITY OF CLAYTON
(DELEGATE)

BY  _____

TITLE City Manager

FED. I.D. NO. 31-0909460

Witness

APPROVED AS TO FORM:

MATHIAS H. HECK, JR., Prosecuting Attorney

BY _____
Assistant Prosecuting Attorney

DATE _____

APPENDIX A

2020 CITY OF CLAYTON

WORK PROGRAM

DELEGATE: CITY OF CLAYTON, OHIO

PROJECT: CITY OF CLAYTON WESTBROOK PARK ADA RESTROOM RENOVATION

OBJECTIVE: CDBG FUNDS WILL BE USED TO ASSIST IN CONSTRUCTION OF AN ADA COMPLIANT RESTROOM IN WESTBROOK PARK NEAR JEAN DRIVE.

<u>Activity</u>	<u>Date</u>	<u>Responsible Party</u>
▪ Environmental Review	Completed	County
▪ Program Design	Summer 2022	Clayton
▪ Bidding Process-CDBG	Summer 2022	Clayton

As required by HUD, several steps must be followed during the bidding process (if a bidding process is required):

- a. All **designs and specs** must be reviewed by the County. Designs and specs must be submitted to the County at least four weeks prior to the legal advertisement.

The County will provide specific information that must be included in the spec books. If properties are being addressed individually, that is not bid as a set of properties, quotes may be secured, rather than using a sealed bid process.

- b. **Legal Advertisement** – According to ORC Section 153.07 an ad must run for two (2) consecutive weeks in the county’s general circulation newspaper (*The Dayton Daily News* and any other local newspapers deemed appropriate). It is the responsibility of Clayton to submit the ad to the newspapers; however, the County can assist with the language. The ad must announce the mandatory pre bid and bid opening dates, locations, times as well as other necessary information.
- c. **Pre-Bid meeting** – Approximately one (1) week after the ad runs, a **MANDATORY** Pre-Bid must be attended by all prime contractors, or individual subcontractors that wish to bid on the project. A County representative must be present to discuss labor standards and MBE/WBE requirements and to be available for questions. The Design

engineer (if applicable) and a Clayton representative must also attend. It is the responsibility of the Clayton representative to lead the pre-bid meeting.

- d. **Bid Opening** – At least one (1) week following the pre bid meeting, the bids must be received by an authorized representative of the jurisdiction/ organization and opened and read at the set time. Bids received after that time will not be accepted. The County project manager and a Clayton representative must be present at the opening. (If all bids exceed the Engineer's estimate by 10% or more, the project MUST be rebid)
 - e. **Bid Review and Award of contract** – Once all of the bids are reviewed by Clayton (and its council/Board), the County, the Design Engineer, and/or the Review Engineer, the contract can be awarded. The contract will be between the Contractor and Clayton.
 - f. **Pre-Construction Meeting** – Once the contract is awarded and accepted by all parties, a pre-construction meeting should be held with all interested parties to discuss the timeline, information submission requirements, etc.
- | | | |
|--|------------------|---------|
| ▪ Improvements Completion | Fall/Winter 2022 | Clayton |
| ▪ CDBG Project Management & Monitoring | As Needed | County |
| ▪ Project close-out | July 31, 2023 | County |

APPENDIX B

BUDGET

Delegate: CITY OF CLAYTON

Project: CITY OF CLAYTON WESTBROOK PARK ADA RESTROOM
RENOVATION

Total Project Cost Estimate: \$185,000

Total CDBG Funds: \$ 48,570

APPENDIX C

CERTIFICATIONS

The subrecipient/subgrantee hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements with respect to the acceptance and use of Federal funds for this federally-assisted program. Also, the subrecipient/subgrantee gives assurances and certifies with respect to the grant that:

- A. It possesses legal authority to make a grant submission, and to execute a community development and housing program;
- B. Its governing body has duly adopted or passed as an official act, a resolution, motion or similar action authorizing the person identified as the official representative of the grantee to submit the application, and enter into subsequent contracts, all understandings, and assurances contained therein, directing and authorizing the person identified as the official representative of the grantee to act in connection with the submission of the application and subsequent contracts and to provide such additional information as may be required;
- C. It is following a current Consolidated Plan which has been approved by HUD, and the County pursuant to 570.302 and Part 91, and that any activities to be assisted with CDBG, HOME, or ESG funds will be consistent with the Consolidated Plan;
- D. It has developed its request for funds and funded project so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight or is designed to meet other community development needs having a particular urgency because existing conditions pose a serious threat to the health and welfare of the community, and other financial resources are not available;
- E. It will Affirmatively Further Fair Housing and take appropriate actions to overcome the effects of any impediments identified through a Fair Housing Assessment;
- F. It will minimize the displacement of persons as a result of activities assisted with Federal funds and will assist persons actually displaced as a result of such activities;
- G. The grant will be conducted and administered in compliance with the following applicable programmatic requirements:

Section I: General Programmatic Requirements

- A. Equal Employment Opportunity (\$10,000)

Executive Order 11246 prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin. Provisions to effectuate this prohibition must be included in all contracts for capital projects exceeding \$10,000. Implementing regulations may be found in 41 CFR Part 60;

B. Equal Opportunity in Housing

Executive Order 11063, as amended by Executive Order 12259, prohibits discrimination against provision, rehabilitation, or operation of housing and related facilities because of race, color, religion, sex, or national origin. Implementing regulations may be found in 24 CFR Part 107;

C. Civil Rights

Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), prohibits discrimination against participants or beneficiaries of HUD assisted programs on the basis of race, color, religion, sex, or national origin. Implementing regulations may be found in 24 CFR Part 1;

D. Section 109 of the Housing and Community Development Act

Section 109 of the Housing and Community Development Act of 1974, as amended, provides that no person in the United States shall, on the basis of race, color, national origin, religion, 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 Federal financial assistance;

E. Affirmatively Furthering Fair Housing

Title VIII of the Civil Rights Act of 1968 and The Fair Housing Act (42 U.S.C. 3601-20) prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin. The grantee will administer all activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act and in accordance with the Affirmatively Furthering Fair Housing Final Rule (80 FR 42271);

F. Section 3 Employment Opportunities

Section 3 of the Housing and Urban Development Act of 1968, as amended, requires that grantees of HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low-income residents in connection with HUD-assisted projects. Implementing regulations may be found in 24 CFR 135;

G. Nondiscrimination Based Upon Disability

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination against qualified individuals on the basis of a physical or mental impairment. Implementing regulations may be found in 24 CFR Part 8;

H. Nondiscrimination Based Upon Age

The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, prohibits discrimination on the basis of age;

I. Uniform Relocation Assistance

The acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, require grantees to take all reasonable steps to minimize the displacement of persons as a result of HUD assisted projects. Implementing regulations may be found in 49 CFR Part 24 and 24 CFR 576.408 (ESG);

J. Flood Insurance

Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) requires that projects receiving federal assistance and located within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). This applies to federally assisted projects including acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home located within a SFHA. Implementing regulations may be found in 44 CFR 54 through 79 and 24 CFR 55.1(b) (ESG).

K. Nonparticipation in National Flood Insurance Program

Section 202(a) of the Flood Disaster Protection Act of 1973 prohibits Federal financial assistance to any SFHA building located within a community suspended from, withdrawn from, or otherwise not participating in the National Flood Insurance Program (NFIP).

L. Uniform Administrative Requirements

Recipients of Federal funds must follow guidance and principals related to costs. These include regulations, policies, guidelines, and requirements of 24 CFR Part 85-Administrative Requirements and 2 CFR, which relate to the acceptance and use of Federal funds under this federally-assisted program.

M. Annual Audit

Recipients of Federal funds must follow audit regulations, policies, guidelines and requirements of 2 CFR, Part 200. This activity will be part of the grantee's annual audit and that audit will be submitted to the County for review;

N. Veterans of the Vietnam Era (\$100,000)

Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 (Pub. L. 93-508), as amended, requires contractors and subcontractors to take affirmative action to employ and advance disabled veterans and veterans of the Vietnam Era.

O. Americans with Disabilities Act (ADA)

Title II of the ADA prohibits discrimination against persons with disabilities in all federally-assisted services, programs, and activities. Implementing regulations may be found in 42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225;

P. Environmental Review

Recipients of HUD funds shall comply with the National Environmental Policy Act of 1969; and the regulations issued pursuant thereto. Implementing regulations may be found in 24 CFR Part 50 and 24 CFR Part 58;

Q. Certification of Compliance with Air and Water Acts (\$100,000)

Recipients of HUD funds shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended;

R. Historic Preservation

Recipients of HUD funds shall comply with the Archeological and Historic Preservation Act of 1974 (Pub. L. 93-291), P.L. 89-665, Executive Order 11593, and the procedures described by the Advisory Council on Historical Preservation in 36 CFR Part 800;

S. Nondiscrimination in Employment by Government Contractors

24 CFR Parts 92, 570, and 576, as modified by Executive Order 11246, bars discrimination in federal employment because of race, color, religion, sex, or national origin.

T. Congressional Interest

No member of or delegate to the congress of the United States shall be admitted to any share or part of the Agreement or to any benefit to arise from same;

U. Conflict of Interest

No officer or employee of Montgomery County or its designees or agents, no member of the governing body, and no other public official of the subrecipient/subgrantee who his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest. Implementing regulations may be found in 24 CFR 570.489, 24 CFR 570.611 (CDBG), 24 CFR 92.356 (HOME), 24 CFR 576.57 (ESG), 24 CFR 85.36, and 24 CFR 84.42.

V. Political Activity

Recipients of HUD funds must comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

W. Anti-Lobbying

No Federal appropriated funds have been paid or will be paid, by or on behalf of it, 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 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

X. Access to Records

Recipients of HUD funds shall allow Montgomery County, HUD, the Controller General or any authorized representatives access to and the right to examine all records, books, papers, or documents related to the grant, and that it will maintain such records, books, papers, or documents for three (3) years after the close of CDBG projects and for five (5) years after the close of ESG and HOME projects;

Y. Lead-Based Paint

Recipients of HUD funds shall comply with the Lead-Based Paint Poisoning Prevention Act of 1973 (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations in 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under ESG program and all housing occupied by program participants; implementing regulations for the HOME program can be found at 24 CFR part and 24 CFR 982.401(j) and apply to all activities; implementing regulations for the CDBG program can be found at 24 CFR Part 35, subparts A, B, J, K, and R and 24 CFR 570.608;

Z. Federal Debarred Contractors

HUD funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any subrecipient or contractor during any period of debarment, suspension, or placement of ineligibility status. Implementing regulations can be found in 24 CFR 24 and 24 CFR 85.35;

AA. Energy Efficiency

Recipients of HUD funds shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163);

Section 2: Community Development Block Grant (CDBG) and HOME Investment Partnership Program

A. Federal Labor Standards

1. Federal Prevailing Wage (\$2,000)

The Davis-Bacon Act (40 U.S.C. 276a to 276a-7), as supplemented by the Department of Labor regulations (29 CFR Part 5) require the payment of prevailing wages for all construction contracts and subcontract in excess of \$2,000. HOME program applicability is limited to contracts for 12 or more HOME-assisted units. Implementing regulations can be found in 24 CFR 92.354 (HOME) and 24 CFR 570.603 and 24 CFR §570.200(c)(3) (CDBG).

2. Copeland "Anti-Kickback Act" (\$2,000)

The Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by the Department of Labor regulations (29 CFR Part 3), prohibits any subrecipient or contractor from inducing employees into giving up a portion of their compensation they are entitled under the terms of his or her employment contract. This applies to contracts for construction or repair in excess of \$2,000;

3. Contract Work Hours and Safety Standards Act (\$100,000)

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327A 330), as supplemented by Department of Labor regulations (29 CFR part 5), requires subrecipients and contractors to pay laborers and mechanics employed in the performance of Federally-assisted contracts one and one-half times their basic rate of pay for all hours worked in excess of 40 in a workweek, and prohibits unsanitary, hazardous, or dangerous working conditions.

B. Labor Standards Exceptions:

Sections 286 and 955 of the National Affordable Housing Act (NAHA) provides exemptions from the requirement to pay prevailing wage rates determined under the Davis-Bacon Act. Implementing regulations may be found in 24 CFR 70, and 40 U.S.C. 327 et seq. and HUD regulations issued to implement such requirements;

C. Program Income

Real or personal property purchased in whole, or in part with CDBG or HOME funds, shall not be disposed of through sale, use or location without the written permission of Montgomery County and HUD. The proceeds from the disposition of real property shall be considered program income and subject to 24 CFR 570.504 (CDBG) and 24 CFR 92.503 (HOME);

Section 3: Community Development Block Grant (CDBG)

A. Planning and Construction of Water and Sewer Lines

Grantees proposing to use CDBG funds for the planning or construction (reconstruction or installation) of water or sewer lines, including both storm sewer as well as sanitary sewer must comply with Executive Order 12372;

B. Eligibility Restriction for Newly Legalized Aliens

24 CFR Part 49 restricts the eligibility of newly legalized aliens for benefits under covered activities funded by certain CDBG programs;

C. Architectural Barriers Act of 1968

The Architectural Barriers Act of 1968 (ABA) (42 U.S.C. *151-4157) requires that certain buildings financed with Federal funds must be designed, constructed, or altered in accordance with standards that ensure accessibility for persons with physical disabilities. Covered buildings and facilities designed, constructed, or altered with CDBG funds are subject to the ABA and must comply with the Uniform Federal Accessibility Standards (UFAS) (24 CFR 570.614);

D. Special Assessments

24 CFR §570.200(c) bars recipients of CDBG funds from attempting to recover any capital costs of public improvements assisted in whole or in part with funds provided under Section 106 of the Housing and Community Development Act by assessing any amount against properties owned and occupied by persons of low- and moderate-income (LMI), including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

1. Funds received under Section 106 of the Act are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title 1 of the Act; or
2. For purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the County that it lacks sufficient funds received under Section 106 of the Act to comply with the requirements of Subparagraph 1 above.

E. Non-Violent Civil Rights Demonstrations

Section 104(1) to Title I of the Housing and Community Development Act bars CDBG obligations and expenditures by any unit of general local government that:

1. Fails to adopt and enforce a policy prohibiting the use of excessive force by local law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations;
2. Or fails to adopt and enforce a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of nonviolent civil rights demonstrations within its jurisdiction;

NOTE: The above represents a non-exclusive list of applicable federal rules, regulations, and laws to the herein federally-assisted project, and in no way exempts the subrecipient/subgrantee from compliance with any other applicable federal rules, regulations, and laws; nor exempts them from compliance with any newer versions of the above-enumerated federal rules, regulations, and laws put into effect after the above list was compiled.

APPENDIX D
MONITORING SCHEDULE

Delegate: CITY OF CLAYTON

Project: CITY OF CLAYTON WESTBROOK PARK ADA RESTROOM
RENOVATION

<u>MONITORING SUBJECT</u>	<u>DATE</u>	<u>COUNTY REPRESENTATIVE</u>
Environmental	Complete	Tawana S. Jones
Fiscal	Contract Completion	DS Finance
Construction	As Needed	Tawana S. Jones
Records	Once during contract period	Tawana S. Jones