

LEGALLY BINDING AGREEMENT
(Sample)

NOTE: This sample agreement represents a format that can be adapted by the grant recipient to be used as either a two-party or three-party document depending on the particular needs of the project. The sample can be modified for use based on the provisions of the grant agreement. The sample provides a legal mechanism that can be executed between a grantee and either a for-profit corporation, nonprofit corporation, water/sewer district, or other related organization. Modification of this agreement is to be conducted in line with the content and requirements of the Grant Agreement.

This agreement entered into this _____ day of _____, 20____, by and between the _____ (Council/Fiscal Court) _____, hereinafter referred to as the Recipient, (and/or) the _____ (Organization/District) _____, hereinafter called the Nonprofit (and/or) the _____ (Company) _____, hereinafter called the Participating Party. This agreement is being executed in three original contracts, each of which is deemed an original.

WHEREAS, the Recipient has entered into a Grant Agreement with the Commonwealth of Kentucky, Department of Local Government, and

WHEREAS, the payment of funds to the Recipient under the terms of the Grant Agreement is contingent upon the Nonprofit (and/or) Participating Party contracting to undertake certain responsibilities, and

WHEREAS, the funds made available under the terms of the Grant Agreement will directly benefit the Participating Party (and/or) Nonprofit,

NOW, THEREFORE, for and in consideration of the sum of ONE DOLLAR (\$1.00) paid to the Nonprofit (and/or) Participating Party, and in further consideration of the mutual promises and covenants hereinafter contained, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

NOTE: For two-party agreement include either Item 1 or 2 as appropriate.
For three-party agreement include both Item 1 and 2 as appropriate.

ITEM 1:

The Recipient and Nonprofit do hereby agree to carry out and perform all of the activities required of it under the terms and conditions of the Grant Agreement, which agreement is incorporated herein by reference as if copied in full.

The Nonprofit agrees as follows:

- a) To perform project activities as enumerated in Exhibit B-2 of the Grant Agreement as enumerated below:
 - i. **List activities as contained in the Grant Agreement.**
 - ii.
 - iii. **...etc.**

Include b) and c) if applicable
- b) Nonprofit shall assure that the (Loan/Lease) Agreement with the Participating Party shall contain provisions granting access to employment records by the Recipient and the Commonwealth for the sole purpose of confirming compliance with job requirements set forth in Exhibit A and CDBG benefit requirements.
- c) Nonprofit shall assure that the recapture of CDBG funds will be deposited in a Revolving Fund Account (RF). Recaptured funds will be used for activities set forth in the application dated _____, 20____. The Nonprofit shall assure compliance with proper accounting and reporting requirements related thereto. The Nonprofit shall obtain project approval from the Recipient for the expenditure of funds as specified in the RF document.

ITEM 2:

The Recipient and Participating Party do hereby agree to carry out and perform all of the activities required of it under the terms and conditions of the Grant Agreement, which agreement is incorporated herein by reference as if copied in full.

The Participating Party agrees as follows:

- a) To perform project activities as enumerated in Exhibit C of the Grant Agreement as enumerated below:
 - i. **List activities as contained in the Grant Agreement.**
 - ii.
 - iii. **...etc.**
- b) To provide employment opportunity as enumerated in Exhibit A of the Grant Agreement and below:
 - i. To create/retain at a minimum _____ (_____) permanent full-time jobs.
 - ii. To assure at least fifty-one percent (51%) of the jobs will be filled by individuals from families of low- to moderate-income (LMI).
 - iii. To accept income limits for identifying LMI beneficiaries and the time period set for meeting job requirements as set out in the Grant Agreement.
- c) To maintain for a period of five years following project closeout all employment records related to the project to include but not be limited to the Employee Survey Forms, Employee Characteristics Record and Employee Characteristics Summarization.

- d) To pay the Commonwealth of Kentucky through the Recipient, an amount equal to the total CDBG grant funds received by the Recipient, except for any planning or administrative funds, should 51% of the jobs created fail to be fulfilled by individuals from LMI families as required by the Grant Agreement, Exhibit C. Failure to create the full job commitment of _____ (_____) jobs shall require repayment by the Participating Party at the rate of \$_____ per job not created.

The Nonprofit (and/or) Participating Party agrees as follows:

- a) To maintain for a period of five years following project closeout all financial records and documents relative to disbursement of any CDBG or other funds identified in and required by the Grant Agreement. Such records include, but are not limited to, ledgers, bank statements, contracts, invoices and reports.
- b) To grant access to inspect, copy, audit and examine at all reasonable times employment and financial records to any duly authorized representative of the Commonwealth, HUD, Inspector General and General Accounting Office of the United States, for a period up to five years following completion of closeout procedures.
- c) To comply with all State and Federal laws and regulations pertinent to the project.

The Nonprofit (and/or) Participating Party further agrees to the following terms and conditions:

- a) That no transfer of grant funds by the Recipient to the Nonprofit (and/or) Participating Party shall be or be deemed an assignment of grant funds, and that the Nonprofit (and/or) Participating Party shall neither succeed to any rights, benefits, or advantages of the Recipient under the terms of the hereinabove described Grant Agreement nor attain any rights, privileges, authorities or interest in or under the said agreement.
- b) That the Nonprofit (and/or) Participating Party acknowledges nothing contained in the said agreement, nor in any contract between the parties hereto, nor any act of the Commonwealth, the Recipient or any other party shall be deemed or construed to create any relationship or third-party beneficiary, principal and agent, limited or general partnership, or joint venture, or of any association or relationship involving the Commonwealth.
- c) That the Recipient shall not be liable to the Nonprofit (and/or) Participating Party or any party except the Commonwealth, for the completion of, or the failure to complete, any activities which are a part of the project herein contemplated, except those specified in Exhibit B, of the said Grant Agreement.
- d) None of the Nonprofit (and/or) Participating Party's designees, agents, members, officers or employees, has or shall have any interest, direct or indirect, in any contract or subcontract or the proceeds thereof, for work to be

performed in connection with the project herein contemplated at any time during or after such person's tenure with the Nonprofit (and/or) Participating Party.

- e) The obligations of the parties are totally contingent upon the obtaining of a Release of Funds from the Department of Local Government and no project activities other than environmentally exempt activities may occur until the release is achieved.
- f) Recipient, Nonprofit (and/or) Participating Party agree and accept that all applicable provisions of the Grant Agreement are incorporated into and made a part of this Legally Binding Agreement.
- g) The Legally Binding Agreement Standard Provisions attached to this Agreement as Exhibit I are considered to be an integral part of this Agreement. These provisions are subject to change from time to time as Federal laws and regulations are promulgated. The Nonprofit (and/or) Participating Party will be notified in writing if any changes occur.

**City/County
Legally Binding Agreement**

This Agreement being formally adopted this _____ day of _____,
20____:

Recipient:

Examined as to form and legality:

(Mayor/County Judge)

Recipient Attorney

State of Kentucky
County of _____

Subscribed, sworn to and acknowledged before me by _____,
_____(Title)_____ by and through its resolution, on this _____ day of _____,
20_____.

My Commission expires:

Notary Public

Nonprofit:

(President/Chair)

State of Kentucky
County of _____

Subscribed, sworn to and acknowledged before me by _____,
_____(Title)_____ by and through its resolution, on this _____ day of _____,
20_____.

My Commission expires:

Notary Public

City/County
Legally Binding Agreement

Participating Party:

(President/Chairman)

State of Kentucky
County of _____

Subscribed, sworn to and acknowledged before me by _____,
_____ (Title) _____ by and through its resolution, on this _____ day of _____,
20____.

My Commission expires:

Notary Public