

BILL NO. S-19-11-04

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving FFY17-PRE-DISASTER MITIGATION GRANT PROGRAM STATE-LOCAL AGREEMENT CFDA # 97.047 CONTRACT 35970/ RESOLUTION #0238P FOR 13 FLOOD BUYOUTS between INDIANA DEPARTMENT OF HOMELAND SECURITY AND THE CITY OF FORT WAYNE, INDIANA, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the FFY17-PRE-DISASTER MITIGATION GRANT PROGRAM STATE – LOCAL AGREEMENT CFDA # 97.047 CONTRACT 35970, Exhibit A attached hereto and made a part hereof, by and between INDIANA DEPARTMENT OF HOMELAND SECURITY AND THE CITY OF FORT WAYNE, INDIANA, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

Flood Buyouts - purchase and demolition of up to thirteen (13) homes in the Junk Ditch floodplain area of persons who wish to be voluntarily bought out;

involving a total cost- GRANT TOTAL OF EIGHT HUNDRED FIFTY-FOUR THOUSAND THREE HUNDRED TWENTY-EIGHT AND 00/100 DOLLARS – (\$854,328.00) (FEDERAL GOVERNMENT PROVIDING \$640,746.00 AND CITY SHARE IS \$213.582.00). A copy of said Contract is on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

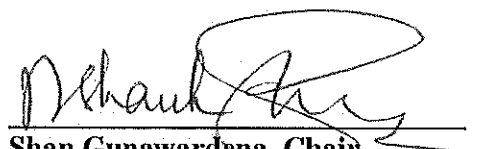
Carol Helton, City Attorney

PW

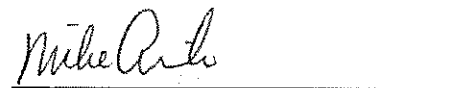
Recommendation from Transportation Engineering to approve Resolution #0238P, for an Interlocal Agreement between the City of Fort Wayne and Indiana Department of Homeland Security for FFY17 Pre-Disaster Mitigation Grant in the amount of \$640,746.00 for up to 13 flood buyouts.

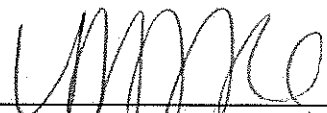
**CITY OF FORT WAYNE
BOARD OF PUBLIC WORKS**

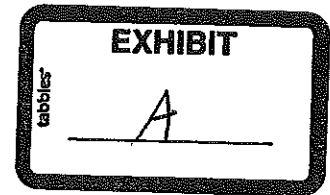
Date: 11.5.19


Shan Gunawardena, Chair

ABSENT
Kumar Menon, Member


Mike Avila, Member

ATTEST: 
Michelle Fulk-Vondran, Clerk



FFY17 Pre-Disaster Mitigation Grant Program

State – Local Agreement

CFDA # 97.047

Contract #0000000000000000000035970

This Grant Agreement (the "Agreement"), entered into by and between the Indiana Department of Homeland Security (the "State") and CITY OF FORT WAYNE (the "Sub-recipient"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

The term of the Grant Agreement is from March 13, 2019 through March 22, 2021.

Pursuant to the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (the "Stafford Act"), 42 USC 5121 *et seq.*, the Federal Emergency Management Agency ("FEMA") has been authorized by Congress to make grants to states to implement a sustained pre-disaster natural hazard mitigation program to reduce overall risk to the population and structures from future hazard events, while also reducing reliance on Federal funding in future disaster strikes.

The State has been designated by FEMA as the recipient to receive, administer, and in turn, provide sub-awards of FEMA mitigation funds to local government for cost-effective mitigation activities in areas of Indiana and to provide technical assistance with the Pre-Disaster Mitigation ("PDM") Grant Program. The PDM grant program is authorized by Section 203 of the Stafford Act (42 USC 5133).

The State has entered into a FEMA-State agreement on August 23, 2018 under grant agreement EMC-2018-PC-0007 and the State received approval of an award for this project on March 13, 2019. The State is required by the FEMA-State agreement to monitor and evaluate the implementation of projects and control the disbursement of PDM grant funds from FEMA to the Sub-recipient.

The Sub-recipient has submitted an application to FEMA for the project activities (herein referred to as "Project"). The State retains access to the Sub-recipient's full project application within the FEMA grants system ("eGrants"). The State and FEMA have approved Sub-recipient's Project prior to signing of this Grant Agreement.

1. Purpose of this Agreement.

The purpose of this Grant Agreement is to enable the State to award a sub-grant award to the Sub-recipient from FEMA Federal Fiscal Year 2017 PDM grant program funds for eligible costs for the eligible costs of this approved project (the "Project") **for the acquisition and demolition of structures and associated property** more fully described in the Project Schedule and Budget and Properties to be Acquired contained in **Exhibit A** of this Grant Agreement, which is incorporated fully herein.

The funds shall be used exclusively in accordance with the provisions contained in this Grant Agreement. The funds received by the Sub-recipient pursuant to this Grant Agreement shall be used only to implement the Project or provide the services in conformance with this Grant Agreement and for no other purpose.

FUNDING SOURCE:

Federal Funds Program Name per Catalog of Federal Domestic Assistance (CFDA):
Pre-Disaster Mitigation Grant Program
CFDA # 97.047
Federal NOFO # DHS-17-MT-047-00-99
Federal Fiscal Year: 2017

2. Term.

This Grant Agreement commences on March 13, 2019 and shall remain in effect through March 22, 2021 (referred to as the "Termination Date" or "Obligation Deadline"). Unless otherwise provided herein, the Obligation Deadline may be extended upon the written agreement of the parties and as permitted by state or federal laws governing this Grant. Any request for an extension must be submitted to the State at least ninety (90) days prior to the Termination Date. Requests for an extension will be evaluated by the State and FEMA and will not be approved automatically.

3. Amount of Sub award

A. The State shall pass-through federal funds and make a sub-award to the Sub-recipient in the amount not to exceed \$ 640,746.00. Total remuneration under this Grant Agreement shall not exceed the pass-through award.

The Total Project costs and match requirements are as follows:

PDM Sub-award Amount passed through by the State	\$ 640,746.00
Local Cost Share Provided by Sub-recipient	\$ 213,582.00
Total approved Project cost	\$ 854,328.00

B. The Sub-recipient must provide necessary local cost share (25%) as governed by 42 USC 5133, Section 203(h) of the Stafford Act.

C. The Sub-recipient shall not spend more than the amount for each line item in the Project Budget without the prior written consent of the State, **nor shall the Project costs funded by this Grant Agreement and those funded by any local and/or private share be changed or modified without the prior written consent of the State and FEMA when applicable.**

D. The disbursement of Grant funds to the Sub-recipient shall not be made until all documentary materials required by this Grant Agreement have been received and approved by the State and this Grant Agreement has been fully approved by the State.

4. Representations and Warranties of the Sub-recipient.

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

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

C. The Sub-recipient certifies by entering into this Grant Agreement that it currently has and shall maintain an active registration within the Federal System for Awards Management (SAM) that includes the Sub-recipient's current information at all times throughout the duration of this Grant Agreement, including amendments of this Grant Agreement, unless **the Sub-recipient is exempted under 2 CFR § 25.110.**

D. The Sub-recipient certifies that funds awarded under this Grant Agreement do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources.

5. Implementation of and Reporting on the Project.

A. The Sub-recipient shall be solely responsible for the proper implementation of the approved Project.

B. When applicable, Sub-recipient shall follow 2 CFR 200.318 General procurement standards through 2 CFR 200.326 to ensure that procurements conform with applicable Federal and State law. In particular:

- 1) Sub-recipient shall document all procurement practices and maintain records of procurement actions taken (for instance, maintain copies of all bids, proposals, quotes, cost/price analysis, basis for selection decisions, purchase orders, and contracts) throughout the Term and as related to the Project.
- 2) Sub-recipient's procurement procedures must avoid acquisition of unnecessary or duplicative items.
- 3) All procurement transactions must be conducted in a manner providing full and open competition and should avoid restrictive language. See 2 CFR 200.319 for further requirements and guidance.
- 4) Sub-recipient shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. See 2 CFR 200.321.

C. The Sub-recipient shall complete the Project. "Project Completion" includes, but is not limited to ordering, accepting delivery, installing equipment and full completion of performance of any service agreements or contracts, by the Obligation Deadline.

D. In the event the Sub-recipient wants to adjust, modify, or otherwise alter the Sub-recipient's Project or Grant Proposal, then the Sub-recipient must first request approval from the State for such changes. Requests must be submitted as a Grant Adjustment Notice (GAN) to the State. The Sub-recipient shall not proceed to make any purchases that are outside the scope of the Project application or Project Budget without first receiving approval of the GAN request. Approval shall be determined by the State's sole discretion. Any purchases made by the Sub-recipient that are not authorized by the FEMA allow ability guidelines, the Sub-recipient's Project, Grant Proposal, or the State, will not be reimbursed under this grant. If the Sub-recipient incurs a financial obligation prior to approval of the State, then the Sub-recipient will be required to reimburse the State for the amount of funds that were not approved.

E. The Sub-recipient shall submit to the State written quarterly reports until the completion of the Project. These reports shall contain such detail of progress or performance on the Project as is requested by the State. **Quarterly reports are due: April 15, July 15, October 15, and January 15 of each year.** If this date falls on a weekend then the quarterly report is due on the following Monday.

6. Real Property Acquisition

As part of this project, the Sub-recipient will purchase real property. In addition to the other requirements in this Agreement, the following conditions are applicable to this purchase of the real property.

- A. FEMA's model deed restrictions that support 44 CFR § 80 requirements are in Exhibit E, which is attached to and fully incorporated into this Agreement.
- B. The deed conveying the property to the Sub-recipient must reference and incorporate Exhibit E. The Sub-recipient shall replace the italicized text in the Exhibit E with the appropriate replacement language (an electronic version of Exhibit E is available from the State). Any variation from this model deed restriction, other than replacement of the italicized text, can only be made with prior approval from FEMA's Office of Chief Counsel. Such requests shall be made to the FEMA Regional Administrator through the State. Exhibit E shall be attached to the deed when recorded. The Sub-recipient shall take an actions necessary to ensure that the tax records for each of the Properties contain the information that the property was purchased with federal grant funds and has deed restrictions.
- C. Exhibit E definitions. Within Exhibit E, the "Grantor" is the property owner participating in the federally-assisted acquisition project and the "Recipient" is the Sub-recipient designated in this Agreement which will be purchasing the property from the Grantor.

7. Requirements Applicable to Property/Equipment Purchased Using Grant Funds.

For all tangible, nonexpendable, personal property having a useful life of more than one year and a per unit cost of more than \$500 acquired in whole or in part with funds provided under this Grant Agreement, the Sub-recipient must comply with the following requirements for a period of three (3) years beginning on the acquisition date:

- A. Maintain records that include the following:
 - 1) A description of the property;
 - 2) Manufacturer's model number;
 - 3) Manufacturer's serial number or other identification
 - 4) Vendor or other source of the property;
 - 5) Identification of the title holder of the property;
 - 6) Acquisition date;
 - 7) State Contract number of the Grant Agreement which provided the funding;
 - 8) Cost of the property;
 - 9) Physical location of the property;
 - 10) If the property was assigned to an individual, the name and title of the individual to whom the property was assigned;
 - 11) Use of the property;

- 12) Condition of the property; and
- 13) The ultimate disposition of the property, including the date of disposal how and to what entity property was disposed, and sale price of the property.
- B. Conducting a Physical Equipment Inventory. At least once every year, the Sub-recipient shall take a physical inventory of the property and the result reconciled with the property records. Any differences between quantities determined by the physical inspection and those in the accounting records shall be investigated to determine the cause of the difference. The Sub-recipient shall, in connection with the inventory, verify the existence, current utilization, current location, and continued need for the property. The Sub-recipient shall maintain this inventory information.
- C. Implementing Safeguards to Prevent Loss, Damage or Theft of Equipment. A control system shall be developed and implemented to ensure adequate safeguards to prevent loss, damage, or theft of the property. The Sub-recipient must submit a description of its control system either in its grant application or when otherwise requested by the State. Any loss, damage, or theft shall be investigated and fully documented and made a part of the official project records. A copy of such documentation shall be promptly submitted to the State.
- D. Adequate maintenance procedures shall be developed and implemented to keep the property in good condition.
- E. The Sub-recipient shall not dispose of any property acquired in whole or in part with funds provided under this Grant Agreement, except in accordance with any applicable state and local laws, rules and regulations.
- F. The Sub-recipient agrees to the following: The equipment and any required support personnel shall be made available to the State of Indiana if requested for training purposes or as part of a state incident response. The property shall be made available to other jurisdictions within the Homeland Security District as a district asset. The use of the property shall be addressed through existing inter-jurisdictional mutual aid, district mutual aid or equipment-specific use agreements. Personal use of the equipment is not permitted. The Sub-recipient shall, when practicable, mark any and all equipment purchased with this award with the following text: "Purchased with funds provided by the U.S. Department of Homeland Security".
- G. If a Sub-recipient fails to comply with any part of this provision, the Sub-recipient may be required to repay to the State some or all of the funds provided to the Sub-recipient under the Grant Agreement for the purchase of the property. In addition, such a failure to comply may jeopardize the Sub-recipient's ability to obtain future grants from the State.
- H. These requirements are on-going and survive the expiration or termination of the Grant Agreement and will remain in effect until the property is disposed of in accordance with the Grant Agreement.

8. Requests for Expenditures / Payment of Claims.

- A. If advance payment of all or a portion of the Grant funds is permitted by statute or regulation, and the State agrees to provide such advance payment, advance payment shall be made only upon submission of a proper claim setting out the intended purposes of those funds. After such funds have been expended, Sub-recipient shall provide State with a reconciliation of those expenditures. Otherwise, all payments shall be made thirty five (35) days in arrears in conformance with State fiscal policies and procedures. As required by IC § 4-13-2-14.8, all payments will be by the direct deposit by electronic funds transfer to the financial institution designated by the Sub-recipient in writing unless a specific waiver has been obtained from the Indiana Auditor of State.
- B. Requests for payment will be processed only upon presentation to the State of a Reimbursement Request with supporting documentation. Such Reimbursement

Request(s) must be submitted with the budget expenditure report detailing disbursements of state, local and/or private funds by project budget line items.

- C. The State may require evidence furnished by the Sub-recipient that substantial progress has been made toward completion of the Project prior to making the first payment under this Grant. All payments are subject to the State's determination that the Sub-recipient's performance to date conforms to the Project as approved, notwithstanding any other provision of this Grant Agreement.
- D. An RFE shall be submitted to the State following the end of the quarter in which work on or for the Project was performed. The State has the discretion, and reserves the right to NOT pay any claims submitted later than thirty (30) calendar days following the end of the month in which the services were provided. All final claims and reports must be submitted to the State within thirty (30) calendar days after the expiration or termination of this agreement. Payment for claims submitted after that time may, at the discretion of the State, be denied. RFEs may be submitted on a monthly basis. **If Grant funds have been advanced and are unexpended at the time that the final RFE is submitted after the Obligation Deadline then all such unexpended Grant funds must be returned to the State.**
- E. Each RFE must be submitted with accompanying supportive documentation as designated by the State. An RFE submitted without supportive documentation will be returned to the Sub-recipient and not processed for payment. Failure to comply with the provisions of this Grant Agreement may result in the denial of a claim for payment. Reimbursement of any expenditure is not a final State decision about whether the expenditure comports with allow ability guidelines and such reimbursement by the State is not a waiver of any violation by the Sub-recipient of the terms of this Grant Agreement. Allow ability of an expenditure is determined by the governing state and federal statutes, laws, and guidance associated with this Grant.
- F. If the State discovers or determines that the Sub-recipient is or was not eligible to receive any or all of the funds for which reimbursement is or was requested, the State will notify the Sub-recipient in writing and state the reasons for such determination. The Sub-recipient shall return any such excess amounts to the State within thirty (30) days after the Sub-recipient receives written notice of this determination. If payment within thirty (30) days would cause the Sub-recipient undue financial hardship, then the Sub-recipient must notify the State in writing and submit a proposed repayment schedule. The State may accept, reject, or modify the proposed repayment schedule.

9. Project Monitoring by the State.

The State may conduct on-site or off-site monitoring reviews of the Project during the term of this Grant Agreement and for up to ninety (90) days after it expires or is otherwise terminated. The Sub-recipient shall extend its full cooperation and give full access to the Project site and to relevant documentation to the State or its authorized designees for the purpose of determining, among other things:

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

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

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

B. Sub-recipient is a "Sub-recipient" of federal grant funds under 2 C.F.R. 200.330. Sub-recipient shall arrange for a financial and compliance audit that complies with 2 C.F.R. 200.500 *et seq.* if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements). The administrative and audit requirements and cost principles under 2 CFR § 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, as adopted at 2 CFR § 3002 are applicable to this Grant Agreement. **The Sub-recipient must notify the State if the Sub-recipient expends \$750,000 or more of federal funds within one fiscal year, which will indicate that the Sub-recipient must undergo a single-audit for that fiscal year** in compliance with the applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements) and the Sub-recipient shall arrange for a financial and compliance audit that complies with 2 C.F.R. 200.500 *et seq.*

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

11. Compliance with Laws

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

B. The Sub-recipient and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, *et seq.*, IC § 4-2-7, *et seq.* and the regulations promulgated thereunder. **If the Sub-recipient has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Grant, the Sub-recipient shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Grant Agreement.** If the Sub-recipient is not familiar with these ethical requirements, the Sub-recipient should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Sub-recipient or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Grant immediately upon notice to the Sub-recipient. In addition, the Sub-recipient may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

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

- D. The Sub-recipient warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Sub-recipient agrees that the State may suspend funding for the Project. If a valid dispute exists as to the Sub-recipient's liability or guilt in any action initiated by the State or its agencies, and the State decides to suspend funding to the Sub-recipient, the Sub-recipient may submit, in writing, a request for review to the Indiana Department of Administration (IDOA). A determination by IDOA shall be binding on the parties. Any disbursements that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest.
- E. The Sub-recipient warrants that the Sub-recipient and any contractors performing work in connection with the Project shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Grant Agreement and grounds for immediate termination and denial of grant opportunities with the State.
- F. The Sub-recipient affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- G. As required by IC § 5-22-3-7:
- 1) The Sub-recipient and any principals of the Sub-recipient certify that:
 - (A) the Sub-recipient, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (i) IC § 24-4.7 [Telephone Solicitation Of Consumers];
 - (ii) IC § 24-5-12 [Telephone Solicitations]; or
 - (iii) IC § 24-5-14 [Regulation of Automatic Dialing Machines];in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
 - (B) the Sub-recipient will not violate the terms of IC § 24-4.7 for the duration of this Grant Agreement, even if IC §24-4.7 is preempted by federal law.
 - 2) The Sub-recipient and any principals of the Sub-recipient certify that an affiliate or principal of the Sub-recipient and any agent acting on behalf of the Sub-recipient or on behalf of an affiliate or principal of the Sub-recipient, except for de minimis and nonsystematic violations,
 - (A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC § 24-4.7 for the duration of this Grant Agreement even if IC § 24-4.7 is preempted by federal law.

12. Debarment and Suspension.

A. The Sub-recipient certifies by entering into this Grant Agreement that neither it nor its principal(s) presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Grant by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for purposes of this Grant Agreement means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Sub-recipient.

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

13. Drug-Free Workplace Certification.

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

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

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Sub-recipient's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Sub-recipient's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace; and
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment the employee will: (1) abide by the terms of the statement; and (2) notify the Sub-recipient of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; and
- D. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction; and
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination;

or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

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

14. Employment Eligibility Verification.

As required by IC § 22-5-1.7, the Sub-recipient hereby swears or affirms under the penalties of perjury that:

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

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

15. Funding Cancellation.

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

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

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

18. Insurance. The Sub-recipient shall maintain insurance with coverages and in such amount as may be required by the State or Federal Government in accordance with the PDM Grant Program requirements or as provided in its Grant Application.

19. Nondiscrimination. Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Sub-recipient covenants that it shall

not discriminate against any employee or applicant for employment relating to this Grant with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, Sub-recipient certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

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

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

- A. Notices to the State shall be sent to:
Indiana Department of Homeland Security, Mitigation Program
302 West Washington Street, Room E208
Indianapolis, Indiana 46204

E-mail: mitigation@dhs.in.gov include the grant award, the grant program name, the identifying State-local contract number, and the Sub-recipient's name

- B. Notices to the Sub-recipient shall be sent to:
Rod Renkenberger, Executive Director of the Maumee River Basin Commission
3864 New Vision Drive
Fort Wayne, IN 46845-1708

Phone: 260-449-7226

Email: rodr@mrbc.org

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

21. Order of Precedence; Incorporation by Reference. Any inconsistency or ambiguity in this Grant Agreement shall be resolved by giving precedence in the following order: (1) requirements imposed by applicable federal or state law, including those identified in paragraph 28, below, (2) this Grant Agreement, (3) Exhibits prepared by the State, (4) Sub-recipient's Grant Application on file through FEMA's eGrants system. All of the foregoing are incorporated fully herein by reference.

22. Termination for Breach.

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

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

D.

23. Termination for Convenience.

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

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

25. Remedies Not Impaired.

No delay or omission of the State in exercising any right or remedy available under this Grant Agreement impairs any such right or remedy or constitutes a waiver of any default or any acquiescence thereto.

26. Severability.

The invalidity of any section, subsection, clause or provision of this Grant Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Grant Agreement.

27. Survival.

Any expiration or termination of this Grant Agreement shall not affect the ongoing provisions of this Grant Agreement or the ongoing requirements of the guidance documents, laws and regulations, or other requirements referenced in this Grant Agreement that will survive the expiration or termination in accordance with their terms.

28. Federal and State Third-Party Contract Provisions.

This Grant involves the payment of federal funds. The Sub-recipient and, if applicable, its contractors shall comply with the federal provisions within this paragraph and attached as **Exhibit B and Exhibit C** (both exhibits defined below) and incorporated fully herein. Sub-recipient shall also comply with the applicable provisions of the following federal documents:

- A. The US Department of Homeland Security FFY 2017 PDM Notice of Funding Opportunity ("FFY 2017 PDM NOFO") Guidance (DHS-17-MT-047-00-99) which is available from the State upon request. This FFY 2017 PDM NOFO is hereby incorporated into this Grant Agreement by reference and when the duly authorized representative for the Sub-recipient signs this Grant Agreement, the signatory is making the certification that all allocations and use of funds will be in accordance with the requirements contained in the FFY 2017 PDM NOFO.
- B. The FEMA Hazard Mitigation Assistance Unified Guidance dated February 27, 2015, available at the following federal website: <https://www.fema.gov/hazard-mitigation-assistance-program-guidance>.
- C. The document titled "Disaster 1997-Hazard Mitigation Assistance Program-Additional Federal and State Requirements" available at the following website: <http://www.in.gov/dhs/grants.htm>.
- D. The FEMA FFY 2017 Pre-Disaster Mitigation Program Grant Agreement Articles, provided to the State from FEMA upon acceptance of this award and attached as Exhibit B.
- E. The FEMA FFY 2017 Department of Homeland Security Standard Terms and

Conditions, provided to the State from FEMA upon acceptance of this award and attached as Exhibit C.

**29. Provision Applicable to Grants with tax-funded State Educational Institutions:
"Separateness" of the Parties – Deleted by Agreement of the Parties.**

30. State Boilerplate Affirmation Clause. I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State's standard contract clauses (as contained in the *2019 OAG/ IDOA Professional Services Contract Manual* or the *2019 SCM Template*) in any way except as follows:

- A. Paragraph 4, Representations and Warranties of the Sub-recipient, has been modified.
- B. Paragraph 5, Implementation of and Reporting on the Project has been modified.
- C. Paragraph 6, Real Property Acquisition, has been added.
- D. Paragraph 7, Requirements Applicable to Property/Equipment Purchased Using Grant Funds, has been added.
- E. Paragraph 8, Payment of Claims, has been modified.
- F. Paragraph 9, Project Monitoring by the State, has been modified.
- G. Paragraph 10, Compliance with Audit and Reporting Requirements; Maintenance of Records, has been modified.
- H. Paragraph 12, Debarment and Suspension, has been modified.
- I. Paragraph 18, Insurance, has been modified.
- J. Paragraph 23, Termination for Convenience, has been modified.
- K. Paragraph 25, Remedies Not Impaired, has been added.
- L. Paragraph 26, Severability, has been added.
- M. Paragraph 27, Survival, has been added.
- N. Paragraph 28, Federal and State Third-Party Contract Provisions, has been modified.
- O. Paragraph 29, Provisions Applicable to Grants with tax-funded State Educational Institutions, has been deleted.

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Non-Collusion and Acceptance

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

Agreement to Use Electronic Signatures

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

https://hr.gmis.in.gov/psp/paprd/EMPLOYEE/EMPL/h/?tab=PAPP_GUEST

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

CITY OF FORT WAYNE

Indiana Department of Homeland Security

By:

By:

Title:

Title:

Date:

Date:

Electronically Approved by: Department of Administration By: _____ (for) Lesley A. Crane, Commissioner <i>Refer to Electronic Approval History found after the final page of the Executed Contract for details.</i>	
Electronically Approved by: State Budget Agency By: _____ (for) Zachary Q. Jackson, Director <i>Refer to Electronic Approval History found after the final page of the Executed Contract for details.</i>	Electronically Approved as to Form and Legality: Office of the Attorney General By: _____ (for) Curtis T. Hill, Jr., Attorney General <i>Refer to Electronic Approval History found after the final page of the Executed Contract for details.</i>

Exhibit A Scope of Work

Budget

Item Name	Grant Budget Class	Sub-grant Budget Class	Unit Quantity	Unit of Measure	Unit Cost (\$)	Cost Estimate (\$)
Appraisals		Contractual	26.00	Each	\$ 500.00	\$ 13,000.00
Title & Judgment Search & Title Policy		Contractual	13.00	Each	\$ 900.00	\$ 11,700.00
Acquisition of 15 Structures		Other (Structure Acquisitions)	1.00	Each	\$ 560,160.00	\$ 560,160.00
Legal / Closing Fees		Contractual	13.00	Each	\$ 2,500.00	\$ 32,500.00
Environmental Assessment / Abatement		Contractual	13.00	Each	\$ 6,500.00	\$ 84,500.00
Demolition		Contractual	13.00	Each	\$ 7,500.00	\$ 97,500.00
Education / Outreach	Contractual	Contractual	4.00	Each	\$ 3,750.00	\$ 15,000.00
Project Management		Personnel	1.00	Each	\$ 39,968.00	\$ 39,968.00

Total Project Cost: \$854,328.00

75% Federal Share: \$640,746.00

25% Local Share: \$213,582.00

The above project budget does not include any non-eligible costs of this Project.
The sub-recipient is responsible for 100% of all non-eligible costs.

Exhibit A Scope of Work

Project Schedule

Description Of Task	Start	Unit of Time	Duration	Unit of Time	Work Completed By
Pre-Grant Award	1	MONTHS	1	MONTHS	Maumee River Basin Commission
Order Appraisals and Title / Judgment Searches	1	MONTHS	1	MONTHS	Maumee River Basin Commission
Appraisals and Title / Judgment Searches	2	MONTHS	3	MONTHS	State Certified Appraisers / Title Company
Review Appraisals and Title / Judgment Search Results	4	MONTHS	1	MONTHS	Maumee River Basin Commission
Presentation of Offers to Purchase	5	MONTHS	3	MONTHS	MRBC, MRBC Attorney and City of Fort Wayne
Real Estate Closings	9	MONTHS	13	MONTHS	MRBC, MRBC Attorney, Title Company and City of Fort Wayne
Environmental Assessments	9	MONTHS	14	MONTHS	Environmental Assessment Consultant, MRBC and City of Fort Wayne
Asbestos Abatelements	10	MONTHS	14	MONTHS	Environmental Abatement Consultant and City of Fort Wayne
Structure Demolitions / Site Restorations	11	MONTHS	14	MONTHS	Maumee River Basin Commission
Local Final Inspection of Sites	25	MONTHS	1	MONTHS	Maumee River Basin Commission
Local Project Closeout	26	MONTHS	2	MONTHS	Maumee River Basin Commission
State Final Inspection	28	MONTHS	2	MONTHS	IDHS Mitigation
Final Project Closeout & Administration	30	MONTHS	6	MONTHS	IDHS Mitigation
Estimate the total duration of the proposed activity: 36 MONTHS					

Notwithstanding the above project schedule, the Sub-recipient shall complete the project by no later than the expiration date of this Agreement.

Exhibit A Scope of Work

Property To Be Acquired

The Subrecipient will acquire some or all of the following properties:

Property Owner	Property Address	City	Parcel #
Phillip A Rishel	<u>2130 Elyetta St</u>	Fort Wayne	02-12-09-326-014.000-074
Raymond J White	<u>1321 Michigan Ave</u>	Fort Wayne	02-12-10-430-014.000-074
Mary J Davies	<u>2230 Freeman St</u>	Fort Wayne	02-12-09-331-007.000-074
Wilbur Quickery	<u>3306 Geneva St</u>	Fort Wayne	02-12-09-377-015.000-074
Michael E Gilbert	<u>2021 Lafontain St</u>	Fort Wayne	02-12-09-404-008.000-074
Eric O White	<u>2807 Taylor St</u>	Fort Wayne	02-12-09-404-002.000-074
Timothy L Roth	<u>2105 Pauline St</u>	Fort Wayne	02-12-10-403-019.000-074
Stephanie M Johnson	<u>2042 Pauline St</u>	Fort Wayne	02-12-10-402-010.000-074
Marvin Jr. L. Flanery	<u>2034 Pauline St</u>	Fort Wayne	02-12-10-402-008.000-074
Grace United Missionary Baptist Church	<u>2101 Phenle St</u>	Fort Wayne	02-12-10-404-018.000-074
Brian T Loyd	<u>2222 Brown St</u>	Fort Wayne	02-12-10-302-004.000-074
Eugene B Milstead	<u>2210 Brown St</u>	Fort Wayne	02-12-10-302-007.000-074
William T Jackson	<u>2126 Brown St</u>	Fort Wayne	02-12-10-303-017.000-074
Richard L Geode	<u>2115 Brown St</u>	Fort Wayne	02-12-10-305-009.000-074
Timothy Shull	<u>2101 Brown St</u>	Fort Wayne	02-12-10-305-012.000-074
Christopher G Rongos	<u>2036 Brown St</u>	Fort Wayne	02-12-10-326-012.000-074
Timothy Shull	<u>2107 Bevel St</u>	Fort Wayne	02-12-10-330-002.000-074
James Davies	<u>2325 Eby Ave</u>	Fort Wayne	02-12-10-306-003.000-074
Foster Johnson	<u>2326 Ontario St</u>	Fort Wayne	02-12-10-306-019.000-074
Jacob W Bell	<u>2330 Elyetta St</u>	Fort Wayne	02-12-09-376-006.000-074

Exhibit B.

ARTICLE 1. TERMS AND CONDITIONS

The specific terms and conditions of this agreement are as follows:

Federal Funding Accountability and Transparency Act:

The Federal Funding Accountability and Transparency Act (FFATA) of 2006 (2 CFR Part 170) requires Recipients to report certain information about themselves and their first-tier Sub-recipients for each Federal award of \$25,000 or more awarded on or after October 1, 2010. (See attached APPENDIX A to Part 170-Award term).

ASSURANCE COMPLIANCE:

The certifications signed by the Recipient in the application relating to maintenance of a Drug-Free Workplace (44 CFR Part 17, Subpart F) and New Restrictions on Lobbying (44 CFR Part 18) apply to this Grant Agreement and are incorporated by reference.

Prohibition on Using Federal Funds.

The Recipient understands and agrees that it cannot use any Federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA.

Compliance with Program Guidance.

The Recipient agrees that all use of funds under this Grant Agreement will be in accordance with the Unified Hazard Mitigation Assistance Guidance at the time of the application.

Budget Versions:

The Recipient shall follow prior approval requirements for budget revisions found in 2 CFR Part 200. Transfer of funds between total direct cost categories in the approved budget shall receive the prior approval of FEMA when such cumulative transfers among those direct cost categories exceed ten percent of the total budget.

If a Recipient estimates that it will have obligated funds remaining after the end of the performance period, the Recipient must report this to the FEMA Regional Office at the earliest possible time and ask for disposition instructions.

Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, Recipients will be notified of the changes in writing. Once notification has been made, any subsequent drawdown of additional funds will indicate the Recipient's acceptance of the changes to the award.

CLOSEOUT:

Reports Submission: Per 2 CFR Part 200, when the appropriate grant award performance period expires, the Recipient shall submit the following documents within 90 days: (1) a final Financial Report; (2) final Program Performance Report; (3) an inventory of equipment purchased under each grant's funds; (4) an inventory of Federally-owned property; and (5) other required documents specified by program regulation.

Report Acceptance: FEMA shall review the Recipient reports, perform the necessary financial reconciliation, negotiate necessary adjustments between the Recipient and FEMA's records, and close out the grant in writing.

Record Retention: Records shall be retained for 3 years (except in certain rare circumstances) from the date the final Federal Financial Report is submitted to FEMA in compliance with 2 CFR Part 200.

CONSTRUCTION PROJECT REQUIREMENTS:

1. Acceptance of Federal funding requires FEMA, the Recipient and any Sub-recipients to comply with all Federal, state and local laws prior to the start of any construction activity. Failure to obtain all appropriate Federal, state and local environmental permits and clearances may jeopardize Federal funding.
2. Any change to the approved scope of work will require re-evaluation by FEMA for Recipient and Sub-recipient compliance with the National Environmental Policy Act and other laws and Executive Orders.
3. If ground disturbing activities occur during construction, the Recipient and any Sub-recipients must ensure monitoring of ground disturbance and, if any potential archeological resources are discovered, the Sub-recipient will immediately cease construction in that area and notify the Recipient and FEMA.

COPYRIGHT:

The Recipient is free to copyright any original work developed in the course of or under this Grant Agreement. FEMA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use the work for Government purposes. Any publication resulting from work performed under this agreement shall include an acknowledgement of FEMA financial support and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA views.

COST SHARE:

The Recipient shall follow cost-sharing requirements mandated by program guidance, statute or regulation and in compliance with 2 CFR Part 200. Cost-share funding shall be available with the approval of each grant. Period of Performance extensions shall not be approved for delays caused by lack of cost-share funding.

ENFORCEMENT:

FEMA enforcement remedies shall be processed as specified in 2 CFR Part 200, Enforcement when the Terms and Conditions of this Grant Agreement are not met.

EQUIPMENT/SUPPLIES:

The Recipient must comply with the regulations listed in 2 CFR Part 200 and must be in compliance with state laws and procedures.

FUNDS TRANSFER:

The Recipient must comply with the regulations listed in 2 CFR Part 200 and must be in compliance with state laws and procedures.

INSURANCE:

In compliance with Public Law 103-325, Title V National Flood Insurance Reform Act of 1973, section 582 requires that any person receiving Federal assistance for the repair, replacement, or restoration for damage to any personal or residential property at any time must maintain flood insurance if the property is located in a Special Flood Hazard Area.

PAYMENT:

Recipient shall be paid using the FEMA Payment and Reporting System (PARS), provided Recipient maintains and complies with procedures for minimizing the time between transfer of funds from the US Treasury and disbursement by the Recipient and Sub-recipients. The Recipient commits itself to: 1) initiating cash drawdowns only when actually needed for its disbursement; 2) timely financial reporting per FEMA requirements, using the SF-425; and 3) imposing the same standards of timing and amount upon any Sub-recipient.

Sub-recipients must comply with the same payment requirement as the Recipient and must comply with the requirements specified in the Recipient's sub award Agreement.

DUPLICATION OF PROGRAMS:

FEMA will not provide assistance under its programs for activities that FEMA determines another Federal program has a more specific or primary authority to provide. FEMA also will not provide assistance for the applicant or sub-applicant's legal obligations. FEMA may disallow or recoup amounts that duplicate funding from other authorities.

DUPLICATION OF BENEFITS:

Hazard Mitigation Assistance (HMA) funds cannot duplicate or be duplicated by funds received by or available to Applicants, sub-applicants, or project or planning participants from other sources for the same purpose, such as benefits received from insurance claims, other assistance programs (including previous project or planning grants and

sub-awards from HMA programs), legal awards, or other benefits associated with properties or damage that are or could be subject of litigation.

Because the availability of other sources of mitigation grant or loan assistance is subject to available information and the means of each individual applicant, HMA does not require proof that other assistance (not including insurance) has been sought. However, it is the responsibility of the property owner to report other benefits received, any applications for other assistance, the availability of insurance proceeds, or the potential for other compensation, such as from pending legal claims for damages, relating to the property. Amounts of other grants, loans or other assistance designated for the same purpose as HMA funds, if received, may be used to reduce the non-Federal cost-share.

Where the property owner has an insurance policy covering any loss to the property which relates to the proposed HMA project, the means are available for receiving compensation for a loss or, in the case of increased cost of compliance (ICC), assistance toward a mitigation project. FEMA will generally require that the property owner file a claim prior to the receipt of HMA funds.

NON DISCRIMINATION:

The program must be administered in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status. The program complies with Title VI of the 1964 Civil Rights Act and other applicable laws. All applicants/Recipients must comply with Title VI, including State and local governments distributing Federal assistance.

Applicants/Recipients and Sub-applicants/Sub-recipients will ensure that no discrimination is practiced. Applicants must consider fairness, equity, and equal access when prioritizing and selecting project sub applications to submit with their application. Sub applicants and Sub-recipients must ensure fairness, equity and equal access when consulting and making offers of mitigation to property owners that benefit from mitigation activities.

CHANGES IN SCOPE OF WORK:

Requests for changes to the scope of work (SOW) after award are permissible as long as they do not change the nature or total project cost of the activity, properties identified in the sub application, the feasibility and effectiveness of the project, or the benefit cost ratio. Requests must be supported by adequate justification from the applicant in order to be processed. The justification is a description of the proposed change, a written explanation of the reason or reasons for the change; an outline of remaining funds available to support the change; and a full description of the work necessary to complete the activity. All approvals will be at FEMA's discretion, and there is no guarantee that SOW changes will be approved.

PERFORMANCE PERIODS:

All grant award activities, including all projects and/or activities approved under each sub award, shall be completed within the time period prescribed and authorized on the

obligating documents. All costs must be incurred within the approved performance period.

EXTENSIONS:

Requests for time extensions to the Period of Performance will be considered but will not be granted automatically and must be supported by adequate justification submitted to the Regional Office in order to be processed. This justification is a written explanation of the reason or reasons for the delay; an outline of remaining funds available to support the extended Period of Performance; and a description of performance measures necessary to complete the activity. Without justification, extensions requests will not be processed. Financial and Performance reports must be current in order for a time extension to be considered.

RECOUPMENT OF FUNDS:

FEMA will recoup mitigation planning grant funds for grants that do not meet the deliverable criteria of an adopted, FEMA-approved mitigation plan by the end of the performance period.

RECOVERY OF FUNDS:

The Recipient will process the recovery of assistance paid to Sub-recipients processed through error, misrepresentation, or fraud or if funds are spent inappropriately. Recovered funds shall be submitted to FEMA as soon as the funds are collected, but no later than 90 days from the expiration date of the appropriate grant award agreement.

All fraud identifications will be reported to the FEMA Inspector General's office. The Recipient agrees to cooperate with investigation conducted by the FEMA Inspector General's office.

REFUND, REBATE, CREDITS:

The Recipient shall transfer to FEMA the appropriate share, based on the Federal support percentage, of any refund, rebate, credit or other amounts arising from the performance of this agreement, along with accrued interest, if any. The Recipient shall take necessary action to effect prompt collection of all monies due or which may become due and to cooperate with FEMA in any claim or suit in connection with amounts due.

REPORTS:

Federal Financial Reports (SF-425): The Recipient shall submit the Federal Financial Report (FFR, SF-425) within 30 days of the end of the first Federal quarter following the initial Grant Agreement. The Recipient shall submit quarterly FFRs thereafter until the grant ends. Reports are due on January 30, April 30, July 30, and October 30. A report must be submitted for every quarter of the period of performance, including partial calendar quarters, as well as for periods where no grant activity occurs. Future awards and fund drawdowns may be withheld if these reports are delinquent.

Program Performance Reports (SF-PPR): The Recipient shall submit the Program Performance Reports (SF-PPR) within 30 days of the end of each quarter. The Regional

Administrator may waive the initial report. The Recipient shall submit quarterly PPRs thereafter until the grant ends. Reports are due on January 30, April 30, July 30, and October 30. PPRs shall report the name, completion status, expenditure, and payment-to-date of each approved activity/sub award under the Grant Award.

Final Reports: The Recipient shall submit a final FFR and PPR 90 days after the end date of the performance period.

TERMINATION:

The Recipient, Sub-recipient, or FEMA may terminate grant award agreements by giving written notice to the other party at least seven (7) calendar days prior to the effective date of the termination. All notices are to be transmitted via registered or certified mail, return receipt requested. The Recipient's authority to incur new costs will be terminated upon the date of receipt of the notice or the date set forth in the notice. Any costs incurred up to the earlier of the date of the receipt of the notice or the date of termination set forth in the notice will be negotiated for final payment. Close out of the Grant Agreement will be commenced and processed as prescribed under Article VII. 3.

ARTICLE VIII. GOVERNING PROVISIONS

The Recipient and any Sub-recipients shall comply with all applicable laws and regulations. A non-exclusive list of laws and regulations commonly applicable to FEMA grants is attached hereto for reference only.

The Recipient and any Sub-recipients shall also be bound by the Unified Hazard Mitigation Assistance Guidance document.

Commonly Applicable Statutes and Regulations

Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities

Section 1366 (42 USC 4104c), of the National Flood Insurance Act of 1968 (42 U.S.C. § 4104c. – the "NFIA" or "the Act"), as amended by the National Flood Insurance Reform Act of 1994 (NFIRA), Public Law 103-325, the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264, and Biggert-Waters Flood Insurance Reform Act, Public Law 112-141.

Title 44 of the Code of Federal Regulations (CFR)

44 CFR Part 79-Flood Mitigation Grants

44 CFR Part 80-Property Acquisition and Relocation for Open Space

44 CFR Part 9-Floodplain Management and Protection of Wetlands

44 CFR Part 10-Environmental Considerations

2 CFR Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards "Super Circular"

31 CFR Part 205-Rules and Procedures for Efficient Federal-State Funds Transfers

2 CFR Part 170, Reporting Sub award and Executive Compensation – Appendix A to
Part 170 – Award Term (attached)
48 CFR Part 31.2 (Federal Acquisition Regulation)

THIS IS THE END OF EXHIBIT B.

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Exhibit C

FEDERAL DEPARTMENT OF HOMELAND SECURITY (DHS) STANDARD TERMS AND CONDITIONS 2017

The FY 2017 DHS Standard Terms and Conditions apply to all new Federal financial assistance awards funded in FY 2017. The terms and conditions of DHS financial assistance awards flow down to Sub-recipients, unless a particular award term or condition specifically indicates otherwise.

Assurances, Administrative Requirements, Cost Principles, and Audit Requirements

DHS financial assistance recipients must complete either the OMB Standard Form 424B Assurances – Non-Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the financial assistance office if you have any questions.

DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at 2 C.F.R. Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

DHS Specific Acknowledgements and Assurances

All recipients, Sub-recipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations *and* other applicable laws or program guidance.
2. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
3. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

4. If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS financial assistance office and the DHS Office of Civil Rights and Civil Liberties (CRCL) by e-mail at crcl@hq.dhs.gov or by mail at U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties Building 410, Mail Stop #0190 Washington, D.C. 20528.
5. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS financial assistance office and the CRCL office by e-mail or mail at the addresses listed above.

The United States has the right to seek judicial enforcement of these obligations.

Acknowledgment of Federal Funding from DHS	All recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.
Activities Conducted Abroad	All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.
<i>Age Discrimination Act of 1975</i>	All recipients must comply with the requirements of the <i>Age Discrimination Act of 1975</i> (Title 42 U.S. Code, § 6101 <i>et seq.</i>), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.
<i>Americans with Disabilities Act of 1990</i>	All recipients must comply with the requirements of Titles I, II, and III of the <i>Americans with Disabilities Act</i> , which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities. (42 U.S.C. §§ 12101– 12213).
Best Practices for Collection and Use of Personally	DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred,

Identifiable Information (PII)	including any information that is linked or linkable to that individual. All recipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. Award recipients may also find as a useful resource the DHS Privacy Impact Assessments: <u>Privacy Guidance</u> and <u>Privacy template</u> respectively.
Civil Rights Act of 1964 – Title VI	All recipients must comply with the requirements of Title VI of the <i>Civil Rights Act of 1964</i> (<u>42 U.S.C. § 2000d et seq.</u>), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. DHS implementing regulations for the Act are found at <u>6 C.F.R. Part 21</u> and <u>44 C.F.R. Part 7</u> .
Civil Rights Act of 1968	All recipients must comply with Title VIII of the <i>Civil Rights Act of 1968</i> , which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (<u>42 U.S.C. § 3601 et seq.</u>), as implemented by the Department of Housing and Urban Development at <u>24 C.F.R. Part 100</u> . The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (See <u>24 C.F.R. § 100.201</u>).
Copyright	All recipients must affix the applicable copyright notices of <u>17 U.S.C. §§ 401 or 402</u> and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards.
Debarment and Suspension	All recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders <u>12549</u> and <u>12689</u> , and <u>2 C.F.R. Part 180</u> . These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.
Drug-Free Workplace Regulations	All recipients must comply with the <i>Drug-Free Workplace Act of 1988</i> (<u>41 U.S.C. § 701 et seq.</u>),

	which requires all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. DHS has adopted the Act's implementing regulations at <u>2 C.F.R Part 3001</u> .
Duplication of Benefits	Any cost allocable to a particular Federal award provided for in <u>2 C.F.R. Part 200, Subpart E</u> may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude a recipient from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal award.
Education Amendments of 1972 (<i>Equal Opportunity in Education Act</i>) – Title IX	All recipients must comply with the requirements of Title IX of the Education Amendments of 1972 (<u>20 U.S.C. § 1681 et seq.</u>), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. DHS implementing regulations are codified at <u>6 C.F.R. Part 17</u> and <u>44 C.F.R. Part 19</u>
Energy Policy and Conservation Act	All recipients must comply with the requirements of <u>42 U.S.C. § 6201</u> which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.
False Claims Act and Program Fraud Civil Remedies	All recipients must comply with the requirements of <u>31 U.S.C. § 3729- 3733</u> which prohibits the submission of false or fraudulent claims for payment to the Federal Government. See <u>31 U.S.C. § 3801-3812</u> which details the administrative remedies for false claims and statements made.
Federal Debt Status	All recipients are required to be non-delinquent in their repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See <u>OMB Circular A- 129</u> .
Federal Leadership on Reducing Text Messaging while Driving	All recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in <u>E.O. 13513</u> , including conducting initiatives described in Section 3(a) of the Order when on official Government business or when performing any work for or on behalf of the federal government.

<i>Fly America Act of 1974</i>	All recipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under <u>49 U.S.C. § 41102</u>) for international air transportation of people and property to the extent that such service is available, in accordance with the <i>International Air Transportation Fair Competitive Practices Act of 1974</i> (<u>49 U.S.C. § 40118</u>) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.
<i>Hotel and Motel Fire</i>	In accordance with Section 6 of the <i>Hotel and Motel Fire Safety Act of 1990</i>, <u>15 U.S.C. § 2225a</u>, all recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the <i>Federal Fire Prevention and Control Act of 1974</i>, as amended, <u>15 U.S.C. § 2225</u>.
Limited English Proficiency (<i>Civil Rights Act of 1964</i>, Title VI)	All recipients must comply with the <i>Title VI of the Civil Rights Act of 1964</i> (Title VI) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited and additional resources on http://www.lep.gov.

Lobbying Prohibitions	All recipients must comply with <u>31 U.S.C. § 1352</u> , which provides that none of the funds provided under an award may be expended by the recipient to pay any person to influence, or attempt 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 any Federal action concerning the award or renewal.
<i>National Environmental Policy Act</i>	All recipients must comply with the requirements of the <u>National Environmental Policy Act (NEPA)</u> and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.
Nondiscrimination in Matters Pertaining to Faith- Based Organizations	It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. All recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.
Non-supplanting Requirement	All recipients who receive awards made under programs that prohibit supplanting by law must ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources.
Notice of Funding Opportunity Requirements	All of the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the terms and conditions of your award. All recipients must comply with any such requirements set forth in the program NOFO.
Patents and Intellectual Property Rights	Unless otherwise provided by law, recipients are subject to the <u>Bayh-Dole Act, Pub. L. No. 96-517</u> , as amended, and codified in <u>35 U.S.C. § 200 et seq.</u> All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from

	financial assistance awards located at <u>37 C.F.R. Part 401</u> and the standard patent rights clause located at <u>37 C.F.R. § 401.14</u> .
Procurement of Recovered Materials	All recipients must comply with Section 6002 of the <u><i>Solid Waste Disposal Act</i></u> , as amended by the <u><i>Resource Conservation and Recovery Act</i></u> . The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at <u>40 C.F.R. Part 247</u> that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.
Reporting Sub-awards and Executive Compensation	All recipients are required to comply with the requirements set forth in the government-wide Award Term on Reporting Sub-awards and Executive Compensation located at <u>2 C.F.R. Part 170, Appendix A</u> , the full text of which is incorporated here by reference in the terms and conditions of your award.
SAFECOM	All recipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the <u>SAFECOM</u> Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.
Terrorist Financing	All recipients must comply with <u>E.O. 13224</u> and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of recipients to ensure compliance with the Order and laws.
<i>Trafficking Victims Protection Act of 2000</i>	All recipients must comply with the requirements of the government-wide award term which implements Section 106(g) of the <i>Trafficking Victims Protection Act of 2000</i> , (TVPA) as amended (<u>22 U.S.C. § 7104</u>). The award term is located at <u>2 CFR § 175.15</u> , the full text of which is incorporated here by reference in the terms and conditions of your award.
<i>Rehabilitation Act of 1973</i>	All recipients must comply with the requirements of Section 504 of the <i>Rehabilitation Act of 1973</i> , <u>29 U.S.C. § 794</u> , as amended, which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Reporting of Matters Related to Recipient Integrity and Performance	If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal assistance office exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, you must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at <u>2 C.F.R. Part 200, Appendix XII</u> , the full text of which is incorporated here by reference in the terms and conditions of your award.
Universal Identifier and System of Award Management (SAM)	All recipients are required to comply with the requirements set forth in the government-wide Award Term regarding the System for Award Management and Universal Identifier Requirements located at <u>2 C.F.R. Part 25, Appendix A</u> , the full text of which is incorporated here by reference in the terms and conditions of your award.
<i>USA Patriot Act of 2001</i>	All recipients must comply with requirements of the <u><i>Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act)</i></u> , which amends <u>18 U.S.C. §§ 175–175c</u> .
Use of DHS Seal, Logo and Flags	All recipients must obtain permission from their financial assistance office, prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.
<i>Whistleblower Protection Act</i>	All recipients must comply with the statutory requirements for whistleblower protections (if applicable) at <u>10 U.S.C § 2409</u> , <u>41 U.S.C. 4712</u> , and <u>10 U.S.C. § 2324</u> , <u>41 U.S.C. §§ 4304 and 4310</u> .

End of Exhibit C

EXHIBIT D

Annual Financial Report for Non-governmental Entities

Guidelines for filing the annual financial report:

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

END OF EXHIBIT D

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Exhibit E

Hazard Mitigation Deed Restrictions

In reference to the property or properties ("Property") conveyed by the Deed between **[property owner]** participating in the federally-assisted acquisition project ("the Grantor") and **[the local government]**, ("the Grantee"), its successors and assigns:

WHEREAS, The Robert T. Stafford Disaster Relief and Emergency Assistance Act, ("The Stafford Act"), 42 U.S.C. § 5121 et seq., identifies the use of pre-disaster mitigation grants under § 5133, Pre-Disaster Mitigation, to assist States and local governments in implementing cost-effective hazard mitigation measures to reduce injuries, loss of life, and damage and destruction of property.

WHEREAS, the mitigation grant program provides a process for a local government, through the State, to apply for federal funds for mitigation assistance to acquire interests in property, including the purchase of structures in floodplain, to demolish and/or remove the structures, and to maintain the use of the Property as open space in perpetuity;

Whereas, the State of Indiana has applied for and been awarded such funding from the Department of Homeland Security, Federal Emergency Management Agency and has entered into a mitigation grant program Grant Agreement dated August 23, 2018 with FEMA and herein incorporated by reference; making it a mitigation grant program grantee.

Whereas, the Property is located in **[Village/City/County]** and **[Village/City/County]** participates in the National Flood Insurance Program and is in good standing with NFIP as of the date of the Deed;

Whereas, the **[local government]**, acting by and through the **[local government]** Board, has applied for and been awarded federal funds pursuant to an agreement with the State of Indiana, Indiana Department of Homeland Security ("State") dated March 13, 2019 ("State-Local Agreement"), and herein incorporated by reference, making it a mitigation grant program sub-grantee;

WHEREAS, the terms of the mitigation grant program statutory authorities, Federal program requirements consistent with 44 C.F.R. Part 80, the Grant Agreement, and the State-local Agreement require that the Grantee agree to conditions that restrict the use of the land to open space in perpetuity in order to protect and preserve natural floodplain values;

Now, therefore, the grant is made subject to the following terms and conditions:

1. Terms. Pursuant to the terms of the Pre-Disaster Mitigation program statutory authorities, Federal program requirements consistent with 44 C.F.R. Part 80, the Grant Agreement, and the State-local Agreement, the following conditions and restrictions shall apply in perpetuity to the Property described in the attached deed and acquired by the Grantee pursuant to FEMA program requirements concerning the acquisition of property for open space:

- a. Compatible uses. The Property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include: parks for outdoor recreational activities; wetlands management; nature reserves; cultivation; grazing; camping (except where adequate warning time is not available to allow evacuation); unimproved, unpaved parking lots; buffer zones; and other uses consistent with FEMA guidance for open space acquisition, Hazard Mitigation Assistance, Requirements for Property Acquisition and Relocation for Open Space.
- b. Structures. No new structures or improvements shall be erected on the Property other than:
 - i. A public facility that is open on all sides and functionally related to a designated open space or recreational use;
 - ii. A public rest room; or
 - iii. A structure that is compatible with open space and conserves the natural function of the floodplain, including the uses described in Paragraph 1.a., above, and approved by the FEMA Administrator in writing before construction of the structure begins.

Any improvements on the Property shall be in accordance with proper floodplain management policies and practices. Structures built on the Property according to paragraph b. of this section shall be flood-proofed or elevated to at least the base flood level plus 1 foot of freeboard, or greater, if required by FEMA, or if required by any State, Tribal, or local ordinance, and in accordance with criteria established by the FEMA Administrator.

- c. Disaster Assistance and Flood Insurance. No Federal entity or source may provide disaster assistance for any purpose with respect to the Property, nor may any application for such assistance be made to any Federal entity or source. The Property is not eligible for coverage under the NFIP for damage to structures on the property occurring after the date of the property settlement, except for pre-existing structures being relocated off the property as a result of the project.
- d. Transfer. The Grantee, including successors in interest, shall convey any interest in the Property only if the FEMA Regional Administrator, through the State, gives prior written approval of the transferee in accordance with this paragraph.
 - i. The request by the Grantee, through the State, to the FEMA Regional Administrator must include a signed statement from the proposed transferee that it acknowledges and agrees to be bound by the terms of this section, and documentation of its status as a qualified conservation organization if applicable.
 - ii. The Grantee may convey a property interest only to a public entity or to be qualified conservation organization. However, the Grantee may convey an easement or lease to a private individual or entity for purposes compatible with the uses described in paragraph (a), of this section, with the prior approval of the FEMA Regional Administrator, and so long as the conveyance does not include

authority to control and enforce the terms and conditions of this section.

- iii. If title to the Property is transferred to a public entity other than one with a conservation mission, it must be conveyed subject to a conservation easement that shall be recorded with the deed and shall incorporate all terms and conditions set forth in this section, including the easement holder's responsibility to enforce the easement. This shall be accomplished by one of the following means:
 - a) The Grantee shall convey, in accordance with this paragraph, a conservation easement to an entity other than the title holder, which shall be recorded with the deed, or
 - b) At the time of title transfer, the Grantee shall retain such conservation easement, and record it with the deed.
 - iv. Conveyance of any property interest must reference and incorporate the original deed restrictions providing notice of the conditions in the section and must incorporate a provision for the property interest to revert to the State, Tribe, or local government in the event that the transferee ceases to exist or loses its eligible status under this section.
2. Inspection, FEMA, its representatives and assigns including the state or tribe shall have the right to enter upon the Property, at reasonable times and with reasonable notice, for the purpose of inspecting the Property to ensure compliance with the terms of this part, the Property conveyance and of the grant award.
 3. Monitoring and Reporting. Every three years on **September 30th**, the Grantee (mitigation grant program sub-grantee), in coordination with any current successor in interest, shall submit through the State to the FEMA Regional Administrator a report certifying that the Grantee has inspected the Property within the month preceding the report, and that the Property continues to be maintained consistent with the provisions of 44 C.F.R. Part 80, the property conveyance, and the grant award.
 4. Enforcement. The Grantee (mitigation grant program sub-grantee), the State, FEMA, and their respective representatives, successors and assigns, are responsible for taking measures to bring the Property back into compliance if the Property is not maintained according to the terms of 44 C.F.R. Part 80, the property conveyance, and the grant award. The relative rights and responsibilities of FEMA, the State, the Grantee, and subsequent holders of the property interest at the time of enforcement, shall include the following:

The State will notify the Grantee and any current holder of the property interest in writing and advise them that they have 60 days to correct the violation.

 - i. If the Grantee or any current holder of the property interest fails to demonstrate a good faith effort to come into compliance with the terms of the grant within the 60-day period, the State shall enforce the terms of the grant by taking any measures it deems

appropriate, including but not limited to bringing an action at law or in equity in a court of competent jurisdiction.

- ii. FEMA, its representatives, and assignees may enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to 1 or more of the following;
 - a) Withholding FEMA mitigation awards or assistance from the State or Tribe, and Grantee; and current holder of the property interest.
 - b) Requiring transfer of title. The Grantee or the current holder of the property interest shall bear the costs of bringing the Property back into compliance with the terms of the grant; or
 - c) Bringing an action at law or in equity in a court of competent jurisdiction against any or all of the following parties; the State, the Tribe, the local community, and their respective successors.
- 5. Amendment. This agreement may be amended upon signatures of FEMA, the state, and the Grantee only to the extent that such amendment does not affect the fundamental and statutory purposes underlying the agreement.
- 6. Severability. Should any provision of this grant or the application thereof to any person or circumstance be found to be invalid or unenforceable, the rest and remainder of the provisions of this grant and their application shall not be affected and shall remain valid and enforceable.

[Signed by Grantor(s) and Grantee, witnesses and notarization in accordance with local law.]

Grantor's Signature _____

Date _____

Name (printed or typed) _____

Grantee's Signature _____

Date _____

Name (printed or typed) _____

Grantee's Title _____

DIGEST SHEET

Department: Flood Control

Resolution Number: #0238P

Title of Ordinance: 2017 PDMG Agreement for 13 Flood Buyouts

Amount of Agreement:

\$854,328 of which 75% is federally funded and the remaining 25% is funded by both the City of Fort Wayne and the Maumee River Basin Commission.

Description of Project (Be Specific):

The project is the purchase and demolition of up to 13 homes in the Junk Ditch floodplain area of persons who wish to be voluntarily bought out. The project is expected to 18 – 24 months to complete.

What Are The Implications If Not Approved:

If not approved, this would leave up to 13 homes in continued flood risk and the loss of over \$600,000 in grant monies.

If Prior Approval Is Being Requested, Justify: N/A

Additional Comments: N/A



FW PUBLIC WORKS

Board of Public Works

In Your Neighborhood

COMMON COUNCIL DIGEST SHEET – SUPPLEMENTAL

Flood Buyouts - 2018

Action Requested:

Requesting an Ordinance approving the **State-Local Agreement Pre-Disaster Mitigation Grant Program (Contract #35970)** between the **Indiana Department of Homeland Security** and the **City of Fort Wayne, IN**, in connection with the Board of Public Works project #0238P in the amount of **\$213,582.00**.

Note: The grant is for a total of \$854,328.00 with the federal government providing \$640,746.00 and the local share is the remainder of \$213,582.00.

Description and Scope of the Work:

See attached "Exhibit A Scope of Work".