



# **ENVIRONMENTAL REVIEW RECORD**

GRANT NUMBER: \_\_09-DTR-004\_\_

PROJECT NAME: Lexington DTR Planning

# DETERMINATION OF LEVEL OF REVIEW

ERR GRANT# 09-DTR-004

Project Name: Lexington DTR Planning Program Year: 2009-10

Project Location: Lexington Downtown and surrounding area—Redevelopment Area #3

Project Description (*Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information.*):

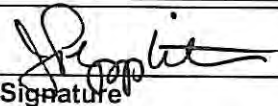
**This project will produce a final Planning Study that will enable the City of Lexington to proceed with Downtown Revitalization efforts to reduce the slum and blight that currently exists in the designated area. The Study will identify the actions needed to complete the improvements.**

*The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities," and the following determination with respect to the project is made:*

- Exempt** from NEPA review requirements per 24 CFR 58.34(a)( 1 )
- Categorically Excluded NOT Subject** to §58.5 authorities per 24 CFR 58.35(b)(\_\_\_\_)
- Categorically Excluded SUBJECT** to §58.5 authorities per 24 CFR 58.35(a)(\_\_\_\_)  
(A Statutory Checklist for the §58.5 authorities is attached.)
- An **Environmental Assessment** (EA) is required to be performed. (An Environmental Assessment performed in accordance with subpart E of 24 CFR Part 58 is attached.)
- An **Environmental Impact Statement** (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

<u>Deb Jensen</u> Preparer Name	_____	_____	Signature
<u>Project Administrator</u> Title	_____	_____	Date

<u>Joe Pepplichtsch</u> Responsible Entity Certifying Officer	<u></u>	_____	Signature
<u>Lexington City Manager</u> Title	_____	_____	Date

# LOCATION MAP REDEVELOPMENT AREA #3 LEXINGTON, NEBRASKA

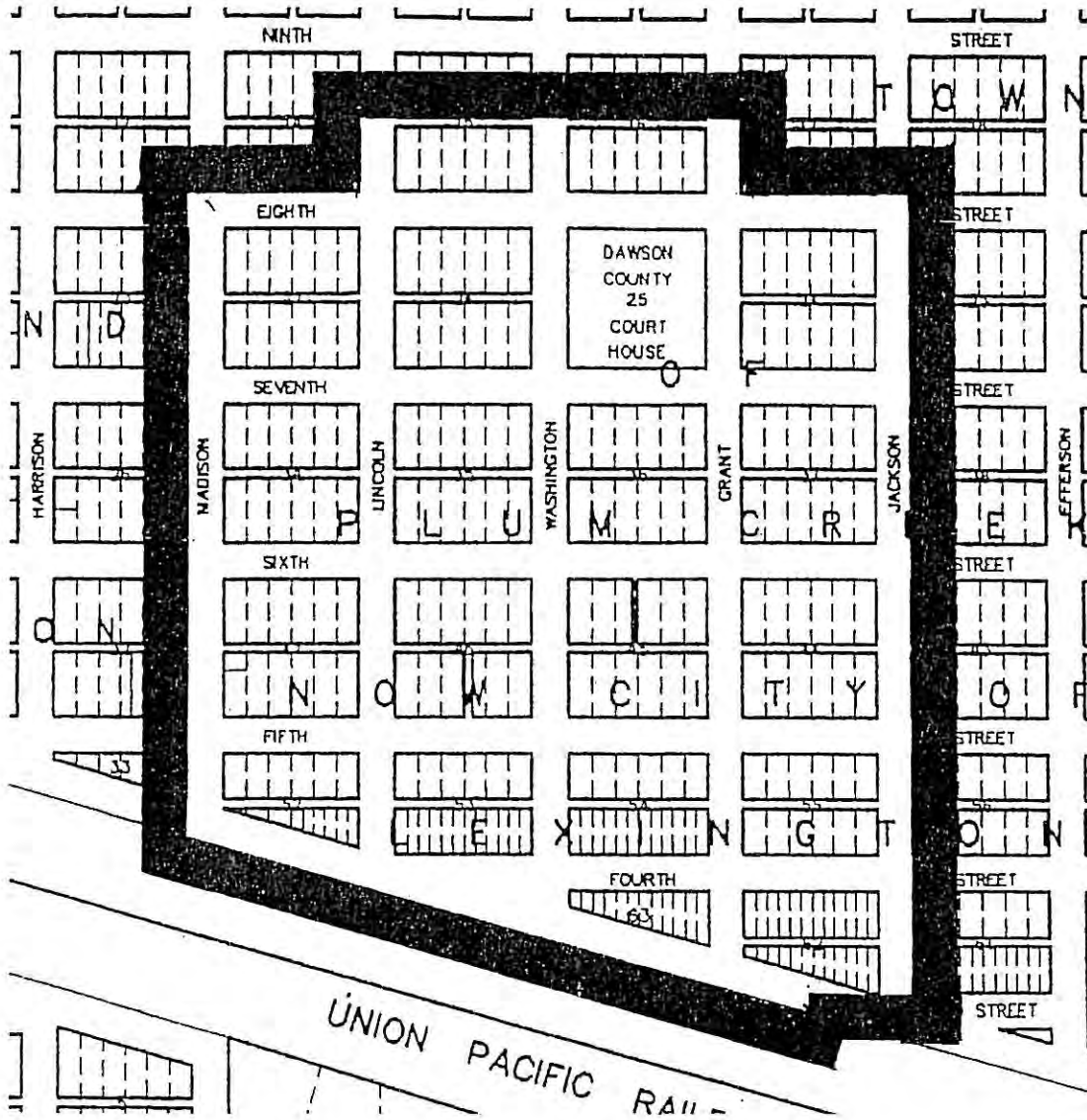
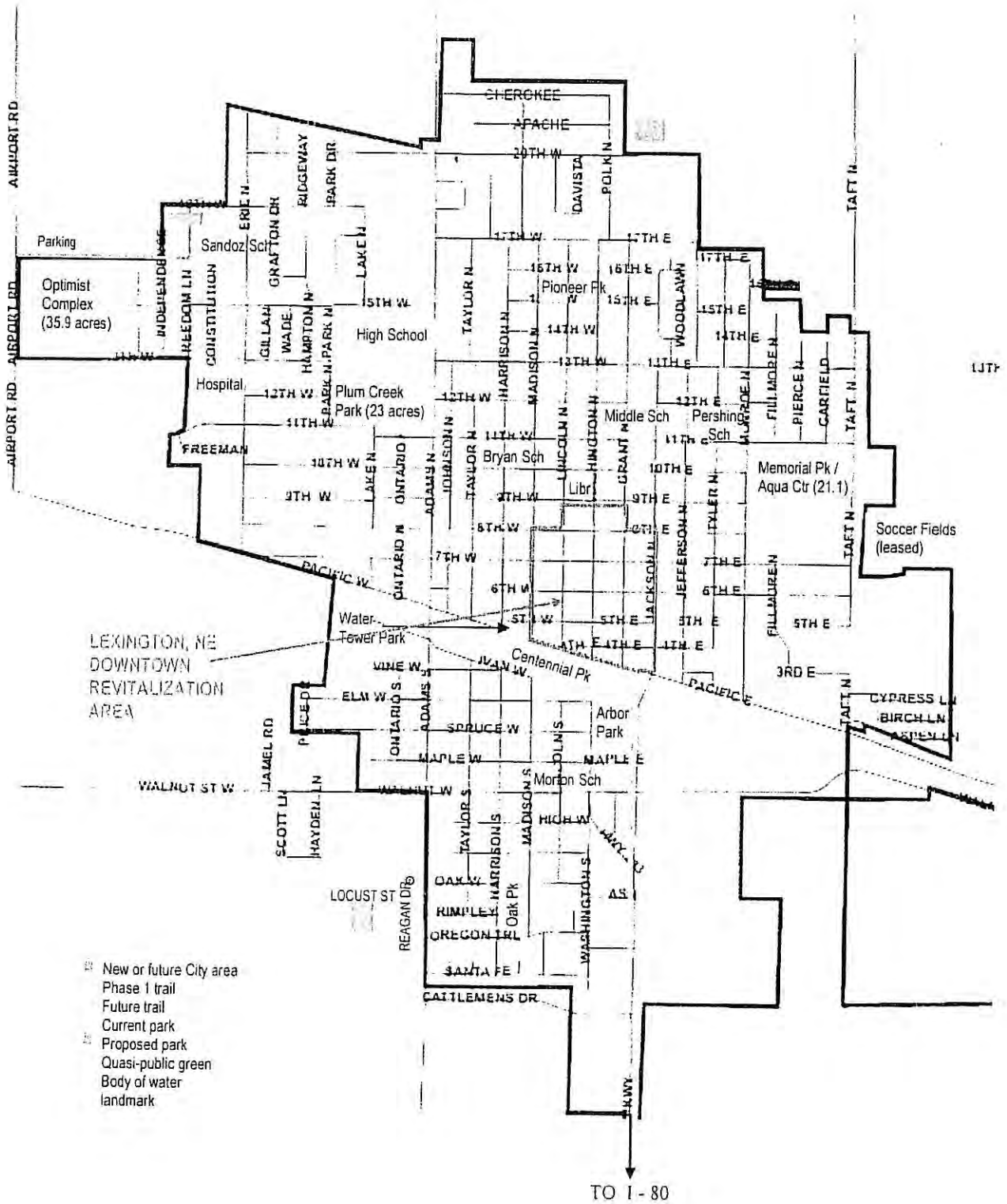


ILLUSTRATION 6

Redevelopment Plan  
Redevelopment Area #3

# Lexington, Nebraska



## FINDING OF EXEMPT ACTIVITY [24 CFR 58.34(a)]

GRANTEE: City of Lexington

GRANT # 09-DTR-004

**DIRECTIONS:** Certain CDBG, HOME, and NAHTF funded activities, which do not have a physical impact, require a grantee, as defined at 24 CFR Part 58.2, to determine whether the proposed activity is Exempt from the National Environmental Policy Act of 1969 (NEPA), as amended, and not subject to the environmentally-related statutory authorities listed at 24 CFR Parts 58.5.

This form provides a grantee with a format to make this determination. A description of the activity (or project) should be attached to this form and the documentation maintained in the Environmental Review Record (24 CFR Part 58.38). Note that the 24 CFR 58.6 requirements will also need to be completed. Consult HUD's environmental regulation (24 CFR Part 58) as necessary.

**Check a single box** that best describes or fits the proposed activity. Submit the completed form to your Responsible Entity Certifying Officer for review.

- Environmental and other studies, resource identification and the development of plans and strategies [58.34(a)(1)].
- Information and financial services [58.34(a)(2)].
- Administrative and management activities [58.34(a)(3)].
- Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs [58.34(a)(4)].
- Inspections and testing of properties for hazards or defects [58.34(a)(5)].
- Purchase of insurance [58.34(a)(6)].
- Purchase of tools [58.34(a)(7)].
- Engineering or design costs [58.34(a)(8)].
- Technical assistance and training [58.34(a)(9)].
- Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration [58.34(a)(10)].
- Payment of principal or interest on loans made or obligations guaranteed by HUD [58.34(a)(11)].
- Any of the categorical exclusions listed in §58.35(a) provided there are no circumstances which require compliance with any other Federal laws and authorities cited in §58.5 [58.34(a)(12)].

**PROJECT DESCRIPTION:** Provide a description of all project activities including those activities funded by sources other than CDBG, HOME, or NAHTF: (Attach additional pages as necessary.) **This project will produce a final Planning Study that will enable the City of Lexington to proceed with Downtown Revitalization efforts to reduce the slum and blight that currently exists in the designated area. The Study will identify the actions needed to complete the improvements.**

In accordance with the provisions of 24 CFR 58.34(a), the grantee has determined that the subject CDBG, HOME, or NAHTF-assisted activity (or program) explained above is Exempt from the National Environmental Policy Act of 1969 (NEPA), as amended.

**DETERMINATION BY (PREPARER)**

Deb Jensen		
PRINT NAME	SIGNATURE	DATE

**RESPONSIBLE ENTITY CERTIFYING OFFICER**

Joe Pepplictsch		
PRINT NAME	SIGNATURE	DATE

## 24 CFR §58.6 – OTHER REQUIREMENTS

Use this worksheet for projects that are EXEMPT, CATEGORICALLY EXCLUDED SUBJECT TO (CEST), and CATEGORICALLY EXCLUDED NOT SUBJECT TO (CENST) Related Federal Statutes and Authorities.

This 58.6 Form is a component of the Environmental Review Record (ERR) [§58.38]. Supplement the ERR, as appropriate, with photographs, site plans, maps, narrative and other information that describe the project.

### 1. AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES NOTIFICATION [24 CFR Part 51.303(a)(3)]

Does the project involve the sale or acquisition of property located within a Civil Airport Runway Clear Zone or a Military Airfield Clear Zone?

**No.** Cite or attach Source Documentation: This project is to obtain a Downtown Planning Study.  
[Project complies with 24 CFR 51.303(a)(3).]

**Yes.** Notice must be provided to the buyer. The notice must advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information, and a copy of the signed notice must be maintained in the ERR.

### 2. COASTAL BARRIERS RESOURCES ACT [Coastal Barrier Improvement Act of 1990 (16 USC 3501)]

Is the project located in a coastal barrier resource area?

**No.** Cite or attach Source Documentation: No CBRA's in Nebraska according to  
<http://www.fema.gov/nfip/cobra.shtm> [Proceed with project.]

**Yes.** Federal assistance may not be used in such an area.

### 3. FLOOD DISASTER PROTECTION ACT [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)]

Does the project involve acquisition, construction, or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area (SFHA)?

**No.** Cite or attach Source Documentation: This project is to obtain a Downtown Planning Study.  
[Proceed with project.]

**Yes.** Cite or attach Source Documentation: \_\_\_\_\_  
Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

**Yes.** Flood insurance under the National Flood Insurance Program must be obtained. If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to the maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

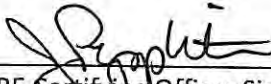
**No.** Federal assistance may not be used in the Special Flood Hazard Area.

Deb Jensen  
Preparer Name

\_\_\_\_\_  
Preparer Signature

\_\_\_\_\_  
Date

Joe Pepplichtsch  
RE Certifying Officer Name

  
RE Certifying Officer Signature

\_\_\_\_\_  
Date



406 East 7th Street ♦ P.O. Box 70 ♦ Lexington, Nebraska 68850-0070

### AUTHORIZATION TO REQUEST GRANT FUNDS

CDBG  CDBG Disaster  CDBG-R  HOME  NAHTF  NSP

This is to Certify that Joe Pepplichtsch, City Manager and  
(TYPED NAME [Mayor/Board Chairperson])  
Pamela Berke, Deputy City Clerk are authorized to  
(TYPED NAME [Clerk/Executive Director])

request Grant Funds for Grant Number(s)\*\* 09-DTR-004 ;

and that the signatures appearing below are the true signatures of  
the aforementioned individuals.

### SIGNATURES OF AUTHORIZED OFFICIALS

Signature

Joe Pepplichtsch  
Typed Name

City Manager  
Title

jpepp@cityoflex.com  
Email

December 8, 2009  
Date

\_\_\_\_\_  
Signature

Pamela Berke  
Typed Name

Deputy City Clerk  
Title

pberke@cityoflex.com  
Email

December 8, 2009  
Date





## Nebraska Department of Economic Development

City of Lexington \_\_\_\_\_ 09-DTR-004 \_\_\_\_\_  
CDBG Grantee CDBG No.

P. O. Box 70; 406 E. 7<sup>th</sup> Street \_\_\_\_\_  
Address

Lexington \_\_\_\_\_ NE \_\_\_\_\_ 68850 \_\_\_\_\_  
City Zip Code

Joe Peplitsch \_\_\_\_\_ ( 308 ) 324-2341 \_\_\_\_\_  
Contact Person Telephone

### FINANCIAL MANAGEMENT CERTIFICATION

Check "Yes" or "No" in the column to the left to indicate if your financial management system complies with these statements:

**YES NO**

**1. Does the financial management system provide for:**

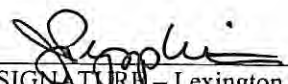
- (a) proper recording and accounting for all CDBG receipts?
- (b) control over and accountability for all funds, property, and other assets?
- (c) records that identify the source and use of funds?
- (d) the expenditure of CDBG funds within ten days of the receipt of funds?
- (e) the application of program income to the CDBG fund?
- (f) the disbursing of program income prior to making additional drawdowns?
- (g) accounting records that are supported by source documents
- (h) a comparison of actual expenditures with amounts budgeted for activities within the grant?
- (i) audits to be conducted in accordance with OMB Circular A-128
- (j) a method which assures timely and appropriate resolutions of audit findings and resolutions?
- (k) audits of non-profit subrecipients to be conducted in accordance with OMB Circular A-133?

**YES NO**

**2. Are the individuals who are responsible for the financial management of the CDBG:**

- (a) familiar with OMB Circular A-102 and A-87 and Treasury Circular 1075?
- (b) aware that failure to comply with these regulations will result in audit findings and the repayment of ineligible costs to the Department of Economic Development?

I certify that the above responses are an accurate indication of the status of the financial management system which will be used for the Community Development Block Grant Funds.

  
SIGNATURE - Lexington City Manager

\_\_\_\_\_  
Joe Peplitsch

\_\_\_\_\_  
DATE

## CITY OF LEXINGTON, NEBRASKA PROCUREMENT PROCEDURES AND CODE OF CONDUCT

The City of Lexington, Nebraska will in all cases of procurement for professional services construction services and materials needed for Community Development Block Grant (CDBG) Programs adhere to Code of Federal Regulation 24 C.F.R. Section 85.36 or current state statutes; in all cases the stricter shall apply. The following procedures summarize said laws and regulations.

- A. Procurement shall be made by one of the following methods:
- 1) **Small Purchase Procedures [24 C.F.R. Section 85.36 (d)(1)] – This method will generally be used to obtain small quantities of supplies.** Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.
  - 2) **Competitive Sealed Bids [24 C.F.R. Section 85.36 (d)(2)] - This method will generally be used to obtain contractors for construction projects and for large quantities of goods or materials.** Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.
  - 3) **Competitive Proposals [24 C.F.R. Section 85.36 (d)(3)] - This method will generally be used to obtain professional services.** This method has two sub-parts—the Request for Proposal and the Request for Qualifications. Request for Proposals – The Request for Proposals (RFP) must clearly and accurately state the technical requirements for the goods and services required; The grantee must publicize the RFP, and to the maximum extent practicable, honor reasonable requests by parties to have an opportunity to compete; Proposals must be solicited from an adequate number of qualified sources, consistent with the nature and requirements of the procurement; The grantee must conduct a technical evaluation of the submitted proposals to identify the responsible offerors; As necessary, the grantee must conduct negotiations with those offerors who are deemed responsive and responsible and fall within a competitive price range, based on the grantee's evaluation of the bidders' pricing and technical proposals. After negotiations, these bidders may be given the opportunity to submit a "best and final" offer; and the grantee must award the contract to the most responsive and responsible offeror after price and other factors are considered through scoring the proposals or "best and final" offers according to predetermined evaluation criteria. The successful proposal/offeror must clearly be the most advantageous source of the goods and services. Request for Qualifications - Grantees and sub-grantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors'

qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

- 4) **Non-Competitive Proposals/Sole Source [24 C.F.R. Section 85.36 (d)(4)] – This method will only be used after approval from the Department of Economic Development.** When requesting permission to use this method, the grantee will have to show that another method of procurement was not feasible because: the item or service was only available from a single source; a public emergency or condition requiring urgency existed which did not permit the use of competitive procurement; or competition was determined to be inadequate after solicitation of proposals from a number of sources.
  - 5) **Non-Competitive Proposals/Sole Source [24 C.F.R. Section 85.36 (d)(4)] – This method will only be used after approval from the Department of Economic Development.** When requesting permission to use this method, the grantee will have to show that another method of procurement was not feasible because: the item or service was only available from a single source; a public emergency or condition requiring urgency existed which did not permit the use of competitive procurement; or competition was determined to be inadequate after solicitation of proposals from a number of sources.
- B. The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.
- C. The City of Lexington shall maintain records sufficient to detail the significant history of a procurement. These records shall include at a minimum: rationale for the method of procurement; selection of contract type; contractor selection or rejection; and the basis for the cost or price.
- D. The following contract provisions or conditions shall be included in all procurement contracts and subcontracts:

#### **General Administrative Provisions**

- Effective date of the contract.
- Names and addresses of the firm and the grantee.
- Citation of the authority of the grantee under which the contract is entered into and the source of the funds.
- Conditions and terms under which the contract may be terminated by either party and remedies for violation/breach of contract.
- Procedures for amending or revising the contract.

#### **Scope of Services**

- Detailed description of the extent and character of the work to be performed.
- Time for performance and completion of contract services, including project milestones, if any.
- Specification of materials or other services to be provided (i.e. maps, reports, etc.)

#### **Method of Compensation**

- Provisions for compensation for services including fee and or payment schedules and specification of maximum amount payable under the contract.

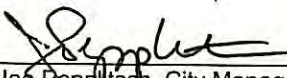
**Federal Standard Provisions**

- Compliance with Executive Order 11246, as amended (Required for service contractors only if the contractor has 50 or more employees and the contract is for more than \$50,000)
- Title VI of the Civil Rights Act of 1964 clause
- Section 109 of the Housing and Community Development Act of 1974 clause
- Section 3 compliance clause (Required only if the contract exceeds \$100,000)
- Access to Records/Maintenance of Records clause
- When required, all construction contracts exceeding \$2,000 shall include provisions for compliance with the Davis-Bacon Act (DBA), the Contract Work Hours and Safety Standards Act (CWHSSA), The Copeland Act (Anti-Kickback Act) clause, and the Fair Labor Standards Act (FLSA) clause.

This Code of Conduct shall govern the performance of the elected or appointed officials or member of any board or commission employees or agents of the City of Lexington, Nebraska engaged in the award and administration of contracts supported by Federal funds under Community Development Block Grant.

- I. The provisions and requirements of the *Conflicts of Interest, at subpart (d)* of the Nebraska Political Accountability and Disclosure Act [such subpart (d) encompassing Sections 49-1493 through 49-14,104 of the Nebraska Revised Statutes], are incorporated in this Code of Conduct by this reference. The provisions and requirements of 24 C.F.R. Section 85.36(b)(3) are also incorporated in this Code of Conduct by this reference. The requirements of these Nebraska state statutes and federal regulations will be adhered to, and in the event of a conflict in the requirements of any of such state and federal requirements, the stricter of any conflicting provisions will be adhered to.
- II. No employee, officer or agent of the municipality shall participate in the selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when an employee or agent; any member of his or her immediate family; his or her partner; or an organization, which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.
- III. The municipal employees, officers or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subcontracts.
- IV. Violations of this Code of Conduct will invoke penalties and sanctions consistent with applicable Federal and State laws.

\_\_\_\_\_  
John Fagot, President, Lexington City Council

  
\_\_\_\_\_  
Joe Peppitsch, City Manager/Clerk

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## EXCESSIVE FORCE CERTIFICATION

On this 8th day of December, 20 09, the

Lexington City Council President, John Fagot of City of Lexington

(Title and Name of Chief Elected Official)

(Name of Local Government Unit)

does hereby certify to the Nebraska Department of Economic Development that the

City of Lexington has adopted and will enforce a policy to prohibit the

(Name of Local Government Unit)

use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in nonviolent civil rights demonstration.

\_\_\_\_\_  
(Chief Elected Official Signature)

## THE CITY OF LEXINGTON POLICIES AND PROCEDURES ON AFFIRMATIVELY FURTHERING FAIR HOUSING

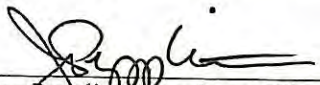
### STATEMENT OF POLICY

In accordance with the regulations of the State of Nebraska's Community Development Block Grant Program and Federal Fair Housing laws and in furthering The City of Lexington's commitment to nondiscrimination and equal opportunity in housing, the City of Lexington hereby establishes policies and procedures to affirmatively further fair housing within the City. These policies and procedures are intended to further the objectives of Title VIII of the Civil Rights Act of 1968 and Executive Order 11063.

Execution shall be through the following procedures:

1. Publicize that the City will assist persons experiencing discrimination in housing and provide citizens the housing discrimination complaint form upon request;
2. Enforcement of policy by reporting all complaints received by the City alleging discrimination of fair housing practices to the Nebraska Equal Opportunity Commission;
3. Identify housing counseling services which assist minorities and women seeking housing within the City;
4. Use "Equal Housing Opportunity" slogan and logo on City letterhead;
5. Publicly advertise the City as a "Fair Housing City";
6. Provide a copy of this policy to all local lending institutions and realtors upon request.
7. Support a Fair Housing Campaign for Public Awareness.
8. Cooperatively host a Fair Housing event.
9. Hold a public meeting to create an Action Plan to identify strategies to further affordable housing opportunities in the City.
10. Present Fair Housing information to Dawson County Realtors Association.

This policy shall have full force and become effective on this 13<sup>th</sup> day of May, 2008.

  
\_\_\_\_\_  
Joe Peplitsch, Lexington City Manager



## NEBRASKA CDBG GRANTEE IMPLEMENTATION SCHEDULE

### PROJECT ACTIVITIES AND MILESTONES

Name of Grantee: City of Lexington CDBG # 09-DTR-004 Program Representative Kevin Andersen  
 Date of Project Completion (contracted): 4/30/2010 Extended Completion Date: N/A Page 1 of 1

Project Activity / Milestones	CDBG / LOCAL AMOUNT BUDGETED	1 <sup>ST</sup> QTR. Oct-Dec 2009	2 <sup>ND</sup> QTR. Jan-Mar 10	3 <sup>RD</sup> QTR. April 2010	4 <sup>TH</sup> QTR.	5 <sup>TH</sup> QTR.	6 <sup>TH</sup> QTR.	7 <sup>TH</sup> QTR.	8 <sup>TH</sup> QTR.
Activity: CDBG	\$ 28,500	\$ -0-	\$ 20,000	\$ 8,500	\$	\$	\$	\$	\$
0630 Planning									
Other	\$ 9,500	\$ -0-	\$ 8,000	\$ 1,500	\$	\$	\$	\$	\$
a) Planning Study			X X X	X					
b)									
c)									
d)									
e)									
f)									
Activity: CDBG	\$ 1,500	\$ 450	\$ 550	\$ 500	\$	\$	\$	\$	\$
0181 Gen Admin									
Other	\$ -0-	\$	\$	\$	\$	\$	\$	\$	\$
a) Spec Conditions		X X							
b) Env. Review		X X							
c) Fair Housing		X X							
d) Reports			X X X	X					
e) Drawdowns			X X X	X					
f) Close-out				X					