



Community Development Division  
Public Services Building  
2051 Kaen Road Oregon City, OR  
97045 (503) 655-8591 (Office)

**NOTICE OF FUNDING OPPORTUNITY #2021 CDBG CV3**

Issue Date: May 18, 2021

Project Name:	<b>CV3 Community Development Block Grant</b>		
Due Date/Time:	June 17, 2021, 2:00 pm		
Contact:	Mark Sirois	Email:	<a href="mailto:marksir@clackamas.us">marksir@clackamas.us</a>

**SUBMIT PROPOSALS VIA EMAIL TO [MARKSIR@CLACKAMAS.US](mailto:MARKSIR@CLACKAMAS.US)  
OR MAIL/HAND DELIVERY TO THE ABOVE ADDRESS**

**PLEASE NOTE: EMAIL SUBMISSIONS SHOULD HAVE  
“2021 CDBG CV3 Proposal” IN THE SUBJECT LINE**

**--SUBMIT PROPOSALS AS SOON AS POSSIBLE--**

***Respondents are encouraged to submit a response anytime during the NOFO published schedule and to not wait until the due date and time. Proposals will be reviewed as they are received to determine award and contracts will be issued immediately so that services may begin as quickly as possible.***

**1. ANNOUNCEMENT AND SPECIAL INFORMATION**

Respondents are required to read, understand, and comply with all information contained within this Notice of Funding Opportunity (“NOFO”). All Proposals are binding upon the Respondents for sixty (60) days from the Proposal Due Date/Time.

**--OPTIONAL PROPOSAL CONFERENCE CALL--**

The County will host an optional pre-proposal conference Zoom meeting on **date June 9, 2021 at 10 a.m. to 11 a.m.** The Zoom Meeting can be accessed via the information below:

Topic: Proposal Conference CDBG CV3

Time: Jun 9, 2021 10:00 AM Pacific Time (US and Canada)

Join Zoom Meeting

<https://clackamascountry.zoom.us/j/83171109676?pwd=L3BHbXE2Sk56NVZXcjZDSDgyWmJzUT09>

Meeting ID: 831 7110 9676

Passcode: 518844

One tap mobile

+12532158782,,83171109676# US (Tacoma)

+13462487799,,83171109676# US (Houston)

Dial by your location

+1 253 215 8782 US (Tacoma)  
+1 346 248 7799 US (Houston)  
+1 408 638 0968 US (San Jose)  
+1 669 900 6833 US (San Jose)  
+1 646 876 9923 US (New York)  
+1 301 715 8592 US (Washington DC)  
+1 312 626 6799 US (Chicago)

Meeting ID: 831 7110 9676

Find your local number: <https://clackamascounty.zoom.us/j/83171109676>

Join by SIP  
83171109676@zoomcrc.com

Join by H.323  
162.255.37.11 (US West)  
162.255.36.11 (US East)  
Meeting ID: 831 7110 9676  
Passcode: 518844

NOFO Documents are available by contacting Mark Sirois at [marksir@clackamas.us](mailto:marksir@clackamas.us). Prospective Respondents will need to provide contact information that will be compiled for a NOFO Respondents List. Prospective Respondents are responsible for obtaining any addenda or clarifying questions from the Community Development Division.

Proposals are to be emailed to [marksir@clackamas.us](mailto:marksir@clackamas.us). If mailed or hand delivered, the Proposal must be submitted to Clackamas County Community Development Divisions – Attention Mark Sirois at 2051 Kaen Road, Suite 245, Oregon City, Oregon, 97045. Proposals received after the Proposal Due Date/Time may not be considered.

All questions regarding this NOFO are to be directed to Mark Sirois at the Community Development Division. Respondents may not communicate with County employees or representatives about the NOFO during the procurement process until the Community Development Division has notified Respondents of the selected Proposals. Communication in violation of this restriction may result in rejection of a Proposal.

## 2. SCOPE

### A. Background and Purpose

In response to the Coronavirus public health crisis, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136 was signed into law on March 27, 2020 to help respond to the coronavirus outbreak. The CARES Act allocated additional Community Development Block Grant COVID funding for Clackamas County to be used to prevent, prepare for, and respond to the Coronavirus (COVID-19).

The Department of Health, Housing and Human Services (H3S) Vulnerable Populations Planning group has been working with the Emergency Operations Center (EOC) command staff to respond to the impacts of this public health crisis, which includes increases in homelessness, unemployment, and food insecurity.

The purpose of this NOFO is for the Clackamas County Health, Housing and Human Services Department's Community Development Division ("CDD") to partner with community based organizations ("CBO") to assist eligible low-income County residents impacted by COVID-19 with

health care services and homeless shelter and services.

CARES Act Community Development Block Grant Coronavirus (CDBG CV3) COVID-19 funds will be distributed to community based organizations and homeless services providers as a combination of projects and services for the benefit of individuals and families impacted by the Coronavirus including:

- homeless shelter supplies (including the purchase of mobile shelter units),
- homeless shelter renovations, operations and staffing,
- hotel and motel vouchers
- homeless shelter facility building and renovations
- health clinic building and renovations

All COVID Projects and contract funding levels will be determined in coordination with the County's COVID 19 Emergency Operations Center activated on February 28, 2020. The intent of these funded projects will be to reduce the spread of COVID-19 and to reduce the economic and health impacts on low-income households in Clackamas County.

This funding is intended to serve the broadest possible number of community members. However, due to historical inequities, it is especially important that people of color, LGBTQ community members, unaccompanied youth and Veterans are served. "Prioritized Organizations" are those organizations that focus on the above referenced populations.

Depending on the Services, construction projects or supplies funded, these CDBG CV3 funds may require separate Sub-recipient, Cooperation or Professional Services contracts.

## **B. Types of Contract Issued from this NOFO**

- 1) **Subrecipient Agreement**. Subgrantee contractual relationship for services only, CBO performs all eligibility determination and documentation, data collection and data entry, issuance of rent payments and 6-month post-exit housing status follow up. All CDBG program requirements and any other CARES Act guidance provided by Federal funding sources that are applicable to this service.

Detailed invoices must be submitted monthly. No advance payments will be allowable for this program. See Sample Agreement in Attachment A (33 pages).

- 2) **Cooperation Agreement** for a construction project. Population demographics and financial reporting required. See Sample Agreement in Attachment B (19 Pages).
- 3) Personal Services Contract for equipment and supplies only. See Sample Agreement in Attachment C (10 pages).

- All submitted Proposals will be subject to negotiations to best distribute funds to targeted groups and across the county geographically.

Note: CBOs will be asked to project the number of people/households to be served. Adjustments to distributions may occur in the event of significant underspending.

## **C. Household Eligibility Criteria**

Residency Eligibility: Participants must reside in Clackamas County.

COVID 19 Impact Eligibility: Depending in service or project part of client intake may require statements of direct COVID health or economic impacts on individuals and families.

Income Eligibility: Participants must have gross incomes (last 30 days) at or below 50% of area median income for household size.

Household Eligibility:

Households of any configuration are eligible. Including but not limited to single adults, couples, families with children, older adults and unaccompanied youth.

## **D. Eligible Costs**

- Homeless Shelter Staffing and case management
- Homeless Shelter Operations: supplies, utilities, food, hotel/motel vouchers
- Homeless Shelter Renovations
- Health Clinic building acquisition and/or renovations

## **E. Scopes of Work**

### **Subrecipient Scope of Work**

When providing services only; the Respondent agency will be required to perform the following work in accordance with the terms and conditions in an awarded contract depending on the service or project funded:

1. Accept homelessness prevention referrals from the Coordinated Housing Access System.
2. Use a person centered, problem solving, flexible approach, in working with households and individuals requesting COVID 19 homeless shelter assistance.
3. Homeless services: Review information and notes from Coordinated Housing Access system in HMIS prior to initial participant contact to streamline service access and provide trauma informed services.
4. Obtain all eligibility and ongoing service documentation and operate a program of services as outlined in the scope of work. Additional guidance as may be posted from HUD and distributed by CDD to subrecipients of CDBG CV3 federal funds.
5. Provide the type, level and duration of service that will address participants need as quickly as possible and for as short a time and as low of a cost as possible.
6. For Homeless Services and Shelters only: Gather all required Homeless Management Information System (HMIS) data elements and enter data into HMIS within established timeline.
7. Submit invoices and all required financial information per established timelines.

### 3. SAMPLE CONTRACTS

CBO selection based on this NOFO will result in a subrecipient agreement.

Submission of a Proposal in response to this NOFO indicates Respondent's willingness to enter into a contract containing substantially the same terms of the below referenced contract, which is part of this NOFO packet. No action or response to the sample contract is required under this NOFO.

The following insurance requirements will be applicable:

- Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
- Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
- Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

#### **\*\*Additional Federal Terms and Conditions\*\***

See 3 attached Sample contracts including Subrecipient Agreement, Cooperation Agreement and Professional Services for additional terms, conditions and reporting requirements.

### 4. PROPOSAL

**Respondents are encouraged to submit a response anytime during the NOFO published schedule and to not wait until the due date and time.**

Proposals should be short and concise (5-7 pages) with the following information:

- A. Indicate Service(s) or Project applying for: Homeless Shelter Building/Renovations, Homeless Shelter Services or Operations, Homeless Shelter Supplies, or Health Clinic Building/Renovation.
- B. Agency/Company/Organization experience in these types of projects;
- C. Experience of staff that will work on the project;
- D. Ability and timeframe to start project or services after execution of contract;
- E. Proposed number of individuals or households that will be served;
- F. Provide 2 partner/government references for similar services;
- G. Provide a detailed budget breakdown of direct costs.
- H. Clackamas County Certifications Form (next page); and
- I. Any additional information that Clackamas County should take into consideration for the project or qualifications.

### 5. EVALUATION

Proposals will be evaluated based on subjective factors including, but not limited to: Firm experience, staff experience, ability to quickly start services, and references.

**CLACKAMAS COUNTY CERTIFICATIONS**  
**NOFO #2021- CDBG CV3**

Each Respondent must read, complete and submit a copy of this Clackamas County Certification with their Proposal. Failure to do so may result in rejection of Proposal. By signature on this Certification the undersigned certifies that they are authorized to act on behalf of the Proposal agency and that under penalty of perjury the undersigned will comply with the following:

**SECTION I. OREGON TAX LAWS**

As required in ORS 279B.110 (2)(3), the undersigned hereby certifies that, to the best of the undersigned's knowledge, the Proposal agency is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321, 323, and elderly rental assistance program under ORS 310.630 to 310.706, and local taxes administered by the Department of Revenue under ORS 305.620, all as applicable. If a contract is executed, this information will be reported to the Internal Revenue Service. Information not matching IRS records could subject Proposal agency to 28% backup withholding.

**SECTION II. NON-DISCRIMINATION**

The undersigned hereby certifies that the Proposal has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, national origin, or any other protected class. Nor has Proposal agency or will Proposal agency discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emergency small business that is certified under ORS 200.055.

**SECTION III. CONFLICT OF INTEREST**

The undersigned hereby certifies that no elected official, officer, agency or employee of Clackamas County is personally interested, directly or indirectly, in any resulting contract from this NOFO, or the compensation to be paid under such contract, and that no representation, statements (oral or in writing), of the County, its Commissioners, officers, agents, or employees had induced Proposal agency to submit this Proposal. In addition, the undersigned hereby certifies that this proposal is made without connection with any person, firm, or corporation submitting a Proposal for the same material, and is in all respects fair and without collusion or fraud.

**SECTION IV. COMPLIANCE WITH SOLICITATION**

The undersigned further agrees and certifies that they:

1. Have read, understand and agree to be bound by and comply with all requirements, instructions, specifications, terms and conditions of the NOFO (including any attachments); and
2. Are an authorized representative of the Proposal agency, that the information provided is true and accurate, and that providing incorrect or incomplete information may be cause for rejection of the Proposal or contract termination; and
3. Will furnish the designated item(s) and/or service(s) in accordance with the NOFO and Proposal; and
4. Will use recyclable products to the maximum extend economically feasible in the performance of the contract work set forth in this NOFO.

Firm Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Email: \_\_\_\_\_ OR CCB # (if applicable): \_\_\_\_\_

Business Designation (check one):

Corporation  Partnership  Sole Proprietorship  Non-Profit  Limited Liability Company

Resident Proposal agency, as defined in ORS 279A.120

Non-Resident Proposal. Resident State: \_\_\_\_\_

Oregon Business Registry Number: \_\_\_\_\_

**CLACKAMAS COUNTY  
INSTRUCTIONS TO  
RESPONDENTS**

Proposals are subject to the applicable provisions and requirements of the Clackamas County Local Contract Review Board Rule C-047-0270 (Intermediate Procurements) and Oregon Revised Statutes.

**PROPOSAL PREPARATION**

1. **PROPOSAL FORMAT:** Proposals must be submitted as indicated in the NOFO.
2. **CONFORMANCE TO NOFO REQUIREMENTS:** Proposals must conform to the requirements of the NOFO. Unless otherwise specified, all items Proposed are to be new, unused and not remanufactured in any way. Any requested attachments must be submitted with the Proposal and in the required format. Proposal prices must be for the unit indicated on the Proposal. Failure to comply with all requirements may result in Proposal rejection.
3. **ADDENDA:** Only documents issued as addenda by Clackamas County serve to change the NOFO in any way. No other directions received by the Proposer, written or verbal, serve to change the NOFO document. NOTE: IF YOU HAVE RECEIVED A COPY OF THE NOFO, YOU SHOULD CONSULT THE COMMUNITY DEVELOPMENT DIVISION TO ENSURE THAT YOU HAVE NOT MISSED ANY ADDENDA OR ANNOUNCEMENTS. RESPONDENTS ARE NOT REQUIRED TO RETURN ADDENDUMS WITH THEIR PROPOSAL. HOWEVER, RESPONDENTS ARE RESPONSIBLE TO MAKE THEMSELVES AWARE OF, OBTAIN AND INCORPORATE ANY CHANGES MADE IN ANY ADDENDA ISSUED, AND TO INCORPORATE ANY CHANGES MADE BY ADDENDUM INTO THEIR FINAL PROPOSAL. FAILURE TO DO SO MAY, IN EFFECT, MAKE THE PROPOSALR'S PROPOSAL NON- RESPONSIVE, WHICH MAY CAUSE THE PROPOSAL TO BE REJECTED.
4. **USE of BRAND or TRADE NAMES:** Any brand or trade names used by Clackamas County in the specifications are for the purpose of describing and establishing the standard of quality, performance and characteristics desired and are not intended to limit or restrict competition. Respondents may submit Proposals for substantially equivalent products to those designated unless the NOFO provides that a specific brand is necessary because of compatibility requirements, etc. All such brand substitutions shall be subject to approval by Clackamas County.
5. **PRODUCT IDENTIFICATION:** Respondents must clearly identify all products Proposed Brand name and model or number must be shown. Clackamas County reserves the right to reject any Proposal when the product information submitted with the Proposal is incomplete.
6. **FOB DESTINATION:** Unless specifically allowed in the NOFO, PROPOSAL PRICE MUST BE F.O.B. DESTINATION with all transportation and handling charges included in the Proposal.
7. **DELIVERY:** Delivery time must be shown in number of calendar days after receipt of purchase order.
8. **EXCEPTIONS:** Any deviation from Proposal specifications, or the form of sample contract referenced in this NOFO, may result in Proposal rejection at County's sole discretion.
9. **SIGNATURE ON PROPOSAL:** Proposals must be signed by an authorized representative of the Proposal agency. Signature on a Proposal certifies that the Proposal is made without connection with any person, firm or corporation making a Proposal for the same goods and/or services and is in all respects fair and without collusion or fraud. Signature on a Proposal also certifies that the Proposer has read and fully understands all Proposal specifications, and the

sample contract referenced in this NOFO (including insurance requirements). No consideration will be given to any claim resulting from quoting without comprehending all requirements of the NOFO.

- 10. PROPOSAL MODIFICATION:** Proposals, once submitted, may be modified in writing before the time and date set for Proposal closing. Any modifications should be signed by an authorized representative, and state that the new document supersedes or modifies the prior Proposal. Respondents may not modify Proposals after Proposal closing time.
- 11. PROPOSAL WITHDRAWALS:** Proposals may be withdrawn by request in writing signed by an authorized representative and received by Clackamas County prior to the Proposal Due Date/Time. Proposals may also be withdrawn in person before the Proposal Due Date/Time upon presentation of appropriate identification.
- 12. PROPOSAL SUBMISSION:** Proposals may be submitted by returning to Clackamas County Community Development Division in the location designated in the introduction of the NOFO; however, no oral or telephone Proposals will be accepted. Envelopes, or e-mails containing Proposals should contain the NOFO Number and NOFO Title.

### **PROPOSAL EVALUATION AND AWARD**

- 1. PRIOR ACCEPTANCE OF DEFECTIVE PROPOSALS:** Due to limited resources, Clackamas County generally will not completely review or analyze Proposals which fail to comply with the requirements of the NOFO or which clearly are not the best Proposals, nor will Clackamas County generally investigate the references or qualifications of those who submit such Proposals. Therefore, neither the return of a Proposal, nor acknowledgment that the selection is complete shall operate as a representation by Clackamas County that an unsuccessful Proposal was complete, sufficient, or lawful in any respect.
- 2. DELIVERY:** Significant delays in delivery may be considered in determining award if early delivery is required.
- 3. CASH DISCOUNTS:** Cash discounts will not be considered for award purposes unless stated in the NOFO.
- 4. PAYMENT:** Proposals which require payment in less than 30 days after receipt of invoice or delivery of goods, whichever is later, may be rejected.
- 5. INVESTIGATION OF REFERENCES:** Clackamas County reserves the right to investigate references and or the past performance of any Proposal agency with respect to its successful performance of similar services, compliance with specifications and contractual obligations, and its lawful payment of suppliers, sub-contractors, and workers. Clackamas County may postpone the award or execution of the contract after the announcement of the apparent successful Proposal agency in order to complete its investigation. Clackamas County reserves the right to reject any Proposal or to reject all Proposals at any time prior to Clackamas County's execution of a contract if it is determined to be in the best interest of Clackamas County to do so.
- 6. METHOD OF AWARD:** Clackamas County reserves the right to make the award by item, groups of items or entire Proposal, whichever is in the best interest of Clackamas County.
- 7. PROPOSAL REJECTION:** Clackamas County reserves the right to reject any and all Proposals.
- 8. PROPOSAL RESULTS:** Respondents who submit a Proposal will be notified of the NOFO results. Awarded Proposal files are public records and available for review by submitting a public records request or by appointment.



**ATTACHMENT A**

<p><b>CLACKAMAS COUNTY, OREGON</b>  <b>SUBRECIPIENT GRANT AGREEMENT XX-XXX</b></p>	
<p>Project Name: <b>CDBG</b>          Project Number: <b>To Be Assigned</b></p>	
<p>This Agreement is between <b>Clackamas County</b>, Oregon, acting by and through its  <u><b>Health, Housing and Human Services Department,</b></u>  <u><b>Community Development Division</b></u> ("COUNTY")          and <b>AGENCY, Inc.</b>, ("SUBRECIPIENT"), an Oregon Nonprofit Organization.</p>	
<p><b>Clackamas County Data</b></p>	
Grant Accountant:	Program Manager:
Clackamas County – Finance 2051 Kaen Road Oregon City, OR 97045 Phone	Clackamas County – Community Development 2051 Kaen Road, Suite 245 Oregon City, OR 97045 Phone
<p><b>Subrecipient Data</b></p>	
Finance/Fiscal Representative:	Program Representative:
Agency Name Agency Address  Phone: Email:	
DUNS: 180757437	

**RECITALS**

1. This Agreement is entered into between COUNTY and SUBRECIPIENT to provide a basis for a cooperative working relationship for the purpose of implementing the Federal Community Development Block Grant program ("CDBG") contained in U.S. Department of Housing and Urban Development ("HUD"), and regulations adopted under this Act at Subchapter C, 24 CFR Part 570, dated 1974, as amended, and Public Law 93-383 as amended. The program is designed to provide Community Development Block Grant ("CDBG") funds to AGENCY to support homelessness prevention by securing funds to provide for staffing and operation expenses at a local domestic violence shelter.
2. COUNTY has applied for and expects to receive Community Development Block Grant (CDBG) funds, Catalog of Federal Domestic Assistance Number 14-218, from the United States Department of Housing and Urban Development (HUD) under Title I of the Housing and Community Development Act of 1974, Public Law 93-383 (ACT).
3. Funds provided by COUNTY shall be used for expenditures for **SAMPLE Project , in Clackamas, OR, a Project description of activities:**.

4. In response to a Congressional directive, HUD has required all recipients to use funds provided pursuant to this Agreement for eligible activities as described in 24 CFR 570.201 (c), and agrees not to use such funds for any ineligible activity described in 24 CFR 570.207.
5. The SUBRECIPIENT shall expend CDBG funds to support the staffing and operations of a homeless shelter benefiting homeless persons. Documentation shall be provided through submission of quarterly reports on all Annie Ross House activities and persons served. The report is included as Attachment A and shall be submitted to the COUNTY with each quarterly invoice.

NOW THEREFORE, according to the terms of this Subrecipient Grant Agreement (this “Agreement”) the COUNTY and SUBRECIPIENT agree as follows:

### **AGREEMENT**

1. **Term and Effective Date.** This Agreement becomes effective when it is signed by both Parties. The term of this Agreement is a period beginning **DATE** and expires **DATE**, a total of twenty-four (24) months.
2. **Program.** The Program is described in the attached Exhibit A: Subrecipient Statement of Program Objectives. SUBRECIPIENT agrees to carry out the program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations, including Subpart C of Title I of the Housing and Community Act of 1974. Furthermore, SUBRECIPIENT shall comply with the requirements of the CDBG award number B20-UC-41-0001 that is the source of the grant funding, in addition to compliance with requirements of Title I of the *Code of Federal Regulations* (“CFR”), Part 24, Sub-Part 570. A copy of that grant award has been provided to SUBRECIPIENT by COUNTY, which is attached to and made a part of this Agreement by this reference. SUBRECIPIENT shall further comply with any requirements, terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal funding requirements.
4. **Grant Funds.** The COUNTY’s funding for this Agreement is the Community Development Block Grant (Catalogue of Federal Domestic Assistance [CFDA] #: 14.218) issued to the COUNTY by the U.S. Department of Housing and Urban Development, Office of Community Planning and Development (Federal Award Identification # B20-UC-41-0001). The maximum, not to exceed, grant amount COUNTY will pay is \$XXXXXXXX. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request. Failure to comply with the terms of this Agreement may result in withholding of payment.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.
6. **Termination.** This Agreement may be suspended or terminated prior to the expiration of its term by:

- a. Written notice provided by COUNTY resulting from material failure by SUBRECIPIENT to comply with any term of this Agreement, or;
- b. Mutual agreement by COUNTY and SUBRECIPIENT.
- c. Written notice provided by COUNTY that HUD has determined CDBG funds are no longer available for this purpose.
- d. Written notice provided by COUNTY that it lacks sufficient funds, as determined by COUNTY in its sole discretion, to continue to perform under this Agreement.

Upon completion of improvements or upon termination of this Agreement, any unexpended balances of CDBG funds shall remain with COUNTY.

7. **Effect of Termination.** The expiration or termination of this Agreement, for any reason, shall not release SUBRECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:
  - a. Has already accrued hereunder;
  - b. Comes into effect due to the expiration or termination of the Agreement; or
  - c. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement, SUBRECIPIENT shall promptly identify all unexpended funds and return all unexpended funds to COUNTY. Unexpended funds are those funds received by SUBRECIPIENT under this Agreement that (i) have not been spent or expended in accordance with the terms of this Agreement; and (ii) are not required to pay allowable costs or expenses that will become due and payable as a result of the termination of this Agreement.

8. **Funds Available and Authorized.** COUNTY certifies that ~~\$XXXXXXXXXX~~ in Federal Funds have been obligated to COUNTY on this award. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 7.
10. **Nonprofit status.** SUBRECIPIENT warrants that it is, and shall remain during the performance of this Agreement, a private nonprofit Organization as defined in the Regulations, including:
  - a. That it is described in Section 501(c) of the Internal Revenue Code of 1954;
  - b. That it is exempt from taxation under Subtitle A of the Internal Revenue Code of 1954;
  - c. That it has an accounting system and a voluntary board; and
  - d. That it practices nondiscrimination in the provision of assistance to the homeless.
11. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
  - a) **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
  - b) **Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within 30 days of becoming aware of the likely or actual changes and a statement of whether or not SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
  - c) **Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect

basis. Costs disallowed by the Federal government shall be the liability of SUBRECIPIENT. Additionally, SUBRECIPIENT agrees to use funds provided only for eligible activities as described in 24 CFR 576 Subpart B.

- d) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- e) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: Subrecipient Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of the COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.
- f) **Indirect Cost Recovery.** Indirect cost recovery is statutorily unavailable on this award.
- g) **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.
- h) **Payment.** SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit D: Required Financial Reporting and Reimbursement Request.
- i) **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in Exhibit A (2.5).
- j) **Evaluation.** SUBRECIPIENT agrees to participate with COUNTY in any evaluation project or performance report, as designed by COUNTY or HUD, and to make available all information required by any such evaluation process.
- k) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by COUNTY or SUBRECIPIENT, in accordance with Treasurer regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed Exhibit D: Required Financial Reporting and Reimbursement Request on a monthly basis.
- l) **Specific Conditions.** None.
- m) **Grantor Recognition.** SUBRECIPIENT shall ensure recognition of the role of COUNTY in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, SUBRECIPIENT will include reference to the support provided herein in all publications made possible with funds available under this Agreement.
- n) **Supplanting.** The funding made available under this Agreement shall not be utilized by SUBRECIPIENT to reduce substantially (i.e. supplant) the amount of local financial support for shelter and assistance activities below the level of such support prior to the availability of funds under this Agreement.
- o) **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.343—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (Exhibits F, G & H), performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than 90 calendar days after the end date of this agreement. At closeout, SUBRECIPIENT must account for all residual supplies valued over \$5,000 in the aggregate that were purchased with Federal

funds authorized by this Agreement. Compensation to the Federal Agency may be required for equipment or residual supplies valued over \$5,000 per 2 CFR 200.313 & 314.

- p) **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number using the Data Universal Numbering System (DUNS) as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, now located at <http://www.sam.gov>.
- q) **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <http://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- r) **Lobbying.** SUBRECIPIENT certifies (Exhibit C: Lobbying) that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U. S. C. 1352. In addition, SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- s) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. Subrecipients of Federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse ("FAC") within 9 months from SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from the SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- t) **Monitoring.** SUBRECIPIENT agrees to allow COUNTY access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with 2 CFR 200.331. COUNTY, the Federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY's discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.

COUNTY will monitor the performance of the SUBRECIPIENT against goals and performance standards required herein. Substandard performance as determined by COUNTY will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by

SUBRECIPIENT within ten (10) days after being notified by COUNTY, Agreement termination and all funding will end. SUBRECIPIENT must return any unused funds promptly.

- u) **Records to be Maintained.** SUBRECIPIENT shall maintain all records required by the Federal regulations specified in 24 CFR Part 576.500 that are pertinent to the activities to be funded under this Agreement. Such records shall include but are not limited to:
1. Client Eligibility Determinations and documentation;
  2. Rental Assistance Agreements;
  3. Service and assistance provided;
  4. Records required to document the acquisition, improvement, use, or disposition of real property acquired or improved with CDBG funds; Financial records as required by 24 CFR Part 576 Subpart F.
  5. Client Data. SUBRECIPIENT shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but is not limited to: client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to COUNTY monitors or their designees for review upon request.
  6. Disclosure. SUBRECIPIENT understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with administration of COUNTY's or SUBRECIPIENT's responsibilities with respect to services provided under this Agreement, is prohibited unless consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.
  7. Property Records. SUBRECIPIENT shall maintain real property inventory records which clearly identify properties purchased, improved, or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Parts 570.503(b)(8), as applicable.
- v) **Record Retention.** SUBRECIPIENT shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.
- w) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for the CDBG, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the Clackamas County, as COUNTY, under those grant documents.
- x) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, terminate this Agreement and all associated amendments, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by SUBRECIPIENT in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to COUNTY at law, in equity, or under this Agreement.

- y) **Program Income.** SUBRECIPIENT shall report monthly all program income as defined at 24 CFR 85.25 generated by activities carried out with CDBG funds made available under this Agreement. By way of further limitations, SUBRECIPIENT may use such income during the Agreement period for activities permitted under this Agreement and shall reduce request for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to COUNTY at the end of the Agreement period.

## 12. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 24 CFR Part 200 as applicable to SUBRECIPIENT. See Exhibit A for additional requirements.
- b) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this Agreement is in excess of \$150,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency.
- c) **Lead-Based Paint.** SUBRECIPIENT agrees to comply with the Lead-Based Paint Poisoning Prevention Act and implementing regulations at 24 CFR Part 35.
- d) **Drug-Free Workplace Act of 1988.** SUBRECIPIENT agrees to comply with the requirements of 24 CFR Part 24 concerning the Drug-Free Workplace Act of 1988 by administering in good faith a policy designed to ensure that its facilities are free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.
- e) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- f) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request County to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement. COUNTY shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- g) **Disclosure of Information.** Any confidential or personally identifiable information (24 CFR 200.82) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (24 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.

- h) **Mileage reimbursement.** If mileage reimbursement is authorized in SUBRECIPIENT budget or by the written approval of COUNTY, mileage must be paid at the rate established by SUBRECIPIENT'S written policies covering all organizational mileage reimbursement or at the IRS mileage rate at the time of travel, whichever is lowest.

### **13. Federal and State Procurement Standards**

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision. SUBRECIPIENT shall comply with the procurement standards applying to subrecipients under this Federal award contained in 24 CFR Part 84 and 2 CFR 200.318-326.
- b) COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, which are incorporated by reference herein.
- c) SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals ("RFP") for a proposed procurement must be excluded by SUBRECIPIENT from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- d) SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

### **14. General Agreement Provisions.**

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its commissioners, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- c) **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:



- 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. This policy(s) shall be primary insurance as respects to COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
- 2) **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.
- 3) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement. COUNTY, at its option, may require a complete copy of the above policy.
- 4) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, commissioners, officers, and employees" as an additional insured.
- 5) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days' notice of cancellation provision shall be physically endorsed on to the policy.
- 6) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 7) **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. COUNTY and its officers must be named as an additional insured on the Certificate of Insurance. No Agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the Agreement have been complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
- 8) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss.
- 9) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.

d) **Subagreements**

- 1) **Approvals.** SUBRECIPIENT shall not enter into any subagreements with any agency or individual in the performance of this Agreement without the written consent of COUNTY prior to the execution of such agreement.
  - 2) **Monitoring.** SUBRECIPIENT will monitor all subagreed services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions to correct areas of noncompliance.
  - 3) **Content.** SUBRECIPIENT shall cause all the provisions of this Agreement in its entirety to be included in and made a part of any subagreement executed in the performance of this Agreement.
  - 4) **Selection Process.** SUBRECIPIENT shall undertake to insure that all subagreements let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subagreements shall be forwarded to COUNTY along with documentation concerning the selection process.
- e) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- f) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.
- g) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- h) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

**15. Other Federal Requirements**

- a) The requirements in 24 CFR part 5, subpart A are applicable, including the nondiscrimination and equal opportunity requirements at 24 CFR 5.105(a). Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and implementing regulations at 24 CFR part 135 apply, except that homeless individuals have priority over other Section 3 residents in accordance with § 576.405(c).
- b) **Hatch Act.** SUBRECIPIENT agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United States Code.
- c) **Affirmative outreach.** SUBRECIPIENT must make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures that the recipient or subrecipient intends to use to make known the availability of the facilities, assistance, and services will reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for those facilities and services, the recipient or subrecipient must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services. SUBRECIPIENT must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Consistent with Title VI and Executive Order

13166, SUBRECIPIENT is also required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (“LEP”) persons.

- d) **Uniform Administrative Requirements.** The requirements of 24 CFR part 84 apply to SUBRECIPIENT except that 24 CFR 84.23 and 84.53 do not apply, and program income is to be used as the nonfederal share under 24 CFR 84.24(b). These regulations include allowable costs and non-Federal audit requirements.
- e) **Religious Organization.** SUBRECIPIENT agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interest, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 576.406.
- f) **Environmental review responsibilities.**
  - 1) Activities under this part are subject to environmental review by HUD under 24 CFR Part 50. SUBRECIPIENT shall supply all available, relevant information necessary for COUNTY to perform for each property any environmental review required by 24 CFR part 50. At the instruction of COUNTY SUBRECIPIENT may be required to carry out mitigating measures required by COUNTY or select alternate eligible property. COUNTY may eliminate from consideration any application that would require an Environmental Impact Statement (“EIS”).
  - 2) SUBRECIPIENT, or any contractor of SUBRECIPIENT, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this part, or commit or expend HUD or local funds for eligible activities under this part, until COUNTY has performed an environmental review under 24 CFR part 50 and SUBRECIPIENT has received COUNTY approval of the property.
- g) **Davis-Bacon Act.** The provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a–5) do not apply to the CDBG program.
- h) **Procurement of Recovered Materials.** SUBRECIPIENT and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (“EPA”) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- i) **Displacement, Relocation, and Acquisition.** Consistent with the other goals and objectives of CDBG, SUBRECIPIENT must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under CDBG.
- j) **Temporary relocation not permitted.** No tenant-occupant of housing (a dwelling unit) that is converted into an emergency shelter may be required to relocate temporarily for a project assisted with CDBG funds, or be required to move to another unit in the same building/complex. When a tenant moves for a project assisted with CDBG funds under conditions that trigger the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), 42 U.S.C. 4601–4655, as described in paragraph (c) of this section, the tenant should be treated as permanently displaced and offered relocation assistance and payments consistent with that paragraph.
- k) **Non-displacement.** SUBRECIPIENT agrees to minimize displacement and comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended

(URA), and implementing regulations at 49 CFR Part 24 and (b) the requirements of 24 CFR 576.408 governing the CDBG program. SUBRECIPIENT shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations, and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. SUBRECIPIENT also agrees to comply with applicable COUNTY ordinances, resolutions, and policies concerning the displacement of persons from their residences. Any activity which may result in a displaced person (defined in paragraph l. of this section) must be reported to COUNTY prior to the commencement of the activity. COUNTY shall determine the relocation assistance as provided in 24 CFR 576.408(c). All such assistance shall be subtracted from the CDBG funds provided to SUBRECIPIENT.

- l) **Displaced Person.** For purposes of paragraph k. of this section, the term “displaced person” means any person (family, individual, business, nonprofit organization, or farm, including any corporation, partnership, or association) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under the CDBG program. This includes any permanent, involuntary move for an assisted project, including any permanent move from the real property.
- m) **Real property acquisition requirements.** The acquisition of real property, whether funded privately or publicly, for a project assisted with CDBG funds is subject to the URA and Federal government wide regulations at 49 CFR Part 24, subpart B.
- n) **Appeals.** A person who disagrees with COUNTY’S (or SUBRECIPIENT’S, if applicable) determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the recipient under 49 CFR 24.10. A low-income person who disagrees with the recipient’s determination may submit a written request for review of that determination by the appropriate HUD field office.

## 16. Civil Rights

- a) **Compliance.** SUBRECIPIENT agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Order 11375 and 12086.
- b) **Nondiscrimination.** SUBRECIPIENT will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, nation origin, sex, disability, or other handicap, age, marital/familial status, or status with regard to public assistance. SUBRECIPIENT will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agreementing agency setting forth the provisions of this nondiscrimination clause.
- c) **Section 504.** SUBRECIPIENT agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1974, which prohibits discrimination against the handicapped in any Federally-assisted program. COUNTY shall provide SUBRECIPIENT with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

## 17. Affirmative Action

- a) **Plan.** SUBRECIPIENT agrees that it shall be committed to carry out pursuant to COUNTY's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
- b) **Women and Minority Business Enterprises.** SUBRECIPIENT will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. SUBRECIPIENT may rely on written representation by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.
- c) **Access to Records.** SUBRECIPIENT shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by COUNTY, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein.
- d) **Notifications.** SUBRECIPIENT will send to each labor union or representative of workers with which it has a collective bargaining agreement or other Agreement or understandings, a notice, provided by the agency Agreementing officer, advising the labor union or worker's representative of SUBRECIPIENT's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e) **EEO/AA Statement.** SUBRECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of SUBRECIPIENT, state that it is an Equal Opportunity or Affirmative Action employer.
- f) **Subcontracting Provisions.** SUBRECIPIENT will include the provisions of Paragraph 23, Civil Rights, and 24, Affirmative Action, in every subcontract or purchase orders, specifically or by reference, so that such provisions will be binding upon each of its subrecipients or subcontractors.

## **18. Employment Restrictions**

- a) **Prohibited Activity.** SUBRECIPIENT is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.
- b) **Labor Standards.** SUBRECIPIENT agrees to comply with the requirements of the Secretary of Labor in accordance with Davis-Bacon Act as amended, the provisions of Agreement: Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. SUBRECIPIENT shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the COUNTY for review upon request. SUBRECIPIENT agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all Agreements engaged under Agreements in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the COUNTY pertaining to such Agreements and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journeyworkers; provide, that if wage rates higher than those required under the regulations are imposed by state or

local laws, nothing hereunder is intended to relieve SUBRECIPIENT of its obligation, if any, to require payment of the higher wage. SUBRECIPIENT will cause or require to be inserted in full, in all Agreements subject to such regulations, provisions meeting the requirements of this paragraph.

**c) Job Training and Employment for Low-income Residents -Section 3**

- i. **Compliance.** Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the COUNTY, SUBRECIPIENT, and any of SUBRECIPIENT's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the COUNTY, SUBRECIPIENT, and any of SUBRECIPIENT's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. SUBRECIPIENT certifies and agrees that no agreements or other disability exist which would prevent compliance with these requirements.
- ii. SUBRECIPIENT further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

*"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Community Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low-and very low-income residents of the project area and Agreements for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."*
- iii. SUBRECIPIENT further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award Agreements for work undertaken in connection to housing rehabilitation, housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.
- iv. SUBRECIPIENT certifies and agrees that no agreement or other legal incapacity exists which would prevent compliance with these requirements.
- v. **Notifications.** SUBRECIPIENT agrees to send to each labor organization or representative of worker with which it has a collective bargaining agreement or other Agreement or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- vi. **Subcontracts.** SUBRECIPIENT will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontract is in violation of regulations issued by the grantor agency. SUBRECIPIENT will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of

regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

19. **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of the COUNTY.
20. **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
21. **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
22. **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
23. **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
24. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
25. **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.

*(Signature Page Follows)*





**EXHIBIT A**

**SUBRECIPIENT STATEMENT OF PROGRAM OBJECTIVES & REQUIREMENTS**

**1. Scope of Cooperation**

**1.1 HMIS.** SUBRECIPIENT shall ensure that data on all persons served and all activities assisted under CDBG are entered into the applicable community-wide HMIS in the area in which those persons and activities are located, or a comparable database, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. If SUBRECIPIENT is a victim service provider or a legal services provider, it may use a comparable database that collects client-level data over time (i.e., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS

**2. Program Requirements**

- a. Coordination with other targeted homeless services.
  - i. SUBRECIPIENT must coordinate and integrate, to the maximum extent practicable, CDBG-funded activities with other programs targeted to homeless people in the area covered by the Continuum of Care or area over which the services are coordinated to provide a strategic, community-wide system to prevent and end homelessness for that area. The list of programs are included in 24 CFR Part 576.400(b).
  - ii. System and program coordination with mainstream resources. SUBRECIPIENT must coordinate and integrate, to the maximum extent practicable, CDBG-funded activities with mainstream housing, health, social services, employment, education, and youth programs for which families and individuals at risk of homelessness and homeless individuals and families may be eligible. Examples of these programs are included in 24 CFR Part 576.400(c).
- b. Coordinated Housing Assessment. The Continuum of Care has developed a coordinated assessment system in accordance with requirements to be established by HUD, each CDBG-funded program or project within the Continuum of Care's area must use that assessment system. SUBRECIPIENT must work with COUNTY to ensure the screening, assessment and referral of program participants are consistent with the written standards required by the Continuum of Care's coordinated assessment system. A victim service provider may choose not to use the Continuum of Care's coordinated assessment system.
- c. SUBRECIPIENT must establish and consistently apply written standards for providing CDBG assistance. At a minimum these written standards must include:
  - i. Standard policies and procedures for evaluating individuals' and families' eligibility for assistance under CDBG;
  - ii. Standards for targeting and providing essential services related to street outreach;
  - iii. Policies and procedures for admission, diversion, referral, and discharge by emergency shelters assisted under CDBG, including standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations, e.g., victims of domestic violence, dating violence, sexual assault, and stalking; and individuals and families who have the highest barriers to housing and are likely to be homeless the longest;
  - iv. Policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter;
  - v. Policies and procedures for coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid re-housing assistance providers; other homeless assistance providers; and mainstream service and housing providers (see § 576.400(b) and (c) for a list of programs with which CDBG-funded activities must be coordinated and integrated to the maximum extent practicable);

- vi. Policies and procedures for determining and prioritizing which eligible families and individuals will receive homelessness prevention assistance and which eligible families and individuals will receive rapid re-housing assistance;
  - vii. Standards for determining what percentage or amount of rent and utilities costs each program participant must pay while receiving homelessness prevention or rapid re-housing assistance;
  - viii. Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time; and
  - ix. Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide to a program participant, including the limits, if any, on the homelessness prevention or rapid re-housing assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant receive assistance, or the maximum number of times the program participant may receive assistance.
- d. Participation in HMIS. SUBRECIPIENT shall ensure that data on all persons served and all activities assisted under CDBG are entered into the applicable community-wide HMIS in the area in which those persons and activities are located, or a comparable database, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. If SUBRECIPIENT is a victim service provider or a legal services provider, it may use a comparable database that collects client-level data over time (i.e., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS.
- e. Evaluations. SUBRECIPIENT must conduct an initial evaluation to determine the eligibility of each individual or family's eligibility for CDBG assistance and the amount and types of assistance the individual or family needs to regain stability in permanent housing. These evaluations must be conducted in accordance with the centralized or coordinated assessment requirements set forth under § 576.400(d) and the written standards established under § 576.400(e).
- f. Re-evaluations for homelessness prevention and rapid re-housing assistance. SUBRECIPIENT must re-evaluate the program participant's eligibility and the types and amounts of assistance the program participant needs not less than once every 3 months for program participants receiving homelessness prevention assistance, and not less than once annually for program participants receiving rapid re-housing assistance. At a minimum, each reevaluation of eligibility must establish that:
- i. The program participant does not have an annual income that exceeds 30 percent of median family income for the area, as determined by HUD; and
  - ii. The program participant lacks sufficient resources and support networks necessary to retain housing without CDBG assistance.
- g. Annual income. When determining the annual income of an individual or family, SUBRECIPIENT must use the standard for calculating annual income under 24 CFR 5.609.
- h. Connecting program participants to mainstream and other resources. SUBRECIPIENT must assist each program participant, as needed, to obtain:
- i. Appropriate supportive services, including assistance in obtaining permanent housing, medical health treatment, mental health treatment, counseling, supervision, and other services essential for achieving independent living; and
  - ii. Other Federal, State, local, and private assistance available to assist the program participant in obtaining housing stability. The list of programs is included in 24 CFR Part 576.400(c).
- i. Housing stability case management.
- i. While providing homelessness prevention or rapid re-housing assistance to a program participant, SUBRECIPIENT must:
    - a) Require the program participant to meet with a case manager not less than once per month to assist the program participant in ensuring long-term housing stability; and

- b) Develop a plan to assist the program participant to retain permanent housing after the CDBG assistance ends, taking into account all relevant considerations, such as the program participant's current or expected income and expenses; other public or private assistance for which the program participant will be eligible and likely to receive; and the relative affordability of available housing in the area.
  - (1) SUBRECIPIENT is exempt from this requirement if the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) or the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) prohibits SUBRECIPIENT from making its shelter or housing conditional on the participant's acceptance of services.
- j. Terminating assistance.
  - i. If a program participant violates program requirements, SUBRECIPIENT may terminate the assistance in accordance with a formal process established by COUNTY that recognizes the rights of individuals affected. SUBRECIPIENT must exercise judgment and examine all extenuating circumstances in determining when violations warrant termination so that a program participant's assistance is terminated only in the most severe cases.
  - ii. Program participants receiving rental assistance or housing relocation and stabilization services. To terminate rental assistance or housing relocation and stabilization services to a program participant, the required formal process, at a minimum, must consist of:
    - a) Written notice to the program participant containing a clear statement of the reasons for termination;
    - b) A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
    - c) Prompt written notice of the final decision to the program participant.
  - iii. Ability to provide further assistance. Termination under this section does not bar SUBRECIPIENT from providing further assistance at a later date to the same family or individual.
- k. Shelter and housing standards.
  - i. Lead-based paint remediation and disclosure. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations in 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under CDBG program and all housing occupied by program participants.
  - ii. Minimum standards for emergency shelters. Any building for which Emergency Solutions Grant (CDBG) funds are used for conversion, major rehabilitation, or other renovation, must meet state or local government safety and sanitation standards, as applicable, and the following minimum safety, sanitation, and privacy standards. Any emergency shelter that receives assistance for shelter operations must also meet the following minimum safety, sanitation, and privacy standards. The recipient may also establish standards that exceed or add to these minimum standards.
    - a) Structure and materials. The shelter building must be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents. Any renovation (including major rehabilitation and conversion) carried out with CDBG assistance must use Energy Star and WaterSense products and appliances.
    - b) Access. The shelter must be accessible in accordance with Section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 CFR part 100; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.) and 28 CFR part 35; where applicable.
    - c) Space and security. Except where the shelter is intended for day use only, the shelter must provide each program participant in the shelter with an acceptable place to sleep and adequate space and security for themselves and their belongings.

- d) Interior air quality. Each room or space within the shelter must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.
  - e) Water supply. The shelter's water supply must be free of contamination.
  - f) Sanitary facilities. Each program participant in the shelter must have access to sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.
  - g) Thermal environment. The shelter must have any necessary heating/cooling facilities in proper operating condition.
  - h) Illumination and electricity. The shelter must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.
  - i) Food preparation. Food preparation areas, if any, must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
  - j) Sanitary conditions. The shelter must be maintained in a sanitary condition.
  - k) Fire safety. There must be at least one working smoke detector in each occupied unit of the shelter. Where possible, smoke detectors must be located near sleeping areas. The fire alarm system must be designed for hearing-impaired residents. All public areas of the shelter must have at least one working smoke detector. There must also be a second means of exiting the building in the event of fire or other emergency.
- I. Minimum standards for permanent housing. The recipient or subrecipient cannot use CDBG funds to help a program participant remain or move into housing that does not meet the minimum habitability standards provided in this section I. The recipient may also establish standards that exceed or add to these minimum standards.
- i. Structure and materials. The structures must be structurally sound to protect residents from the elements and not pose any threat to the health and safety of the residents.
  - ii. Space and security. Each resident must be provided adequate space and security for themselves and their belongings. Each resident must be provided an acceptable place to sleep.
  - iii. Interior air quality. Each room or space must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.
  - iv. Water supply. The water supply must be free from contamination.
  - v. Sanitary facilities. Residents must have access to sufficient sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.
  - vi. Thermal environment. The housing must have any necessary heating/cooling facilities in proper operating condition.
  - vii. Illumination and electricity. The structure must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the structure.
  - viii. Food preparation. All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
  - ix. Sanitary conditions. The housing must be maintained in a sanitary condition.
  - x. Fire safety.
    - a) There must be a second means of exiting the building in the event of fire or other emergency.

- b) Each unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each occupied level of the unit. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing impaired persons, smoke detectors must have an alarm system designed for hearing impaired persons in each bedroom occupied by a hearing-impaired person.
  - c) The public areas of all housing must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.
- m. Organizational conflicts of interest. The provision of any type or amount of CDBG assistance may not be conditioned on an individual's or family's acceptance or occupancy of emergency shelter or housing owned by the recipient, SUBRECIPIENT, or a parent or subsidiary of SUBRECIPIENT. No subrecipient may, with respect to individuals or families occupying housing owned by SUBRECIPIENT, or any parent or subsidiary of SUBRECIPIENT, carry out the initial evaluation required under § 576.401 or administer homelessness prevention assistance under § 576.103.
- n. Individual conflicts of interest. For the procurement of goods and services, SUBRECIPIENT must comply with the codes of conduct and conflict of interest requirements under 24 CFR 84.42. For all other transactions and activities, the following restrictions apply:
- i. Conflicts prohibited. No person described in paragraph 7.14.2 of this section who exercises or has exercised any functions or responsibilities with respect to activities assisted under the CDBG program, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under the program, may obtain a financial interest or benefit from an assisted activity; have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or during the one-year period following his or her tenure.
  - ii. Persons covered. The conflict-of-interest provisions of paragraph (b)(1) of this section apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of SUBRECIPIENT.
  - iii. Exceptions. Upon the written request of the recipient, COUNTY, in conjunction with HUD, may grant an exception to the provisions of this subsection on a case-by-case basis, taking into account the nature of the conflict and the factors listed below:
    - a) Threshold requirements. COUNTY and HUD will consider an exception only after the recipient has provided an opinion of the recipient's attorney that the interest for which the exception is sought would not violate state or local law.
    - b) Factors to be considered for exceptions. In determining whether to grant a requested exception after SUBRECIPIENT has satisfactorily met the threshold requirements, HUD must conclude that the exception will serve to further the purposes of the CDBG program and the effective and efficient administration of SUBRECIPIENT's program or project, taking into account the cumulative effect of the following factors, as applicable:
      - (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
      - (2) Whether an opportunity was provided for open competitive bidding or negotiation;
      - (3) Whether the affected person has withdrawn from his or her functions, responsibilities or the decision-making process with respect to the specific activity in question;
      - (4) Whether the interest or benefit was present before the affected person was in the position in which the conflict of interest may have occurred;
      - (5) Whether undue hardship results to SUBRECIPIENT, or the person affected, when weighed against the public interest served by avoiding the prohibited conflict; and

(6) Any other relevant considerations.

- iv. Contractors. All contractors of SUBRECIPIENT must comply with the same requirements that apply to subrecipients under this section.
- o. Homeless Participation.
  - i. SUBRECIPIENT must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policy-making entity of SUBRECIPIENT, to the extent that the entity considers and makes policies and decisions regarding any facilities, services, or other assistance that receive funding under CDBG.
  - ii. If SUBRECIPIENT is unable to meet the homeless participation requirement, it must instead develop and implement a plan to consult with homeless or formerly homeless individuals in considering and making policies and decisions regarding any facilities, services, or other assistance that receive funding under CDBG. The plan must be submitted to COUNTY to be included in the annual action plan required under 24 CFR 91.220.
  - iii. To the maximum extent practicable, SUBRECIPIENT must involve homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under CDBG, in providing services assisted under CDBG, and in providing services for occupants of facilities assisted under CDBG.

**EXHIBIT A.1**

**SUBRECIPIENT SCOPE OF WORK**

1. Scope of Work for: AGENCY.

These CDBG funds are to be used to prevent, prepare for, and respond to homelessness prevention among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities. Agency agrees to accomplish the following work under this contract:

- A. Provide emergency shelter services to homeless families by paying for staff and other operational expenses.
- B. It is expected that the funding under this CDBG contract will assist approximately \_\_\_\_\_ during the program year.

2. The SUBRECIPIENT agrees to use funds provided pursuant to this Agreement for eligible activities as described in 24 CFR 570.201 (c), and agrees not to use such funds for any ineligible activity described in 24 CFR 570.207.

3. The SUBRECIPIENT shall expend CDBG funds to support \_\_\_\_\_ Documentation shall be provided through submission of quarterly reports on all activities and persons served. The report is included as Attachment A and shall be submitted to the COUNTY with each quarterly invoice.

4. The COUNTY will monitor the performance of the SUBRECIPIENT against goals and performance standards required herein. Substandard performance as determined by the COUNTY will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the SUBRECIPIENT within ten (10) days after being notified by the COUNTY, Agreement termination and all funding will end. SUBRECIPIENT must return any unused funds promptly.

5. The COUNTY agrees to apply for and administer CDBG funds received under the ACT, and to provide funds to the SUBRECIPIENT pursuant to this Agreement.

**EXHIBIT B**

**SUBRECIPIENT PROGRAM BUDGET**

- A. The total compensation under this contract shall not exceed \$XXXXXXXXXX per fiscal year with payments to be made as outlined in the body of the contract.
- B. Adjustments to the budget may only be made with the approval of both Parties.

Budget Category	Maximum Expenditure FY21	Maximum Expenditure FY22
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
<b>ANNUAL TOTAL</b>	<b>\$XXXXXXXX</b>	<b>\$XXXXXXXX</b>



**EXHIBIT C: CONGRESSIONAL LOBBYING CERTIFICATE**

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

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions[as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The Authorized Representative certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Organization understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

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Organization Name

Award Number or Project Name

---

Name and Title of Authorized Representative

---

Signature

Date

**ATTACHMENT A**

**Exhibit D  
REQUEST FOR REIMBURSEMENT**

**Note: This form derives from the approved budget in your grant Agreement.  
Please follow instructions for completing this form as outlined in Exhibit D.1.**

<b>Subrecipient</b> _____	<b>Grant Number:</b> _____
<b>Address:</b> _____	<b>Report Period:</b> _____
	<b>Contract #:</b> _____
<b>Contact Person:</b> _____	<b>Federal Award #:</b> B20-UC-41-0001
<b>Phone Number:</b> _____	<b>CFDA(s):</b> 14.231
<b>E-mail:</b> _____	

Budget Category	Budget	Current Draw Request	Previously Requested	Balance
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
<b>Total Grant Funds Requested</b>	\$ -	\$ -	\$ -	\$ -

**ATTACH ALL RECEIPTS AND REQUIRED CLIENT DOCUMENTATION.**

**Clackamas County and the Federal government retain the right to inspect all financial records and other books, documents, papers, plans, records of shipments and payments and writings of Recipient that are pertinent to this Agreement.**

**CERTIFICATION**

*By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).*

**Prepared by:** \_\_\_\_\_

**Authorized Signer:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Department Review**

**Project Officer Name:** \_\_\_\_\_

**Department:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

#### **EXHIBIT D.1: REIMBURSEMENT INSTRUCTIONS**

Reimbursement by COUNTY will be within 30 days of receipt of acceptable countersigned itemized invoices or billings reflecting the actual cost to SUBRECIPIENT of eligible expenses. Each invoice shall be accompanied with a detailed Request for Reimbursement (Exhibit D) which shall include appropriate documentation. This documentation shall include signed and approved timecards for personnel expenses and itemized invoices or billings for materials and services.

- COUNTY must provide HUD with specific household demographic information for each household served by CDBG funds. The household information will be collected from SUBRECIPIENT and must accompany the first SUBRECIPIENT invoice for each household.
- The request for reimbursement shall also include a summary of expenses incurred for each household along with source documentation. In addition, an HMIS report documenting the type and amount of financial assistance for each household shall accompany the invoice.
- Information on the request for reimbursement form, the household demographics, the source documentation and the summary of expenses incurred for each specific household from the HMIS reports must all correlate. See Attachment A.

## **EXHIBIT E: PERFORMANCE REPORTING REQUIREMENTS**

Reporting Requirements. SUBRECIPIENT will comply with:

- All current HMIS Policy & Procedures;
- HMIS Participation Agreement;
- All CDBG HMIS reporting requirements developed by COUNTY;
- SUBRECIPIENT will provide documentation to COUNTY annually on the project activities completed in accordance with this Agreement.

## EXHIBIT F

### Required Certifications

I, \_\_\_\_\_, Executive Director of AGENCY (SUBRECIPIENT) certify the provision of the matching supplemental funds required by the regulation 24 CFR 576.201. A description of the sources and amounts of such supplemental funds are included in the Attachment B agency Fiscal Year operating budget.

### **CDBG Certifications**

The Community Development Block Grant Program SUBRECIPIENT certifies that:

**Major rehabilitation/conversion** – If an emergency shelter's rehabilitation costs exceed 75 percent of the value of the building before rehabilitation, SUBRECIPIENT will maintain the building as a shelter for homeless individuals and families for a minimum of 10 years after the date the building is first occupied by a homeless individual or family after the completed rehabilitation. If the cost to convert a building into an emergency shelter exceeds 75 percent of the value of the building after conversion, the jurisdiction will maintain the building as a shelter for homeless individuals and families for a minimum of 10 years after the date the building is first occupied by a homeless individual or family after the completed conversion. In all other cases where CDBG funds are used for renovation, the jurisdiction will maintain the building as a shelter for homeless individuals and families for a minimum of 3 years after the date the building is first occupied by a homeless individual or family after the completed renovation.

**Essential Services and Operating Costs** – In the case of assistance involving shelter operations or essential services related to street outreach or emergency shelter, SUBRECIPIENT will provide services or shelter to homeless individuals and families for the period during which the CDBG assistance is provided, without regard to a particular site or structure, so long the jurisdiction serves the same type of persons (e.g., families with children, unaccompanied youth, disabled individuals, or victims of domestic violence) or persons in the same geographic area.

**Renovation** – Any renovation carried out with CDBG assistance shall be sufficient to ensure that the building involved is safe and sanitary.

**Supportive Services** – SUBRECIPIENT will assist homeless individuals in obtaining permanent housing,

appropriate supportive services ( including medical and mental health treatment, victim services, counseling, supervision, and other services essential for achieving independent living), and other Federal State, local, and private assistance available for such individuals.

**Matching Funds** – SUBRECIPIENT will obtain matching amounts required under 24 CFR 576.201 and as outlined in Exhibit G.

**Confidentiality** – SUBRECIPIENT has established and is implementing procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the CDBG program, including protection against the release of the address or location of any family violence shelter project, except with the written authorization of the person responsible for the operation of that shelter.

**Homeless Persons Involvement** – To the maximum extent practicable, SUBRECIPIENT will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under the CDBG program, in providing services assisted under the CDBG program, and in providing services for occupants of facilities assisted under the program.

**Consolidated Plan** – All activities SUBRECIPIENT undertakes with assistance under CDBG are consistent with the jurisdiction's consolidated plan.

**Discharge Policy** – SUBRECIPIENT will establish and implement, to the maximum extent practicable and where appropriate policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, mental health facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent this discharge from immediately resulting in homelessness for these persons.

**HMIS** – SUBRECIPIENT will comply with HUD's standards for participation in the local Homeless Management Information System and the collection and reporting of client level information.

The requirement that SUBRECIPIENT involve, to the maximum possible extent practicable and where appropriate, homeless individuals and families in policy making, renovating, maintaining, and operating facilities assisted under the CDBG program is met in the following manner:

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Signature/Authorized Official                      Date

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Title

<b>Project Name: CDBG</b>	<b>Agreement #: XX-XXX</b>
<b>Federal Award #: B20-UC-41-0001</b>	<b>Date of Submission: XX/XX/XX</b>
<b>Subrecipient: AGENCY, INC.</b>	
<b>Has Subrecipient submitted all requests for reimbursement? Y/N</b>	
<b>Has Subrecipient met all programmatic closeout requirements? Y/N</b>	

## EXHIBIT G: Final Financial Report

Report of Funds received, expended, and reported as match (if applicable) under this agreement

Total Federal Funds authorized on this agreement:	
Year-to-Date Federal Funds requested for reimbursement on this agreement:	
Total Federal Funds received on this agreement:	
Balance of unexpended Federal Funds (Line 1 minus Line 3):	

*By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).*

Subrecipient's Certifying Official (printed): \_\_\_\_\_

Subrecipient's Certifying Official (signature): \_\_\_\_\_

Subrecipient's Certifying Official's title: \_\_\_\_\_



## ATTACHMENT A

(This report may be submitted in HMIS format)

**COMMUNITY DEVELOPMENT BLOCK GRANT  
 QUARTERLY PERFORMANCE REPORT FOR THE PERIOD: \_\_\_\_\_ TO \_\_\_\_\_**  
 Project Name: \_\_\_\_\_

Total Number Assisted (H or P)	Total of Columns C, D, and E	Income Categories			Female Headed Households
		Low/Mod (80% - 51%)	Very Low (50% - 30%)	Extremely Low (<30%)	
(A)	(B)	(C)	(D)	(E)	(F)

Race Categories		Total #	# Hispanic
		(G)	(H)
(1)	White:		
(2)	Black/African American:		
(3)	Asian:		
(4)	American Indian/Alaskan Native:		
(5)	Native Hawaiian/Other Pacific Islander:		
(6)	American Indian/Alaskan Native & White:		
(7)	Asian & White:		
(8)	Black/African American & White:		
(9)	Am.Indian/Alaskan Native & Black/African Am:		
(10)	Other Multi-Racial:		

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Organization

**ATTACHMENT B**  
**SAMPLE - COOPERATION AGREEMENT**  
**Between**

**CLACKAMAS COUNTY, OREGON**

**And**

**SAMPLE - AGENCY**

**I. Background**

- A. This Cooperation Agreement (this “Agreement”) is entered into between Clackamas County, through its Community Development Division, a political subdivision of the State of Oregon (“County”) and the AGENCY an Oregon non-profit corporation (“AGENCY”) to provide a basis for a cooperative working relationship for the design and construction of PROJECT DESCRIPTION HERE ..... (herein referred to as the “Project”).
- B. The AGENCY is a 501(c)3 non-profit organization serving Low-to-Moderate income families of Clackamas County. The AGENCY DESCRIPTION HERE
- C. The County has determine that the Project is eligible for Community Development Block Grant (“CDBG”) funds as a Low-Moderate Clientele (“LMC”) Benefit Activity. Based on the demographics of the population that AGENCY services, the County has determined this Project is eligible for CDBG funds and meets a national objective by serving Low-to-Moderate Cliente, within Clackamas County. Therefore, the County shall proceed with this Project with AGENCY.
- D. The County will provide partial funding for the Project, and will be responsible for bidding, negotiating, and managing any public contracts with third parties necessary to complete the Project. AGENCY will be responsible for matching a certain percentage of the total Project cost, as detailed in this Agreement, and for any costs incurred on the Project in excess of the funds contributed by the County, and will coordinate with County and any third party the County contracts with to complete the Project.

**II. Consideration**

- A. The County agrees to provide CDBG funds toward the Project at the sum not to exceed \$XXX,XXX- (“CDBG Funds”) for accomplishing the Work required by this Agreement. The CDBG Funds allocated for the Project will be paid directly to any contractor hired by County to perform the work on the Project (“Contractor”) upon full execution of a construction contract. AGENCY agrees to pay all Project costs in excess of the CDBG funds, including any change orders or other additional expenses related to the construction contract, once the Contractor is hired. AGENCY is further responsible for providing a minimum 20% match contribution towards the cost of the Project, as detailed in Article IV, below.

The parties anticipate that the total costs of completing the Project will not exceed the sum of \$XXX,XXX dollars. If, following receipt of construction bid proposals as part of the County’s public bid process for construction or during performance of the

construction contract, either party determines the Project cannot be completed with available funds, the County and AGENCY agree to negotiate, in good faith, a possible modification of the Project or this Agreement to accommodate funding limitations.

If the parties are unable to reach an agreement as to a modified Project or amendment to the Agreement, this Agreement shall terminate, the parties shall bear their own costs incurred as of the date of termination, and the parties shall have no further obligations regarding this Agreement.

- B. Payment.** The Contractor will submit monthly invoices jointly to AGENCY and County for work performed to complete the Project and shall include the total amount billed to date prior to the current invoice. Invoices shall describe all work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. Payments shall be made to the Contractor directly following the County's review and approval of invoices submitted. County shall make payment(s) to the Contractor in the time and manner set forth in the construction contract with Contractor. The County CDBG Funds will be used first to pay the Contractor. AGENCY funds will be used second to pay the Contractor. Once the County has expended all of the CDBG funds allocated for the Project, AGENCY will pay all amounts necessary to complete the Project. The County will invoice AGENCY for the balance of the unpaid Project costs within 30 days of the completed work. The County will reconcile all Project funds through the completion of the work. The County will not pay the Contractor any amount in excess of the maximum compensation described in Article II, Section A, above. All amounts due to the Contractor in excess of the maximum compensation will be the sole responsibility of AGENCY.

### **III. Scope of Responsibilities**

- A. Under this Agreement, the responsibilities of AGENCY shall be as follows:
1. AGENCY shall provide all necessary supervisory and administrative support to assist the County with the completion of the Project.
  2. AGENCY shall obtain any easements or approvals necessary to allow access onto private property through the course of the Project. Acquisition of any easement shall be obtained pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended ("URA"). If assistance is needed for URA guidance, the County has a Right-Of-Way Acquisition Specialist.
  3. AGENCY shall provide architectural services for the design and construction oversight of the Project. Such services shall be provided at no cost to the County. AGENCY shall assume responsibility for ensuring the following:
    - a. AGENCY shall hire a registered professional Architect (herein after referred to as Architect) to prepare all plans and specifications necessary to publicly bid the Project for award to a construction contractor (herein after referred to as Contractor) and provide construction oversight of the Project. The Architect firm may donate staff time as well as donate materials for the Project.

- b. AGENCY shall require the Architect to maintain comprehensive general and automobile liability insurance (including contractual liability insurance) for personal injury and property damage for the protection of the County, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to Architect's or any of Architect's subcontractor's performance of this Agreement under the following provisions listed in the matrix below. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract.

Minimum Insurance Requirements For Contracts:

Reason for Contract:	Commercial General Liability:	Automobile Liability Commercial:	Professional Liability:
Consulting Services/ Professional	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000
Design Services	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000
Architects	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000
Professional Services	\$1,000,000/ \$2,000,000	\$1,000,000	\$1,000,000/ \$2,000,000

- c. AGENCY shall require the Architect to maintain professional liability insurance in an amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage in any way related to this contract. The Architect shall endeavor to use good faith in order to maintain in force such coverage for not less than three (3) years following completion of the Project. Such insurance shall provide 30 days written notice to the County in the event of cancellation, non-renewal, or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance. The insurance company will provide written notice to the County within thirty (30) days after any reduction on the general annual aggregate limit.
- d. AGENCY agrees to require the Architect to furnish the County evidence of the insurance required in Article III, Sections A.3 (b) and (c).
- e. AGENCY shall ensure that the Architect's responsibilities include, but are not limited to, the following:

- (1) During construction the Architect shall endeavor to guard the County against apparent defects and deficiencies in the permanent work constructed by the Contractor.
  - (2) All reports and recommendations concerning construction shall be submitted to the County for their approval. The County agrees that no decisions affecting construction shall be made without AGENCY approval.
  - (3) In the event modifications to the construction contract, which result in an increase in the contract amount, are made without the prior approval of the County, AGENCY shall be solely responsible for these modifications.
4. Upon completion of the Project improvements, AGENCY shall operate and maintain the improvements for public purposes for their useful life, subject to the limitations on the expenditure of funds by AGENCY as provided by Oregon statute.
5. AGENCY will bear the risk of loss from fire, extended coverage, and will purchase and maintain property insurance on all affected AGENCY property. AGENCY will bear the risk of loss from accidents coverable by owner's liability insurance and may, at its option, maintain such insurance.
6. AGENCY shall provide all necessary supervisory and administrative support to assist the County with the completion of the Project. AGENCY will submit to County for its approval all reports and recommendations concerning construction of Project. The County will submit to AGENCY for its approval all of County's decisions affecting construction. Both parties agree that their approval may not be unreasonably delayed, withheld or conditioned and will be deemed given within 15 business days of receiving written request for approval from the other party or its agent, if such party has not given written disapproval and the specific basis for same within such 15 day period.
7. Upon completion of the Project, the AGENCY:
  - a. Agrees to accept the improvements and take ownership and accept responsibility for any claims arising out of or related to the Project from that point forward;
  - b. Agrees to become the successor of the Project construction contract and assume all of the corresponding rights and responsibilities; and
  - c. Agrees to continue operating the Property as a congregate community.
8. AGENCY agrees to report to the County information on the race and head-of-household status for each client. The report shall cover the period between July 1 to June 30 for each year or partial year until completion of the Project. The report format shall be provided by the County and shall be submitted to the County no later than the 31st day of August, attached as ATTACHMENT A and incorporated by reference.
9. AGENCY agrees to maintain ownership of the Property for the life of the Project.
10. AGENCY agrees to inform the County in writing prior to making any change in the use of the Property. Should the new use not meet HUD eligibility criteria, and/or the

clients no longer meet the HUD income guidelines, AGENCY shall reimburse County as provided in 24 CFR Part 570.505. Said provision is attached as ATTACHMENT B and hereby made a part of this Agreement.

11. Should the Property be sold and converted to a non-qualifying use AGENCY agrees to reimburse the County as provided in 24 CFR Part 570.505.
12. AGENCY shall complete and submit a Matching Funds Report following completion of the Project, attached as ATTACHMENT D and incorporated by reference.

**B. Under this Agreement, the responsibilities of the County will be as follows:**

1. The County agrees to provide and administer available the CDBG Funds granted by the U.S. Department of Housing and Urban Development (“HUD”) to finance the Project, subject to the limitations contained in Section IV, below.
2. County shall conduct an environmental assessment of the Project as required in 24 CFR 570.604 of the CDBG.
3. The County will appropriately bid and contract for construction of the Project. In this Project construction contract, the County will act as the owner for purposes of administering the construction contract.
4. The County, with the advice of the AGENCY, will approve changes, modifications, or amendments as necessary to serve the public interest.
5. The County shall provide reasonable and necessary staff for administration of the Project. A Project Coordinator from the County’s Community Development Division will assist with the Project management, coordination and contract administration.
6. The responsibilities of the Project Coordinator shall include:
  - a. Prepare a Bid Packet to be advertised in a local contractor’s publication;
  - b. Conduct the Bid Opening on the date determined by all Parties;
  - c. Hire a General Contractor via the lowest responsible and responsive bidder;
  - d. Issue a Notice to Proceed after the Construction Contract is approved;
  - e. Conduct a Pre-Construction Conference with the General Contractor and AGENCY, and the Architect;
  - f. Coordinate with the Architect, AGENCY and General Contractor throughout General Contractor’s performance of the Project;
  - g. Administration of federal and state prevailing wage requirements;
  - h. Closeout Paperwork and all federal reporting requirements;
  - i. With the Approval of the Architect and both Parties;
    - (1) Make payment to the Contractor
    - (2) Release retainage funds to the Contractor as appropriate; and
  - j. Notify AGENCY of their responsibilities for all warranty related issues after the Release of Retainage.

**IV. Budget and Financial Responsibilities**

- A. The County will procure and manage the contract for construction of the Project pursuant to Article II, above. The obligations of the County are expressly subject to the County

receiving funds from HUD for the Project, and in no event shall the County's financial contribution exceed the amount finally granted, released and approved by HUD for this Project.

- B. Expenditure of the contingency funds will require joint approval of the County and AGENCY of a Change Order prepared by the Architect in accordance with the General Conditions of the construction contract. Any change orders will be handled in the following manner:
1. In the event that unforeseeable conditions arise which necessitate the execution of a change order, the County will instruct the Architect to execute a change order(s).
  2. Funds for the change order(s) shall be split 80% County and 20% AGENCY provided CDBG funds are still available of the amount in section A.
- C. AGENCY agrees to contribute the greater of:
1. Twenty percent (20%) of the total Project cost, or
  2. All costs which exceed available CDBG funds budgeted for the Project.
- D. In no event shall AGENCY financial participation be less than twenty percent (20%) of the Project costs. Project costs include final construction costs which are defined as original construction amount as well as approved change orders.
- E. In the event the Project can not be completed with available funds, the County and AGENCY will jointly determine the priorities of the improvements to be made within funding limits.
- F. In the event a contractor is entitled to payments for work completed above and beyond the amount of CDBG funds received from HUD for the Project, the County shall request a transfer of funds from AGENCY for the amount necessary to make such payments.
- G. AGENCY in payment of Project costs shall remit requested funds to the County's Community Development Division within Twenty-One (21) working days of the invoice by the County. All checks shall be made payable to Clackamas County and mailed to the following address:

Attn: \_\_\_\_\_  
Public Services Building-Department of Finance  
2051 Kaen Road, Fourth Fl.  
Oregon City, OR 97045

#### IV. **Liaison Responsibility**

\_\_\_\_\_ will act as liaison from AGENCY for the Project. \_\_\_\_\_ will act as liaison from the County for the Project.

#### V. **Special Requirements**

- A. Law and Regulations. The County and AGENCY agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.

- B. Relationship of Parties. Each party is an independent contractor with regard to the other party. Neither party is an agent or employee of the other. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- C. Indemnification. AGENCY shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, any act, omission, or neglect of AGENCY, its subcontractors, agents, or employees. AGENCY agrees to indemnify, hold harmless and defend County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of AGENCY or the AGENCY's employees, subcontractors, or agents.
- However, neither AGENCY nor any attorney engaged by AGENCY shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall AGENCY settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.
- D. Notice of Claims. Each party shall give the other immediate written notice of any action or suit filed or any claim made against the party which may result in litigation in any way related to this Agreement.
- E. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents shall be retained for a period of three (3) years after receipt of final payment under this Agreement; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.
- F. Access to Records. The County, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of AGENCY which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcripts.
- G. Debt Limitation. This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Obligations of the County are also expressly subject to the County receiving funds from HUD for this Project and in no event shall the County's financial contribution exceed the amount finally granted, released and approved by HUD for this Project.
- H. Conflict of Interest. No officer, employee, or agent of AGENCY or County who exercises any functions or responsibilities in connection with the planning and carrying out of the CDBG Program, or any other person who exercises any functions or



responsibilities in connection with the program, shall have any personal financial interest, direct or indirect, in the use of the funds provided pursuant to this Agreement, and the Parties shall take appropriate steps to assure compliance. The Parties will insure that no contractor, subcontractor, contractor's employee or subcontractor's employee has or acquires any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services.

- I. Insurance. AGENCY will bear the risk of loss from fire, extended coverage, and will purchase and maintain property insurance on all affected AGENCY property. AGENCY will bear the risk of loss from accidents coverable by owner's liability insurance and may, at its option, maintain such insurance. If applicable, AGENCY shall be required to maintain flood insurance. At the AGENCY's expense and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of the County, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. Each party agrees to maintain insurance, or self-insurance, in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.270.
- J. Nondiscrimination. AGENCY and the County agree to comply with all Federal, State, and local laws prohibiting discrimination on the basis of age, sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, familial status, or the presence of any mental or physical disability. These requirements are primarily specified in ORS Chapter 659A; Section 109 of the Housing and Community Development Act of 1974; Civil Rights Act of 1964, Title VII; Fair Housing Amendments Act of 1988; Executive Order 11063; Executive Order 11246; and Section 3 of the Housing and Urban Development Act of 1968; all as amended; and the regulations promulgated thereunder.
- K. Handicapped Accessibility. AGENCY agrees that all improvements made under this Agreement shall comply with standards set for facility accessibility by handicapped persons required by the Architectural Barriers Act of 1968, as amended. Design standards for compliance are contained in 24 CFR 8.31-32 and the document entitled Uniform Federal Accessibility Standards published by HUD in April, 1988 as a joint effort with other Federal agencies.
- L. Nonsubstituting for Local Funding. The CDBG Funds made available under this Agreement shall not be utilized by AGENCY to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of funds under this Agreement.
- M. Evaluation. AGENCY agrees to participate with the County in any evaluation Project or performance report, as designed by the County or the appropriate Federal department, and to make available all information required by any such evaluation process.
- N. Audits and Inspections. AGENCY will ensure that the County, the Secretary of HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to all books, accounts, records, reports, files, and other

papers or property pertaining to the funds provided under this agreement for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

- O. Acquisition. If completion of the Project requires acquisition of any real property the parties agree to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended.
- P. Change of Use. AGENCY agrees to comply with applicable change of use provisions contained in 24 CFR 570.505, attached as ATTACHMENT B and incorporated by reference.
- Q. Reversion of Assets. Upon expiration or termination of this Agreement, AGENCY shall transfer to County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Also for any real property under AGENCY control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 shall ensure said real property is either:
  - 1. Used to meet one of the National Objectives in 24 CFR 570.208 for the term of this Agreement; or
  - 2. Not used to meet on the National Objectives for the term of this Agreement, in which event AGENCY shall pay to County an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

## **VII. Term of Agreement**

- A. This Agreement becomes effective when it is signed by both Parties.
- B. The CDBG grant will closeout twenty (20) years from completion of the Project.
- C. The term of this Agreement is a period beginning when it becomes effective and ending ten (10) years after the CDBG closeout.
- D. This Agreement may be suspended or terminated prior to the expiration of its term by:
  - 1. Written notice provided by the County in accordance with 2 CFR 200, included as ATTACHMENT C, resulting from material failure by AGENCY to comply with any term of this Agreement;
  - 2. Mutual agreement by the County and AGENCY in accordance with 2 CFR 200;
  - 3. Either the County or AGENCY may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the party seeking the termination shall give the other party written notice of the breach and of the party's intent to terminate. If the breaching party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

- The party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
4. The County may terminate this Agreement in the event the County fails to receive expenditure authority sufficient to allow the County, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Project under this Agreement is prohibited or the County is prohibited from paying for such work from the planned funding source.
- E. Upon termination of this Agreement, any unexpended CDBG Funds shall remain with the County.

## **VIII. Additional Terms and Conditions**

### **A. Integration.**

This Agreement contains the entire agreement between AGENCY and the County and supersedes all prior written or oral discussions.

### **B. Severability**

If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

### **C. Oregon Law and Forum**

This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and AGENCY that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. AGENCY, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.

### **D. Waiver**

AGENCY and County shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach be of the same nature as that waived.

**E. Survival.**

All provisions in Sections [update when near final to confirm correct citations] shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.

**F. Necessary Acts.**

Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

**G. Time is of the Essence.**

Agency agrees that time is of the essence in the performance this Agreement.

**H. Successors in Interest.**

The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

**I. Force Majeure.**

Neither AGENCY nor County shall be held responsible for delay or default caused by events outside of the AGENCY or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, AGENCY shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

**J. No Attorney Fees.**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses

*[Signature Page Follows]*

The parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

**AGENCY**

**CLACKAMAS COUNTY**

ADDRESS

Commissioner Tootie Smith, Chair  
Commissioner Sonya Fischer  
Commissioner Paul Savas  
Commissioner Martha Schrader  
Commissioner Mark Shull

Signing on Behalf of the Board.

\_\_\_\_\_  
, Executive Director

\_\_\_\_\_  
Rodney A. Cook, Interim Director  
Health, Housing and Human Services  
Department

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# ATTACHMENT A

COMMUNITY DEVELOPMENT BLOCK GRANT  
 ANNUAL PERFORMANCE REPORT  
 FOR THE PERIOD: JULY 1, \_\_\_\_\_ TO JUNE 30, \_\_\_\_\_

Project Name: AGENCY – Project (#)

**Note:** Need data from June 30, through July 1,

Total Number Assisted (H or P)	Total of Columns C, D, and E	Income Categories			Female Headed Households
		Low/Mod (80% - 51%)	Very Low (50% - 30%)	Extremely Low (<30%)	
(A)	(B)	(C)	(D)	(E)	(F)

Females: \_\_\_\_\_

Males: \_\_\_\_\_

Persons with Disabilities: \_\_\_\_\_

Race Categories		Total #	# Hispanic
		(G)	(H)
(1)	White:		
(2)	Black/African American:		
(3)	Asian:		
(4)	American Indian/Alaskan Native:		
(5)	Native Hawaiian/Other Pacific Islander:		
(6)	American Indian/Alaskan Native & White:		
(7)	Asian & White:		
(8)	Black/African American & White:		
(9)	Am.Indian/Alaskan Native & Black/African Am:		
(10)	Other Multi-Racial:		

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Organization

## INSTRUCTIONS

### Total Number Assisted (Column A):

Enter the actual number of persons (or households) who received assistance. Indicate whether this number represents "households" or "persons" with either (H) or (P) respectively. Each household or person may be counted only once. The number of beneficiaries reported in Column A must reflect the total of the beneficiaries reported in Column G.

### Total Low/Mod (<80% MFI) (Column B):

The total number of lower income households or persons being served (total of Columns C, D, and E) should be entered in this column.

### Income Categories

Low/Mod (Column C) - The total number of persons or households assisted who have an annual household income of 51% to 80% Median Family Income.

Low (Column D) - The total number of persons or households assisted who have an annual household income of 30% to 50% Median Family Income.

Extremely Low (Column E) - The total number of persons or households assisted who have an annual household income of 30% Median Family Income or less.

### Female-Headed Household (Column F)

Enter the number of female-headed households. If "persons" assisted is reported in Column A rather than "households" assisted, leave this column blank.

### Race (Rows 1 through 10)

All persons/households served (including persons of Hispanic ethnicity) must indicate Race.

Enter the number of households or persons using the facility or service (Column G) who are the following:

White (Row 1) - A person having origins in any of the original peoples of Europe, North Africa, or the Middle East. This category will generally include persons of Hispanic ethnicity but other categories may be chosen as appropriate.

Black or African American (Row 2) - A person having origins in any of the black racial groups of Africa.

Asian (Row 3) - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent.

American Indian or Alaskan Native Origin (Row 4) - A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliations or community recognition.

Native Hawaiian or Other Pacific Islander (Row 5) – A person having origins in the Hawaiian Islands or other Pacific Islands.

American Indian or Alaska Native and White (Row 6)

Asian and White (Row 7)

Black or African American and White (Row 8)

American Indian or Alaska Native and Black or African American (Row 9)

Other Multi-Racial (Row 10) – The balance category will be used to report individuals that are not included in any of the single race categories or in any of the multiple race categories listed above.

### Ethnicity – Hispanic (Column H)

Enter the total number of persons or households within each Race Category who indicate origins in Mexico, Puerto Rico, Cuba, Central or South America or other Spanish culture or origin.

## ATTACHMENT B

### Excerpt from 24 CFR Part 570

#### **570.505 Use of real property.**

The standards described in this section apply to real property within the recipient's control which was acquired or improved in whole or in part using CDBG funds in excess of \$25,000. These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of an entitlement recipient's participation in the entitlement CDBG program or, with respect to other recipients, until five years after the closeout of the grant from which the assistance to the property was provided.

(a) A recipient may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made unless the recipient provides affected citizens with reasonable notice of, and opportunity to comment on, any proposed change, and either;

(1) The new use of such property qualifies as meeting one of the national objectives in 570.208 (**formerly 570.901**) and is not a building for the general conduct of government; or

(2) The requirements and paragraph (b) of this section are met.

(b) If the recipient determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a)(1) of this section, it may retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.

(c) If the change of use occurs after closeout, the provisions governing income from the disposition of the real property in 570.504(b) (4) or (5), as applicable, shall apply to the use of funds reimbursed.

(d) Following the reimbursement of the CDBG program in accordance with paragraph (b) of this section, the property no longer will be subject to any CDBG requirements.



## **ATTACHMENT C**

### **Excerpts from 2 CFR Part 200**

#### **2 CFR § 200.338 Remedies for noncompliance.**

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in § 200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or passthrough entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a passthrough entity, recommend such a proceeding be initiated by a Federal awarding agency).
- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies

#### **§ 200.339 Termination.**

(a) The Federal award may be terminated in whole or in part as follows:

- (1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
- (2) By the Federal awarding agency or pass-through entity for cause;
- (3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or
- (4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or passthrough entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

(b) When a Federal awarding agency terminates a Federal award prior to the end of the period of performance due to the non-Federal entity's material failure to comply with the Federal award terms and conditions, the Federal awarding agency must report the termination to the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS).

(1) The information required under paragraph (b) of this section is not to be reported to designated integrity and performance system until the non-Federal entity either—

(i) Has exhausted its opportunities to object or challenge the decision, see § 200.341 Opportunities to object, hearings and appeals; or

(ii) Has not, within 30 calendar days after being notified of the termination, informed the Federal awarding agency that it intends to appeal the Federal awarding agency's decision to terminate.

(2) If a Federal awarding agency, after entering information into the designated integrity and performance system about a termination, subsequently:

(i) Learns that any of that information is erroneous, the Federal awarding agency must correct the information in the system within three business days;

(ii) Obtains an update to that information that could be helpful to other Federal awarding agencies, the Federal awarding agency is strongly encouraged to amend the information in the system to incorporate the update in a timely way.

(3) Federal awarding agencies, shall not post any information that will be made publicly available in the nonpublic segment of designated integrity and performance system that is covered by a disclosure exemption under the Freedom of Information Act. If the non-Federal entity asserts within seven calendar days to the Federal awarding agency who posted the information, that some of the information made publicly available is covered by a disclosure exemption under the Freedom of Information Act, the Federal awarding agency who posted the information must remove the posting within seven calendar days of receiving the assertion. Prior to reposting the releasable information, the Federal agency must resolve the issue in accordance with the agency's Freedom of Information Act procedures.

(c) When a Federal award is terminated or partially terminated, both the Federal awarding agency or passthrough entity and the non-Federal entity remain responsible for compliance with the requirements in §§ 200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.

[78 FR 78608, Dec. 26, 2013, as amended at 80  
FR 43309, July 22, 2015]

## ATTACHMENT D

### CDBG Project Match Funds

**For reporting to HUD at the end of the year, indicate the specific sources and amounts of matching funds for the AGENCY Classroom Building Project:**

FY \_\_\_\_\_ CDBG Funds: \$ xxxxxxxx maximum

**SOURCES OF LOCAL MATCH:**

Other Federal (including pass-through funds, e.g. County CDBG, State FEMA, etc.)

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

**State/Local Governmental Funding (e.g. State Housing Trust Funds, Local Assessment, etc.)**

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

**Private (including recipient) Funding**

Fund Raising/Cash	\$ _____
Loans	\$ _____
Building Value or Lease	\$ _____
Donated Goods	\$ _____
New Staff Salaries	\$ _____
Volunteers (\$5/hr)	\$ _____
Volunteer Medical/Legal	\$ _____
Other	\$ _____

Prepared By:  
 (Print name)

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date



ATTACHMENT C

CLACKAMAS COUNTY
PERSONAL SERVICES CONTRACT
H3S Contract #XXXX

This Personal Services Contract (this "Contract") is entered into between ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of Name of the Department.

ARTICLE I.

- 1. Effective Date and Duration. This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on .
2. Scope of Work. Contractor shall provide the following personal services: ("Work"), further described in Exhibit A, Exhibit B, and Exhibit C.
3. Consideration. The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed Write Out Number dollars (\$ ), for accomplishing the Work required by this Contract. Consideration rates are on a [time and materials] [fixed fee] basis in accordance with the rates and costs specified in Exhibit A. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.
4. Invoices and Payments. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The invoices shall include the total amount billed to date by Contractor prior to the current invoice. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made in accordance with ORS 293.462 to Contractor following the County's review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not be obligated to pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

Invoices shall reference the above Contract Number and be submitted to:

- 5. Travel and Other Expense. Authorized: [ ] Yes [ ] No
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: https://www.clackamas.us/finance/terms.html. Travel expense reimbursement is not in excess of the not to exceed consideration.
6. Contract Documents. This Contract consists of the following documents, which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit A, (Scope of Work & Dental Equipment List), Exhibit B (Fee Schedule), and Exhibit C (Drawing of Dental Space).

7. Contractor and County Contacts.

Table with 2 columns: Contractor and County. Rows: Administrator: Contractor, Administrator: County

Phone: Email:	Phone: Email:
------------------	------------------

Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

**ARTICLE II.**

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor, which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time.
5. **COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
6. **GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.
7. **RESPONSIBILITY FOR DAMAGES; INDEMNITY.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be

caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall Contractor settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.

- 8. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.
- 9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. The insurance requirement outlined below do not in any way limit the amount of scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [procurement@clackamas.us](mailto:procurement@clackamas.us).

Required - Workers Compensation: Contractor shall comply with the statutory workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.027 or 656.126.
<input type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per claim, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per accident for Bodily Injury and Property Damage.

The policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

- 10. LIMITATION OF LIABILITIES.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Except for liability arising under or related to Article II, Section 13

or Section 20 neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.

- 11. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article 1, Section 6. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us). Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.
- 12. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. Notwithstanding the above, County shall have no rights in any pre-existing Contractor intellectual property provided to County by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for County use only.
- 13. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 14. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 11, 13, 14, 16, 21, and 27 and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.
- 15. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 16. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by

operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

- 17. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 18. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- 19. TERMINATIONS.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the County (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; or (B) if contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.
- Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to County all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.
- 20. REMEDIES.** If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the goods and services delivered and accepted by the County, less any setoff to which the County is entitled.
- 21. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 22. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 23. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.



**24. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by events outside the County or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

**25. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

**26. PUBLIC CONTRACTING REQUIREMENTS.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, Contractor shall:

- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
- c. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.
- d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
- f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.

**27. NO ATTORNEY FEES. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.

**28. [OPTIONAL] CONFIDENTIALITY.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor

will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by a breach of its data security or the confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

29. **[OPTIONAL] CRIMINAL BACKGROUND CHECK REQUIREMENTS.** Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.
30. **[OPTIONAL] KEY PERSONS.** Contractor acknowledges and agrees that a significant reason the County is entering into this Contract is because of the special qualifications of certain Key Persons set forth in the contract. Under this Contract, the County is engaging the expertise, experience, judgment, and personal attention of such Key Persons. Neither Contractor nor any of the Key Persons shall delegate performance of the management powers and responsibilities each such Key Person is required to provide under this Contract to any other employee or agent of the Contractor unless the County provides prior written consent to such delegation. Contractor shall not reassign or

transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the County with such Key Person's services unless the County provides prior written consent to such reassignment or transfer.

**31. [OPTIONAL] COOPERATIVE CONTRACTING.** Pursuant to ORS 279A.200 to 279A.225, other public agencies may use this Contract resulting from a competitive procurement process unless the Contractor expressly noted in their proposal/quote that the prices and services are available to the County only. The condition of such use by other agencies is that any such agency must make and pursue contact, purchase order, delivery arrangements, and all contractual remedies directly with Contractor; the County accepts no responsibility for performance by either the Contractor or such other agency using this Contract. With such condition, the County consents to such use by any other public agency.

**32. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (1) Contractor has the power and authority to enter into and perform this Contract; (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (4) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

- a. Performance Warranty. Contractor warrants that the goods provided to the County shall consistently perform according to the performance characteristics described in the Scope of Work.
- b. Service Warranty. Contractor warrants that the services provided herein to the County, if any, will be performed in a workmanlike manner and in accordance with the highest professional standards. Contractor's liability and County's remedy under this services warranty are limited to Contractor's prompt correction of such services, provided that written notice of such alleged defective services shall have been given by the County to Contractor. The County agrees to provide Contractor reasonable access to the goods for purposes of repair or replacement under this services warranty. Failure of Contractor to promptly correct problems pursuant to this Service Warrant shall be deemed a material breach of this Contract.

**33. DELIVERY.** All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the Contractor, unless specified otherwise in this Contract. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance, when responsibility shall pass to the County except as to latent defects, fraud and Contractor's warranty obligations.

**34. INSPECTIONS.** Goods and services furnished under this Contract will be subject to inspection and test by the County at times and places determined by the County. If the County finds goods and services furnished to be incomplete or not in compliance with the Contract, the County, at its sole discretion, may either reject the goods and services, require Contractor to correct any defects without charge, or negotiate with Contractor to sell the goods and services to the County at a reduced price, whichever the County deems equitable under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by the County, the County may reject the goods and services and cancel the Contract in whole or in part. Nothing in this paragraph shall in any way

affect or limit the County's rights as a Buyer, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.

**35. MERGER.** THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

Company Name

Clackamas County

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
XXXXXX

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name / Title (Printed)

Approved as to Form:

\_\_\_\_\_  
Oregon Business Registry #

\_\_\_\_\_  
County Counsel

\_\_\_\_\_  
Date

\_\_\_\_\_  
Entity Type / State of Formation

**EXHIBIT A  
PERSONAL SERVICES CONTRACT  
SCOPE OF WORK &  
DENTAL EQUIPMENT**

[Insert detailed scope of work]

[Insert equipment price list]

The County Contract administrator for this Contract is the \_\_\_\_\_ Division. For all authorized Change Order, a project specific department representative shall be identified for coordination of the work.

**EXHIBIT B  
PERSONAL SERVICES CONTRACT:  
FEE SCHEDULE**

**EXHIBIT C  
PERSONAL SERVICES CONTRACT:  
SPECIFICATIONS/DRAWING**