

March 21, 2024

BCC Agenda Date/Item: _____

Board of County Commissioners
 Clackamas County

Approval of an Intergovernmental Agreement with the Clackamas County Development Agency to continue administering a Housing Rehabilitation program for low-income homeowners in the North Clackamas Renewal Area. Agreement value is \$300,000 for five years. Funding is through the Development Agency North Clackamas Renewal Area funds. No County General Funds are involved.

Previous Board Action/Review	March 19, 2024 - Item presented at Issues November 27, 2019 - Board approval of a prior IGA agreement for the 2019-2024 program years.		
Performance Clackamas	This program increases the self-sufficiency for low-income homeowners in the NCRA and helps to ensure safe, healthy, and secure communities by increasing housing stability.		
Counsel Review	Yes	Procurement Review	No
Contact Person	Mark Sirois	Contact Phone	503-351-7240

EXECUTIVE SUMMARY: The Housing & Community Development Division (HCDD) of the Health, Housing and Human Services Department requests the approval of an Intergovernmental Agreement (IGA) with the Development Agency to continue the administration of the NCRA Housing Rehabilitation Program in the North Clackamas Revitalization Area (NCRA).

The Development Agency’s NCRA Housing Rehabilitation Program provides financial assistance through loans and grants to low-income homeowners in the NCRA. The Development Agency screens applicants for basic eligibility and forwards applications to the HCDD for further review. Homeowners work with HCDD Housing Rehabilitation Specialists to identify the specific home repairs needed, bid on the work, and select a contractor to do the work. The Development Agency approves each NCRA loan or grant and makes payments to the contractors.

Since July 1, 2022, the Development Agency NCRA Housing Rehabilitation Program has approved 6 loans and 8 grants for \$236,580 for home repairs to low-income homeowners in the NCRA.

This Agreement will provide HCDD \$60,000 annually to cover staffing expenses to administer the NCRA Housing Rehabilitation Program for five years, beginning July 1, 2024, and ending June 30, 2029. This Agreement does not cover funding for the grants and loans for this program; it only covers program administration costs incurred by HCDD.

RECOMMENDATION: The staff respectfully requests that the Board of County Commissioners approve this Agreement and authorize Chair Smith to sign on behalf of Clackamas County.

Respectfully submitted,

Rodney A. Cook

Rodney A. Cook
 Director of Health Housing and Human Services

For Filing Use Only

Healthy Families. Strong Communities.

2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

www.clackamas.us

**AN INTERGOVERNMENTAL AGREEMENT BETWEEN
CLACKAMAS COUNTY
AND
CLACKAMAS COUNTY DEVELOPMENT AGENCY**

I. Purpose

- A. This Intergovernmental Agreement (“Agreement”) is entered into by and between the Clackamas County, by and through its Housing and Community Development Division (“HCDD”), and the Clackamas County Development Agency (“Agency”) for the cooperation of units of local government under the authority of ORS 190.010.
- B. This Agreement provides the basis for a cooperative working relationship between HCDD and the Agency, with the common goal of developing, implementing and administering housing rehabilitation and homebuyer assistance (including financial assistance in the form of loans and grants) programs in the North Clackamas Revitalization Area (“NCRA”), herein collectively referred to as the program.

II. Scope of Cooperation

- A. Under this Agreement, the responsibilities of Agency shall be as follows:
 - 1. The Agency shall work with the HCDD to develop a specific list of responsibilities for program administration and shall update the list as necessary with the agreement of the HCDD.
 - 2. The Agency shall conduct telephone and online inquiries with potential applicants and provide application packages to interested parties.
 - 3. The Agency shall perform an initial screening of applications for program financial assistance and forward those meeting preliminary qualifications to HCDD for further processing and evaluation.
 - 4. The Agency shall work with the HCDD throughout the program financial assistance approval process and provide consultation and assistance as necessary during the review of applications.
 - 5. The Agency shall review HCDD recommendations for each program financial assistance application and inform the HCDD of the Agency’s approval or denial of each application and any conditions attached to a decision.
 - 6. The Agency shall provide consultation to the HCDD in the service of outstanding program financial assistance and shall provide direction for dealing with violations of financial assistance terms or requests for subordination.
- B. Under this Agreement, the responsibilities of the HCDD will be as follows:
 - 1. The HCDD shall work with the Agency to develop a specific list of responsibilities for program administration and shall update the list as necessary with the agreement of the Agency.

2. The HCDD shall conduct telephone and online inquiries with potential applicants, provide application packages to interested parties, and forward program applications to the Agency for initial screening.
3. The HCDD shall process and review program financial assistance applications to determine eligibility under program guidelines.
4. The HCDD shall provide personnel, such as Rehab Advisors, for rehabilitation financial assistance as required to assist applicants and carry out the program financial assistance approval process.
5. The HCDD shall work with the Agency throughout the program financial assistance approval process and consult with the Agency as necessary during the review of applications.
6. The HCDD shall inform the Agency of the results of each application review and provide the Agency with a recommendation of approval or denial.
7. The HCDD will service each outstanding program financial assistance until the financial assistance is repaid or forgiven, as applicable, and will inform the Agency of any violations of loan terms or requests for subordination.

III. Compensation

- A. Agency agrees to reimburse HCDD for all labor and expenses associated with the administration of the program in an amount not to exceed sixty thousand dollars (\$60,000.00) annually, with a total amount not to exceed amount of three hundred thousand dollars (\$300,000.00) for the 5 year term of the Agreement.
 1. Agency will reimburse HCDD each quarter for the amount of program financial assistance funds and for HCDD's actual costs, including labor, fringe, and overhead, associated with implementing and administering the program ("Administrative Costs").
 2. The obligations of Agency are expressly subject to Agency receiving funds for the program, and in no event shall Agency's financial contribution exceed the amount finally granted, released and approved for the program.
 3. Agency will reimburse HCDD for expenses for eligible household loans and grants on a per household basis separately from this Agreement in accordance with the approved Agency NCRA Housing Rehabilitation Program guidelines.
- B. Payments shall be made on requests for reimbursement submitted to Agency on a quarterly basis. Payment requests will detail labor and expenses for allowable Administrative Costs incurred during that quarter. All requests for payment are subject to the approval of Agency and shall be submitted to:

Ken Itel
Clackamas County Development Agency
150 Beaver Creek Road
Oregon City, OR 97045

IV. Liaison Responsibility

- A. Ken Itel, or such other individual as the Agency may designate from time to time, will act as liaison from the Agency.
- B. Mark Sirois, or such other individual as the HCDD may designate from time to time, will act as liaison from the HCDD.

V. Special Requirements

- A. The HCDD and the Agency agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.
- B. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the HCDD agrees to indemnify, save harmless and defend the Agency, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the HCDD has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the Agency agrees to indemnify, save harmless and defend the HCDD, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the Agency or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the Agency has a right to control.

- C. **Assignment and Subcontracting.** The HCDD shall undertake the work outlined in this Agreement and shall only assign portions of the work with written approval from the Agency.

D. Conflict of Interest.

- 1. **Interest of Officers, Employees, or Agents.** No officer, employee, or agent of the HCDD or the Agency who exercises any functions or responsibilities in connection with the planning and execution of activities under the Agency, or any other person who exercises any functions or responsibilities in connection with the program during their tenure or for one year thereafter, shall obtain a personal or financial interest in or benefit from this Agreement, or any contract,

subcontract or agreement arising therefrom, either for themselves or for persons with whom they have family or business ties without appropriate prior County waiver; and Agency shall take appropriate steps to assure compliance.

2. Interest of Certain Federal Officials. No member of or delegate to the Congress of the United States and no Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise hereunder.
- E. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- F. **Public Information.** The HCDD and the Agency shall cooperate in public information efforts, such as contacts with neighborhood or consumer advocacy organizations, press releases, etc. In all news releases and other public notices relating to activities under this Agreement the HCDD shall include information identifying the source of funds as the Clackamas County Development Agency.
- G. **Evaluation.** The HCDD agrees to participate with the Agency in any evaluation project or performance report, as designed by the Agency or the appropriate federal or state department, and to make available all information required by any such evaluations process.
- H. **Audits and Inspections by the Agency.** The HCDD will ensure that any duly authorized representative, as identified by the Agency, 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. The HCDD shall not be required to provide any information which in any way would deny the rights of confidentiality to a family or individual seeking or receiving assistance from the program.
- I. **Record and Fiscal Control System.** The HCDD agrees to comply with the policies, guidelines and requirements with respect to funds pursuant to this Agreement. All financial and programmatic records, supporting documents, statistical records, and other 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.
- J. **Access to Records.** The Agency, the HCDD, the State of Oregon and the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Agency and HCDD which are directly

pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcripts.

- K. **Citizen Participation.** The Agency and the HCDD shall compile and maintain records including narratives or other documentation describing the process used to inform citizens concerning the program.

VI. Amendment

- A. This Agreement may be amended at any time with the concurrence of both parties.
- B. Amendments become a part of this Agreement only after the written amendment has been signed by both Parties.

VII. Term of Agreement

- A. This Agreement shall be effective July 1, 2024 and will expire on June 30, 2029.

VIII. Default and Termination

- A. Default: The failure or delay by any party to perform any term or provision of this Agreement constitutes a default under this Agreement.
- B. Termination: This Agreement may be suspended or terminated prior to the expiration of its term by:
1. Either the HCDD or the Agency may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
 2. Either HCDD or the Agency may terminate this Agreement in the event of a default 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 default and of the party's intent to terminate. If the defaulting 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. Upon termination for default, each party shall have all rights and remedies available to it at law, in equity, or under this Agreement.

3. HCDD or the Agency 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 default shall not be deemed a waiver of any other default not expressly identified, even though the other breach is of the same nature as that waived.
4. Either party may terminate this Agreement in the event the terminating party fails to receive expenditure authority sufficient to allow that party, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance is prohibited.
5. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

IX. General Provisions.

- A. Merger Clause. This Agreement embodies the entire Agreement and understanding between the parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof.
- B. Assignment. No party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of all other parties.
- C. Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be effected or impaired thereby.
- D. Notices. Any notice herein required or permitted to be given shall be given in writing and shall be effective when actually received, and may be given by hand delivery or by United States mail, first-class postage prepaid, addressed to the parties as follows.

For the HCDD: Housing Rehabilitation Manager
 Housing and Community Development Division
 2051 Kaen Road, Suite 245
 Oregon City, OR 97045

For the Agency: NCRA Program Manager
 Clackamas County Development Agency
 150 Beaver Creek Road
 Oregon City, OR 97045

- E. 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.

- F. Counterparts. This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- G. 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.
- H. No Third-Party Beneficiary. Agency and HCDD are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement 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 Agreement.
- I. Debt Limitation. This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.

X. Prior Agreement Termination

- A. On or about 11/27/2019, the parties entered into an intergovernmental agreement ("Prior Agreement") for the same purposes as set forth in this Agreement. Upon the effective date of this Agreement, the Prior Agreement shall be terminated. Nothing herein shall be construed as a waiver, release, or discharge of any obligation accrued under the Prior Agreement before the date of execution of this Agreement.

[Signature Page Follows]

CLACKAMAS COUNTY

**CLACKAMAS COUNTY
DEVELOPMENT AGENCY**


Chair

Chair

Date

Date

Approved to Form:



County Counsel

02/29/2024
Date

Approved to Form:



County Counsel

2/28/24
Date