2015-CDBG-1505

**AGREEMENT**
BETWEEN

**CLARK COUNTY, Department of Community Services**
PO Box 5000, Vancouver, Washington 98666-5000, (360) 397-2130

AND

**TOWN OF YACOLT**
P.O. Box 160
Yacolt, WA 98675-0299

**DUNS #: 61-254-6408**

| | |
|---|---|
| **Program/Services Being Funded:** | **Recreation Park Walking Path** |
| Period of Performance: | Upon Signature through November 30, 2015 |
| Contract Period: | Upon Signature through December 31, 2015 |
| Budget Authority: | $25,000 |
| Funding Source: | Federal - HUD (CFDA #14.218) |

| Contractor Program Contact | Contractor Fiscal Contact | County Program Contact | County Fiscal Contact |
|---|---|---|---|
| Pete Roberts<br>(360) 686-3922<br>pete.roberts@<br>townofyacolt.com | Cindy Marbut<br>(360) 686-3922<br>townofyacolt@<br>centurytel.net | Samantha Whitley<br>(360) 397-2075 ext 7842<br>Samantha.whitley@<br>clark.wa.gov | Rhonda Hills<br>(360) 397-2075 ext 7836<br>rhonda.hills@<br>clark.wa.gov |

This Agreement consists of the following exhibits:
- Budget Summary
- Statement of Work
- Special Terms and Conditions

Clark County and the Town of Yacolt (the Contractor) agree to the terms and conditions of the County's Basic Interagency Agreement and this Agreement by signing below:

FOR CLARK COUNTY:

Mark McCauley, Acting County Manager

Date: 7/13/15

APPROVED AS TO FORM:

Clark County Deputy Prosecuting Attorney

FOR THE TOWN OF YACOLT:

Signature

Mayor
Title

Date: 7-6-15

**CDBG BUDGET SUMMARY**
**Yacolt Walking Path**

| Source | Fund Amount |
|---|---|
| A. Clark County CDBG Reprogrammed | $25,000 |
| B. Town contribution (in kind) | $ 5,000 |

| Itemized Cost | Total Cost | **A. County CDBG** | B. Town |
|---|---|---|---|
| **1. PROJECT COSTS** | | | |
| A. Construction | 27,250 | **25,000** | 2,250 |
| B. Engineer/Architect | 2,750 | | 2,750 |
| **PROJECT TOTALS** | 30,000 | **25,000** | 5,000 |

Match is 16.67% (5,000 / 30,000)

**STATEMENT OF WORK**
**Town of Yacolt**
**Recreation Park Walking Path**

**PROJECT DESCRIPTION**

The project will be undertaken within Yacolt's Recreation Park, which is located east of Spruce Avenue at the east end of Hoag Street. CDBG funds will be used to complete asphalt surfacing of the perimeter walking path. 400 feet of the 2300 foot path is currently completed.

All recreation improvements shall meet the standards for recreation facilities established by the United States Access Board, found at: http://www.access-board.gov/guidelines-and-standards/recreation-facilities. The pavilion, parking spaces, sidewalks, trail from the parking to the picnic tables, and restroom shall meet the Uniform Federal Accessibility Standards (49 FR 31528) (http://www.access-board.gov/ufas/ufas-html/ufas.htm).

The Contractor shall incorporate required federal contract language, provided by County, into the contract between the Town and Engineer. The Contractor shall provide a copy of the executed contract to the County.

In consideration of the benefits to be derived from this Contract, the County agrees to provide CDBG funds to the Contractor for the project described herein and in the Contractor's proposal and according to the project budget and terms in this Contract. The Contractor shall follow the procedures contained in the current edition of the Clark County CDBG Procedures Manual. In the event the Contractor fails to follow these procedures, the County may treat such as a breach of this Contract which shall be handled according to the Corrective Action section in the Basic Interagency Agreement.

**PERIOD OF PERFORMANCE, CONTRACT PERIOD AND EXPENDITURE SCHEDULE**

1. Subject to its other provisions, the Period of Performance and the Contract Period are as shown on the Contract face sheet, unless changed in a Contract modification or the Contract is terminated as provided in the Basic Interagency Agreement or in this Contract.

2. All services must be provided, all CDBG funds shall be expended, and all billable costs incurred within the Period of Performance. Billings shall be submitted in accordance with the schedule in the Payment Procedures section of the Special Terms and Conditions. The Contractor shall have until the final day of the Contract period to submit reports and complete non-billable end of contract activities.

**FUNDING ELIGIBILITY**

This project qualifies for CDBG funding under 24 CFR 570.201 (c) Public facilities and improvements under the Low/Mod Income Area National Objective. The project is located within the Town of Yacolt which is identified as a low/mod census place with 50.17% low and moderate income citizens identified by the 2006-2010 ACS data. Clark County's exception criteria is 44.55% in 2014.

**PROJECT BUDGET**

The County will provide the Contractor with funds in an amount not to exceed the amount shown on the Agreement face sheet and on the Budget Summary for purposes of completing the project described above. The use of these funds shall be expressly limited to the activities

described in this Agreement. The Contractor shall draw down County CDBG funds in proportion to other project funding.

**PAYMENT PROVISIONS**

1. The County will pay the Contractor on a cost reimbursement basis. The Contractor shall submit an invoice, including a quarterly summary of program progress and accomplishments, and other required documentation. The invoice shall include the following:

   a. A summary of expenses incurred in support of all cost reimbursement statements of work, by statement of work number, and accompanied by general ledger detail. However, the Statement of Work contains details of the specific billable items for this Contract and some of the requirements below may not apply.

      i. For direct costs, detail will include:

         - Salaries and benefits: name or employee ID number, salary/benefits paid, and dates;
         - Other direct costs: vendor names, dates of service and amount.

      ii. For allocated costs, the Contractor shall provide a copy of an allocation method or plan to the County for review and approval by the Department of Community Services Finance Staff prior to the first invoice being reimbursed. Approval will be in writing and copied to both the Contractor and the contract file. The Contractor will submit one of the following documents to meet this requirement:
         - Cost Allocation Plan that defines how direct, shared, and administrative costs are allocated; or
         - A Cost Allocation methodology that defines how direct, shared, and administrative costs are allocated.

      iii. For administrative costs, the Contractor shall comply with federal, state, and local regulations. The basis for administrative changes shall be OMB Circulars A-122 (Cost Principles for Non-Profits) and A-87 (Cost Principles for Local Governments). No administration costs are covered under this Contract.

   b. For services that are also funded by a third party, the Contractor shall provide a detailed cost itemization by cost center and funding source. Detail shall identify which service or work was funded by the County and by other parties.

2. Match Requirements. When approximately 50% of the CDBG funds have been expended and with each voucher thereafter, the Contractor shall document total match expenditures in proportion to the amount requested. At the conclusion of the project, match shall be equal to or greater than the amount shown on the Budget Summary. The required match may be cash or in kind.

3. Time of Payment. The County will make payment to the Contractor as soon as practicable but not more than 15 days after a complete and accurate invoice is received and approved by the Department of Community Services unless other acceptable payment arrangements are agreed to by the County and Contractor.

4. Payment Provisions for Construction Projects where Federal Labor Standards Apply, and Change Orders. For construction projects subject to Federal Labor Standards Provisions (Davis-Bacon), the County shall reserve the final 10% of grant funds budgeted on the construction line item (as specified in the Budget Summary) pending the County's receipt of a complete and correct set of certified payrolls from project contractor(s). The final billing for retainage shall include copies of all executed change orders and the final project cost.

**PROJECT SCHEDULE**
**Town of Yacolt**
**Recreation Park Walking Path**

The Contractor shall plan and administer the project in accordance with the Project Schedule.

| ACTIVITY | COMPLETION DATE |
|---|---|
| Design and bid document preparation | July 2015 |
| Bid invitation and contractor selection | July 2015 |
| Construction | October 2015 |
| Project close out | December 2015 |

## SPECIAL TERMS AND CONDITIONS
## COMMUNITY DEVELOPMENT BLOCK GRANT

The County is an urban county applicant for block grant funds under the Housing and Community Development Act of 1974 (the Act), Pub. L. 93-383 as amended, and receives block grant funds for the purpose of carrying out eligible community development and housing activities under the Act and under regulations published by the U.S. Department of Housing and Urban Development (HUD) at 24 CFR Part 570. The County and various cities within Clark County have agreed to cooperate in the undertaking of essential community development and housing assistance activities, and the County desires to have services performed by the Contractor as described within this Agreement and the Contractor's proposal for the purpose of implementing eligible activities under the Act and HUD regulations.

**ACCESS, MONITORING AND INSPECTIONS**

In addition to the monitoring requirements in the County Basic Interagency Agreement, and so that the County can comply with OMB circulars and state and federal grant requirements for monitoring, the County, and duly authorized officials of the State and Federal government, shall have the right of access to and the right to examine or transcribe any records, books, financial statements, papers and documents relating to the project. The records and documents with respect to all matters covered by this Agreement will be subject at all times to inspection, review or audit by the County, Federal or State officials so authorized by law during the performance of this Agreement and during the period of retention specified in these Special Terms and Conditions. This may include contracts and agreements the Contractor has with other entities in fulfillment of this Agreement.

**ACCESSIBILITY**

All work must conform to the International Code Council/American National Standards Institute A117.1-2003 Accessible and Usable Buildings and Facilities (Federal Register October 24, 2008 Page 63610 or 24 CFR Part 100).

**ACQUISITION AND RELOCATION**

1. Any acquisition of real property for any activity assisted under this Agreement which occurs on or after the date of the Contractor's submission of its CDBG application to the County will comply with Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (hereinafter referred to as the Uniform Act) (42 USC, Sections 4601 - 4655) and the regulations at 24 CFR 42, as provided in 24 CFR 570.606.

2. Any acquisition, demolition, or conversion to another use of real property assisted under this agreement shall comply with Section 104(d) of the Housing and Community Development Act of 1974 which requires the one-for-one replacement of all occupied or vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than low/moderate-income dwelling units.

3. Any displacement of persons, businesses, non-profit organizations or farms occurring on or after the date of the Contractor's submission of its CDBG application as the result of acquisition of real property assisted under this Agreement will comply with Title II of the Uniform Act and the regulations at 24 CFR 42. The Contractor will comply with the regulations pertaining to costs of relocation and written policies, as specified by 24 CFR 570.606. The Contractor shall notify the County at least 45 days before any acquisition, demolition or conversion of any housing unit when CDBG funds are involved.

**ADMINISTRATIVE REQUIREMENTS**

The Contractor shall comply with the following requirements and standards:

1. For governmental and public agencies:
   - OMB Circular A-87, "Cost Principles for State and Local Governments"
   - 24 CFR 85, "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments," as modified by 24 CFR 570.502(a)
   - OMB Circular A-133, "Audits of State and Local Governments and Non-Profit Organizations"

2. For non-governmental agencies:
   - OMB Circular A-122, "Cost Principles for Non-Profit Organizations"
   - 24 CFR 84, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," as modified by 24 CFR 570.502(b)
   - OMB Circular A-133, "Audits of State and Local Governments and Non-Profit Organizations"

**ANTI-LOBBYING**

By signing this Agreement the Contractor certifies that, to the best of its knowledge and belief:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of it, 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 the 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;

2. 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

3. It will require that the language of paragraph 1 and 2 of this anti-lobbying 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.

**COMMENCEMENT OF PROJECT**

Upon release of project-related funds by HUD pursuant to 24 CFR Part 58 (NEPA Environmental Review Procedures), No work on the project shall occur without a fully executed contract.

**CONFLICT OF INTEREST (24 CFR 570.611)**

1. Applicability
   a. In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, shall apply.

b. In all cases not governed by 24 CFR 85.36 and 84.42, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient or by its subrecipients to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to 24 CFR 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to 24 CFR 570.203, 570.204, 570.455, or 570.703(i)).

2. Conflicts prohibited. The general rule is that no persons described in paragraph 1 of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted under this Agreement, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from an activity assisted by these funds, or have a financial interest in any contract, subcontract, or agreement with respect to an activity assisted by these funds, or with respect to the proceeds of the activity assisted by these funds, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

3. Persons covered. The conflict of interest provisions of paragraph b. of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this Agreement.

**CONSTRUCTION DOCUMENTS**

1. The Contractor will submit to the County all project components that will be paid with CDBG funds, including plans, specifications, bid documents, RFPs, RFQs and estimates, for review and comment at least ten (10) working days prior to requesting bids for construction.

2. All specifications and drawings will be in conformance with current the engineering and design standards of the jurisdiction where the project is located, and with the general specifications set forth in the Contractor's application for this project. All plans, specifications, and drawings shall be completed, stamped and signed by a licensed professional architect, landscape architect, or engineer.

3. Any change in the scope of the project shall require a modification of this Agreement.

4. The Contractor shall obtain all necessary and appropriate land use permits, zoning approvals, and any other permits and approvals required by local, county, state and federal law.

5. The Contractor will appropriately bid, award the contract, and contract for construction of the project. The Contractor will assume the rights and responsibilities of owners of the project, except that the County will provide funds for the improvements generally described in this Agreement.

6. In the event not all improvements can be made with the project funds, the County, in consultation with the Contractor, shall determine the priority of the improvements to be made.

7. The Contractor will provide the County with one set of final record documents: the "As-Built" plans, which are stamped, certified, and signed.

**CONTRACTOR REGISTRATION**

The Contractor shall obtain a DUNS number and provide to the County, and the Contractor shall register with System for Award Management (SAM) https://www.sam.gov/portal/public/SAM/, in accordance with 48 CFR Part 4, Subpart 4.11.

**COPYRIGHT**

If this Agreement results in any copyright material, County reserves the right to royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the work for governmental purposes.

**DEBARMENT AND SUSPENSION**

1. The Contractor shall comply with subpart C of the OMB guidance in 2 CFR part 180, as supplemented by HUD at 2 CFR 2424, Nonprocurement Debarment and Suspension. The Contractor shall certify that neither it nor its principals, officers, employees and subcontractor(s) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. That information is available at: https://www.sam.gov/portal/public/SAM/#1

2. The Contractor shall provide written certification of the above to the County within thirty days of the start of this Contract, and maintain evidence of compliance in personnel files or with the subcontractor's documents.

**DOCUMENTS INCORPORATED BY REFERENCE**

In addition to the other documents and circulars referenced throughout this Contract, each of the documents listed below are by this reference incorporated into this Contract as though fully set forth herein, including any amendments, modifications or supplements thereto:

- The Basic Interagency Agreement with Clark County
- Contractor's proposal for CDBG funds
- CDBG Program Policies and Procedures, as now established or hereafter amended
- Current version of HUD income limits
- Environmental review record (ERR) for the project

**DUPLICATION OF COSTS**

The Contractor certifies that work performed under this Agreement does not duplicate any work to be charged against any other Agreement, Contract, Statement of Work, or other source.

**EMPLOYMENT VERIFICATION PROGRAM**

The Contractor shall register with the Department of Homeland Security (DHS) E-Verify program prior to starting work under this Contract. The Contractor shall enter into a Memorandum of Understanding (MOU) with the DHS E-Verify program, and submit the MOU to the County. When new employees are hired, the Contractor shall update the information on the E-Verify website, and at the end of the Contract, the Contractor shall submit the written documentation of the authorized employment status of their employees and those of any sub-

contractor(s) assigned to the Contract. E-Verify information and enrollment is available at the Department of Homeland Security web page: www.dhs.gov/E-Verify.

**ENTIRE AGREEMENT**

The parties agree that this Agreement is the complete expression of the terms hereto, and any oral representations or understanding not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of Agreement and cause for termination. The parties recognize that time is of the essence in the performance of this Contract. The parties agree that the forgiveness of non-compliance with any provision of this Agreement does not constitute a waiver of the provisions of this Contract.

**ENVIRONMENTAL REVIEW**

1. National Environmental Policy Act and Related Laws and Authorities as Implemented. Clark County has completed an environmental review for the project in accordance with the National Environmental Policy Act (NEPA), as implemented by HUD's Environmental Review Procedures (24 CFR 58). The ERR is made part of this Agreement by reference. The Contractor shall ensure that all activities related to this Agreement (including those that are paid for entirely with local or other funds) including property acquisition, construction, and use of the property/facilities are conducted in accordance with the project scope, as defined in the ERR, and in accordance with the conditions set out in the ERR.

2. Historical or Cultural Artifacts. In the event that historical or cultural artifacts are discovered at the project site during construction or rehabilitation, the Contractor or subcontractor shall immediately stop construction and notify the local historical preservation officer and the state historic preservation officer at the Washington Department of Archaeology and Historic Preservation at (360) 586-3065.

**FAITH-BASED ACTIVITIES**

The Contractor shall comply with the requirements of 24 CFR 470.200(j) and shall ensure that funds provided under this Agreement shall not be utilized for inherently religious activities such as worship, religious instruction, or proselytization.

**FISCAL AUDIT**

1. The Contractor shall comply with Generally Accepted Accounting Principles (GAAP) and/or Governmental Generally Accepted Accounting Principles (GGAAP) and meet the financial management systems requirements of the contract.

2. The requirement may be met either by submission of an annual independent auditor's report or by the submission of semi-annual financial reports based upon the mid-point and end of the Contractor's fiscal year, if an annual audit is not performed.

3. These reports shall be submitted within forty-five days of the mid-point and end of the Contractor's fiscal year. The financial reports shall include:

   a. Non-Profit Contractors – A Statement of Financial Position and Statement of Activities. A Statement of Changes in Net Assets and the Statement of Cash Flows shall also be provided at mid-point, if available. If not, at the end of the Contractor's fiscal year.

   b. For Profit Contractors – A Balance Sheet, Income Statement, and Statement of Cash Flows.

c. Public Entities are exempt from the semi-annual financial reporting requirement.

4. Copies of independent audit reports shall be submitted to the County. Copies of other financial records may be required.

5. If the Contractor expends $500,000 or more in federal funds during the fiscal year, an audit report may be required.

   a. Non-Profit Contractors and Public Entities – The audit report must meet OMB Circular A-133 requirements with assurances of financial record keeping that will enable identification of all federal funds received and expended by the OMB Catalog of Federal Domestic Assistance number. Revised OMB A-133 requires the Contractor to provide the auditor with a schedule of Federal Expenditure for the fiscal year(s) being audited. A-133 Audits for fiscal years that include this Agreement shall be completed and submitted to the County within nine months from the end of the Contractor's fiscal year unless otherwise approved by the County in writing.

   b. For Profit Contractors – An independent audit, an independent limited scope audit or other evidence negotiated with and approved by the County that provides positive assurance of meeting GAAP or GGAAP. Independent audits for fiscal years that include this Agreement shall be completed and submitted to the County within nine months from the end of the Contractor's fiscal year unless otherwise approved by the County in writing.

5. If applicable, the Contractor shall include a Corrective action plan for audit findings and a copy of any Management Letters. Failure to fulfill this requirement may result in corrective action, including withholding payment until the financial information or audit is received.

**INSURANCE**

1. At the execution of this contract, the Contractor must provide an original ACORD Form with the Commercial General Liability (CGL) Insurer or Business Owners Policy (BOP), or if materials for construction are present, a Builders All Risk Policy, all or either with broker of record, insurance limits(s), renewal dates, deductible less than or equal to $25,000 unless authorized otherwise by Risk Management), and $1,000,000 of annually renewing occurrence based coverage. A "Claims Made Policy" is not acceptable. In the case where the underlying insurance policy is expended due to excessive defense and/or indemnity claims, before renewal, the Contractor warrants and guarantees the coverage limit(s), to include indemnity and defense up to the listed limit, from its own resources regardless of coverage status due to cancellation, reservation of rights, or any other no-coverage-in-force reason. Coverage shall not contain any endorsement(s) excluding nor limiting contractual liability or cross liability.

2. At the execution of this contract, and assuming vehicles are used in the Contractor's business, an ACORD Form shall be provided with $1,000,000 in annually renewing occurrence based coverage for all vehicles owned, used, or leased by the Contractor. If vehicles are not used, on letterhead, a letter to Clark County must state the same. This coverage may be added to the above CGL, BOP, or Builders All Risk ACORD Form(s).

3. At the execution of this contract, Contractor shall provide proof of statutory workman's compensation insurance for all its employees that is acceptable and in compliance with Labor and Industries Workers' Compensation Division in the State of Washington. The Contractor will defend Clark County against any third party subrogation claims from Labor and Industries as if the injured Contractor employee belonged to Clark County, Washington.

4. The Contractor shall provide a fidelity insurance policy to protect against employee dishonesty and ensure that every officer, director, or employee who is authorized to act on behalf of the Contractor for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs is covered by fidelity insurance in an amount not less than the Contract total budget authority. The insurance must be secured for the term of the contract and must name the County as "Additional Insured." The certificate shall show the broker of record, insurance limits, renewal dates, and the coverage must include employee theft per loss, employee theft per employee, and theft (disappearance and destruction).

5. The Contractor shall require any architect, engineer, land surveyor, or other licensed professional to obtain and maintain a professional Errors and Omissions insurance policy to protect against legal liability arising out of Contract activity. Such insurance shall provide a minimum of $1,000,000 per occurrence, with a $3,000,000 aggregate, with a maximum deductible of $25,000. It should be an occurrence based policy. However, if the policy is a claims-made policy, then tail coverage must be provided for three years after the end of the contract or completion of the project. This coverage is exempt from the above stated "Additional Insured" endorsement.

6. The Contractor shall purchase and maintain fire and extended coverage insurance policies for all structures improved or constructed with funds under this Contract. The fire and extended coverage insurance policies shall be in the amount of 100% of the insurable value of the structure and improvements.

7. The Contractor shall purchase ALTA title insurance for any property purchase made under this agreement. Title insurance shall name the Contractor and the County, and shall be in an amount not less than the amount of CDBG funds provided under this agreement.

8. The Contractor shall purchase an ALTA Extended Coverage 1970 form (with 1984 amendments) loan policy of title insurance in the amount of the loan. The policy shall name the County as beneficiary.

9. It is the Contractor's responsibility to provide evidence of continuing coverage during the overlap periods of the policy and the Contract and to notify the County of any change in its insurance.

10. Additional Insured: The Contractor agrees to endorse Clark County as an "Additional Insured" on the Commercial General Liability Policy (CGL), BOP, or Builders All Risk policies with the following, or similar endorsement providing equal or broader additional insured coverage, the CG2026 07 04 Additional Insured – Designated Person or Organization endorsement; or the CG2010 10 01 Additional Insured – Owners, Contractor, or Subcontractor or the CG2010 07 04 Contractor or Subcontractor endorsement, including the "additional insured" endorsement of CG2037 10 01 Additional Insured – Owners, Contractor, or Subcontractor – Completed Operations, shall be required to provide back coverage for the Contractor's "your work" as defined in the policy and liability arising out of

the products-completed operations hazard. The Additional Insured Endorsement shall read "Clark County Washington".

11. All insurers used must have an AM Best's Rating of A-VII or better. The Contractor shall provide its own insurance protection at its own expense for any property (contents or personal property) maintained on the premises. In addition, Contractor shall insure the real property and all fixtures and improvements for its full insurable replacement value against loss or damage by fire and other hazards included within the term "extended coverage." All policies and renewals on the real property shall be in a form and with a carrier acceptable to Clark County. Clark County shall be the named insured. The address for all certificates will be written as follows: Clark County Washington, PO Box 5000, Vancouver, WA 98666-5000.

12. Should the Contractor provide an umbrella or excess coverage for any of the associated coverage(s), they shall be written in a "Follow Form" manner and Clark County Washington shall be listed and endorsed as an additional insured.

13. Clark County Washington reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverage's and/or endorsements, or to reject any insurance policies which fail to meet any one or more of the criteria stated herein. This ability to selectively reject may also include the capacity and or financial position or reputation of the insurer. Should Clark County not receive the ACORD form renewal during the active project, payment to the Contractor may be held up or suspended until coverage with an additional insured endorsement is reestablished.

**INTERPRETATION OF CONTRACT**

In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state statutes and regulations
- Special Terms and Conditions contained in this Agreement
- Statement of Work in this Agreement
- Exhibits or attachments indicated in this Agreement
- Contractor's proposal for CDBG funds
- CDBG Program Policies and Procedures, as now established or hereafter amended
- The Basic Interagency Agreement with Clark County
- Current version of HUD income limits
- Any other material incorporated herein by reference

**LABOR STANDARDS**

The Contractor will require that project construction contractors and subcontractors pay their laborers and mechanics minimum wage rates in accordance with the Davis-Bacon Act (40 USC Sections 3141-3144, 3146, and 3147) and HUD requirements as pertinent to such contracts and the applicable requirements of the regulations of the Department of Labor under 29 CFR Parts 3 and 5, governing the payment of wages and the ratio of apprentices and trainees to journeymen; provided that if wage rates higher than those required under such regulations are imposed by state or local law, nothing hereunder is intended to relieve the Contractor of its obligation, if any, of the requirements of 29 CFR 5.5.

Washington state law, RCW 39.12, also contains standards for determining when a project is a public work for the purposes of state law and the payment of prevailing wages. The Contractor shall be responsible for the payment of prevailing wages if applicable. The Contractor, by its

signature on this agreement, agrees to defend and hold harmless the County from any claims based on alleged failure to pay prevailing wages.

**LEAD-BASED PAINT**

Housing assisted with CDBG funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 USC 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 4851-4856) and implementing regulations at 24 CFR 35.

**NONDISCRIMINATION**

1. General. The Contractor will comply with all federal, state and local laws prohibiting discrimination on the basis of age, sex, sexual orientation, gender identity, marital status, race, color, national origin, religion, disability, or familial status. These requirements are specified in Section 109 of the Housing and Community Development Act of 1974 (42 USC Section 5309); Civil Rights Act of 1964, Title VII (42 USC Section 2000e); Civil Rights Act of 1968, Title VIII (Fair Housing Act) (42 USC Sections 3601 - 3639); Executive Order 11063 (Equal Opportunity in Housing); Executive Order 11246, as amended (Equal Employment Opportunity); Age Discrimination Act of 1975; Architectural Barriers Act of 1968 (42 USC 4151, et seq.); Americans with Disabilities Act (42 U.S.C. 12101, et seq.); Federal Register, February 3, 2012, Page 5661, Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity; and Section 3 of the Housing and Urban Development Act of 1968, and 24 CFR 570.601.

2. Program Benefit. The Contractor will not discriminate against any resident of the project service area by denying benefit from or participation in any block grant funded activity on the basis of race, color, sex, sexual orientation, gender identity, national origin, disability, age, marital status and familial status. (Civil Rights Act of 1964, Title VI; Civil Rights Act of 1968, Title VII; Architectural Barriers Act of 1968; Americans with Disabilities Act; Section 109, Housing and Community Development Act of 1974; Section 504, Rehabilitation Act of 1973 as amended; Federal Register, February 3, 2012, Page 5661, Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity).

3. Fair Housing. The Contractor will take necessary and appropriate actions to prevent discrimination in federally assisted housing and lending practices related to loans insured or guaranteed by the federal government (Civil Rights Act of 1968, Title VIII) (Fair Housing Act) (42 USC Sections 3601 – 3639). The Contractor's website shall contain a link to the County's Fair Housing information:
http://www.clark.wa.gov/commserv/fairhousing/index.html

4. Employment. In all solicitations under this Agreement, the Contractor will state that all qualified applicants will be considered for employment. The words "equal opportunity employer" in advertisements will constitute compliance with this section.

5. The Contractor will not discriminate against any employee or applicant for employment in connection with this Agreement because of age, marital status, and familial status, except when there is a bona fide occupational limitation. The Contractor will not refuse to hire, employ or promote, or bar, discharge, dismiss, reduce in compensation, suspend, demote, or discriminate in work activities, terms or conditions because an individual has a physical or mental disability in any employment in connection with this Agreement unless it can be shown that the particular disability prevents the performance of the work involved. Such action will include, but not be limited to the following: Employment, upgrading, demotion or

transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training. (Executive Order 11246, as amended.)

6. Contractors and Suppliers. No contractor, subcontractor, union or vendor engaged in any activity under this Agreement will discriminate in the sale of materials, equipment or labor on the basis of age, sex, sexual orientation, marital status, race, creed, color, national origin, disability, and familial status. No contractor, subcontractor, union or vendor engaged in any activity under this Agreement will refuse to hire, employ or promote, or bar, discharge, dismiss, reduce in compensation, suspend, demote or discriminate in work activities, terms or conditions because an individual has a physical or mental disability in any employment in connection with this Agreement unless it can be shown that the particular disability prevents the performance of the work involved. Such practices include upgrading, demotion, recruiting transfer, layoff, termination, pay rate, and advertisement for employment. (Executive Order 11246 as amended)

7. Limited English Proficiency. The agency shall take necessary and appropriate actions to assist clients with limited English proficient persons, Executive Order 13166 and the HUD Notice "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient (LEP) Persons" (Federal Register, January 22, 2007 pages 2731- 2754).

The Contractor shall provide each applicant, participant, and beneficiary of activities funded by the agreement with information to apprise such persons of the protections against discrimination covered by the above Acts, Executive Orders, and regulations. The HUD 928.1 Notice found online at:
http://www.hud.gov/utilities/intercept.cfm?http://www.hud.gov/offices/fheo/promotingfh/928-1.pdf
and the Clark County ADA and Section 504 of the Rehabilitation Act of 1973 Notice provide such information.

**NONPARTICIPATION IN POLITICAL ACTIVITIES**

The Contractor 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 the Hatch Act, Chapter 15 of Title V, United States Code.

**NON-SUBSTITUTION FOR LOCAL FUNDING**

The Contractor shall not use funds provided under this Agreement to supplant local, state or other federal funds. The Contractor shall not use these funds to replace funding that would otherwise be made available to the Contractor had this funding not been provided.

**OPERATING BUDGET**

The Contractor will apply the funds received from the County under this Agreement in accordance with the Budget Summary and the Statement of Work. Any itemized cost category expenditure that will exceed 10% of its allocated CDBG funding will require an Agreement modification. Requests for budget revisions will be in writing and will specifically state the reasons for the requested increase and, if applicable, a justification for the corresponding decrease in another category.

**OPERATION/MAINTENANCE**

1. The Contractor agrees to maintain and operate the project/facility for eligible activities pursuant to HUD regulations. In the event the Contractor fails to so maintain and operate the project, the County may, at its option, take possession of the project and operate and maintain it for any lawful purpose. The subcontracting of any operation and maintenance functions is subject to the subcontracting provisions of the Basic Interagency Agreement.
2. The Contractor shall operate such facilities so as to be open for the use of the general public during all normal hours of operation, and will not charge a fee that would restrict low income persons from using the facility.

**PROCUREMENT STANDARDS**

The project was funded by the Urban County Policy Board based on the information supplied in the Contractor's 2015 CDBG application.

In awarding contracts pursuant to this Agreement, the Contractor will comply with all applicable requirements of local and state law for awarding contracts, including but not limited to procedures for competitive bidding, contractor's bonds, and retained percentages. In addition, the Contractor will comply with the requirements of Uniform Administrative Requirements as described in 24 CFR 570.502, and 24 CFR 86.36 or 24 CFR 84.84, as applicable.

A cost or price analysis shall be made and documented in connection with every procurement action, and shall be submitted to the County for review. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices, and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

**PROGRAM INCOME**

The Contractor shall follow the requirements of 24 CFR 570.500 and 504 regarding program income. The receipt and expenditure of program income shall be recorded as a part of the financial transactions of the project(s) funded under this Agreement. Program income shall be reported with each voucher request and substantially disbursed for the benefit of the project(s) funded by this Agreement. The County shall determine whether income is being used to continue or benefit a project or projects authorized by this Agreement. Program income remaining when the Agreement expires, or received after the Agreement's expiration, shall be repaid to the County.

Despite the termination or expiration of this Contract, the Contractor shall retain records of program income as long as program income is generated by a CDBG financed activity, subject to state and federal record retention schedules.

**PROJECT ADMINISTRATION AND COORDINATION**

The Contractor will appoint a liaison who will be responsible for overall administration of block grant funded project(s) and coordination with the County. The Contractor shall notify the County of the name and contact information. The Contractor will also designate one or more representatives who will be legally authorized to sign the Invoice and any other forms which may be required.

The project will be coordinated by Contractor staff and in compliance with 24 CFR 570.502 (Applicability of uniform administrative requirements). The Contractor will perform all necessary

and customary functions in the management and supervision of Contractor personnel for all work performed under the Agreement. The Contractor will be responsible for compensation of Contractor staff with Contractor funds for all work performed under this Agreement.

**PROPERTY MANAGEMENT**

The Contractor, as a subgrantee, agrees that any real property, equipment or supplies purchased wholly or in part with program funds will be managed under the same guidelines applicable to the County, the grantee, in accordance with 24 CFR 570.505 (Use of real property), 24 CFR 85.32 (Equipment), and 24 CFR 85.33 (Supplies).

**PUBLIC INFORMATION**

1. In all news releases and other public notices related to projects funded under this Agreement, the Contractor should include information identifying the source of funds as the Clark County Community Development Block Grant Program.

2. During construction projects, the Contractor shall erect a durable and adequately visible sign at the construction site, identifying the source of funds. Sign specifications may be found in the *Clark County CDBG Procedures Manual.*

3. The Contractor shall place a plaque permanently in the highest foot traffic area readily visible to the public. The minimum size should be 12" by 12". The plaque should identify the funding sources, the project name, and the year constructed.

**RECORDS**

In the event the Contractor sponsors multiple projects, each project will be maintained under a separate file system and kept in a manner recommended by the County. The Contractor will maintain all records identified in the Required Records section of this Contract, in accordance with 24 CFR 570.506 (Records to be maintained).

**REPORTING**

1. The Contractor will submit quarterly progress reports. The reports will be due to the County on the 15th day after the end of the quarter, starting with the quarter in which the Contract was signed. The dates are:

   1st Quarter – January, February, March - due April 15th
   2nd Quarter – April, May, June - due July 15th
   3rd Quarter – July, August, September - due October 15th
   4th Quarter – October, November, December - due January 15th

2. The Contractor will provide documentation to the County at project completion showing that the project activities were completed in accordance with this Agreement.

3. In addition to the records referred to in the Records Section of this Contract, the Contractor will maintain records of the hours worked and rates of compensation for all personnel performing work under this Contract. These records will be kept for a period of seven years from the date of the submission of the final performance report under this Contract.

4. The Contractor will provide documentation to the County at project completion showing that the sources and value of its contribution to the project are equal to those specified in the Budget Summary in the Statement of Work.

5. The Contractor will perform all necessary and appropriate community information activities as directed by the County.

**REQUIRED RECORDS**

1. Financial Management - Such records will identify adequately the source and application of funds for activities within this Agreement, in accordance with the provisions of 24 CFR 85.20. These records will contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

2. Citizen Participation - Narrative and other documentation describing the process used to inform citizens concerning the amount of funds available, the ranges of project activities undertaken, and opportunities to participate in funded block grant projects.

3. Relocation - Indication of the overall status of the relocation workload and separate relocation record for each person, business, organization, and farm operation displaced or in the relocation workload.

4. Equal Opportunity – The Contractor shall maintain and provide records containing the following information for each applicant and each assisted person:
   - Name of the household or person assisted;
   - Income category (i.e. very low-income (0-30% of MFI), low-income (31 to 50% of MFI), or low/mod-income (50 to 80% of MFI));
   - Racial/ethnic data (White, Black/African American, Asian, American Indian/ Alaskan Native, Native Hawaiian/Other Pacific Islander, American Indian/Alaskan Native & White, Asian & White, Black/African American & White, American Indian/Alaskan Native & Black/African American, Other/multi-racial);
   - The above racial/ethnic categories shall also document Hispanic or non-Hispanic;
   - Gender data;
   - Female head of household; and
   - Disability

   This is to show the extent people have participated in, or benefited from, the activities carried out under this Agreement.

   The Contractor will also maintain data which records its affirmative action in equal opportunity employment, and its good faith efforts to identify, train, and/or hire lower-income residents of the project area and to utilize businesses that are located in or owned in substantial part by persons residing in the area of the project.

   The Contractor shall provide the County a copy of its latest Equal Employment Opportunity Commission, State and Local Government Information (EEO-4), EEOC Form 164.

5. Compensation Paid - Records of the hours worked and rates of compensation for all personnel performing work under this Agreement.

6. Property Acquisition – If the project involves property acquisition, the Contractor's files must contain the following records:

   a. Official Determination to Acquire - A citation of the action that constitutes the official determination to acquire, the date of the action, and the applicable HUD grant number.

b. Notice of Intent to Acquire the Property - A copy of the notice, citation of the date of transmittal to owner, and evidence of receipt by the owner.
c. Invitation to Accompany Appraiser - Evidence that owner was invited to accompany each appraiser on his inspection of the property.
d. Appraisal Reports - A copy of each appraisal report, on which determination of just compensation was based.
e. Review Appraisal - Arrange for a review appraisal to assure appraisal meets applicable standards.
f. Determination of Just Compensation - A copy of the resolution, certification, motion or other document constituting the determination of just compensation.
g. Purchase Offer - A copy of written purchase offer of just compensation, including all basic terms and conditions of such offer, and a citation of the date of delivery to the owner.
h. Purchase Agreement, Deed, Declaration of Taking, Tenant Waivers - A copy of each such document and any similar or related document utilized in conveyance.
i. Settlement Cost Reporting Statement - A copy of the statement.
j. Purchase Price Receipt - Evidence of owner receipt of purchase price payment.
k. Ninety Days Notice to Surrender Possession of Premises - A copy of the notice. As an alternative, a copy of this notice may be included in the relocation or property management files.
l. As provided in 24 CFR 570.606, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and HUD's implementing regulations in 24 CFR 42 apply to all real property acquisition by a grantee for an assisted program activity, regardless of the source of funding for the acquisition itself.

7. Miscellaneous - Such other records as may be required by the County and/or HUD.

**RETENTION OF RECORDS**

Required records will be retained for at least a period of seven years from the date of the submission of the final performance report in which the activity is covered, except as follows:

1. Records that are the subject of audit findings will be retained for the minimum period or until such audit findings have been resolved, whichever is later.

2. The retention period for real property and equipment records starts from the date of the disposition, or replacement, or transfer at the direction of HUD.

3. Any record with a longer retention schedule for purposes of public records disclosure under RCW 42.17.

**REVERSION OF ASSETS**

Upon expiration of this Agreement, the Contractor shall transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. It shall also include provisions designed to ensure that any real property under the Contractor's control that was acquired or improved in whole or in part with CDBG funds in excess of $25,000 is either:

1. Used to meet one of the national objectives in 24 CFR 570.208, until five years after expiration of the Agreement, or for a longer period of time as determined appropriate by the grant recipient; or

2. Disposed of in a manner that results in the County being 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, or improvement to, the property.

**SECTION 3 – ECONOMIC OPPORTUNITIES**

1. The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701 (hereafter "Section 3"), and the implementing regulations at 24 CFR 135 (Economic Opportunities For Low- And Very Low-Income Persons). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. As evidenced by its execution of this Contract, the Contractor certifies that it is under no contractual obligation or other impediment that would prevent it from complying with the Part 135 regulations.

3. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 clause, and shall post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice should contain: (1) the number of jobs and the job titles subject to hire, (2) availability of apprenticeship and training positions and qualifications for each; (3) the name and location of the person(s) taking applications for each of the positions; and (4) the anticipated date the work shall begin.

4. The Contractor agrees to require this Section 3 clause in every subcontract subject to compliance with 24 CFR 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that a subcontractor is in violation of 24 CFR 135. The Contractor shall not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in to be in violation of 24 CFR 135.

5. By its signature to this Contract, the Contractor certifies that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the Contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR 135.

6. Noncompliance with 24 CFR 135 may result in sanctions, termination of this Contract, and debarment or suspension from future HUD-assisted contracts.

**TERMINATION**

1. Termination of this Contract shall follow the provisions of the Basic Interagency Agreement unless the termination occurs for convenience in which case the procedure below shall be followed.

2. If the County receives fewer funds than anticipated from the funding sources for this Contract, the County will allocate the reduction proportionately among the contractors.

3. Disposition of Grant Funds upon Termination. Upon termination of this Contract any unexpended balance of Contract funds will remain with the County. If termination occurs for cause, the Contractor shall immediately and without notice of presentment return to the County all funds that were expended in violation of the terms of this Contract.

4. Termination for Convenience. Except as otherwise provided in this Contract, the County may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, the County shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.