

CLARK COUNTY STAFF REPORT

DEPARTMENT: Community Services

DATE:

REQUESTED ACTION:

Signature by County Manager

Consent
 Hearing
 County Manager

BACKGROUND

This contract is with Reach Community Development, Inc. for the Isabella Court Apartments project in the amount of \$252,037. This project will consist of 49 units of newly-constructed affordable housing at 3112 NE 62nd Avenue in Vancouver, WA. All units will be restricted to households with residents aged 62 and older with incomes at or below 60% of area median income.

COUNCIL POLICY IMPLICATIONS

There are no council policy implications.

ADMINISTRATIVE POLICY IMPLICATIONS

There are no administrative policy implications.

COMMUNITY OUTREACH

A Request for Application was published October 2012 and October 2013 for HOME Investment Partnerships Program projects. In March of 2013 and 2014, the Urban County Policy Board, in a public meeting, selected this project for funding. In 2013 and 2014, a newspaper advertisement described the project and requested public comments during a 30-day comment period. The projects were presented to the Board of County Commissioners for approval and public comment. No public comments were received and the Board of County Commissioners approved the project.

BUDGET IMPLICATIONS

YES	NO	
X		Action falls within existing budget capacity.
	X	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
	X	Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

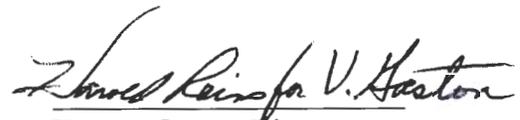
BUDGET DETAILS

Local Fund Dollar Amount	\$0
Grant Fund Dollar Amount	\$252,037
Account	HOME grant, Fund 1938
Company Name	Reach Community Development, Inc

DISTRIBUTION:

Board staff will post all staff reports to The Grid. <http://www.clark.wa.gov/thegrid/>


Pete Munroe, Program Manager


Vanessa Gaston, Director

APPROVED: _____
CLARK COUNTY, WASHINGTON
BOARD OF COUNTY COUNCILORS

DATE: _____

SR# _____

APPROVED: 
Mark McCauley, Acting County Manager

DATE: 7/30/15

BUDGET IMPACT ATTACHMENT – N/A

Part I: Narrative Explanation

I. A – Explanation of what the request does that has fiscal impact and the assumptions for developing revenue and costing information

Part II: Estimated Revenues

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Total						

II. A – Describe the type of revenue (grant, fees, etc.)

Part III: Estimated Expenditures

III. A – Expenditures summed up

Fund #/Title	FTE's	Current Biennium		Next Biennium		Second Biennium	
		GF	Total	GF	Total	GF	Total
Total							

III. B – Expenditure by object category

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Salary/Benefits						
Contractual						
Supplies						
Travel						
Other controllables						
Capital Outlays						
Inter-fund Transfers						
Debt Service						
Total						

**CONTRACT
BETWEEN**

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

AND

REACH CDC
4150 SW Moody Avenue
Portland, OR 97239

DUNS: 118754522

Program Being Funded:

Isabella Court Apartments

Period of Performance:

Upon Signature through December 31, 2016

Contract Period:

Upon Signature through January 31, 2017

Budget Authority:

\$252,037

Funding Source:

Federal - HUD (CFDA #14.239)

Contractor Program Contact	Contractor Fiscal Contact	County Program Contact	County Fiscal Contact
Ben Sturtz 503-501-5727 bsturtz@reachcdc.org	Jessica Woodruff 503-501-5735 jwoodruff@reachcdc.org	Pete Munroe (360) 397-2075 ext. 7801 Pete.munroe@clark.wa.gov	John Jokela (360) 397-2075 ext. 7883 John.jokela@clark.wa.gov

This Agreement consists of the following exhibits:

- Budget Summary
- Statement of Work
- Special Terms and Conditions

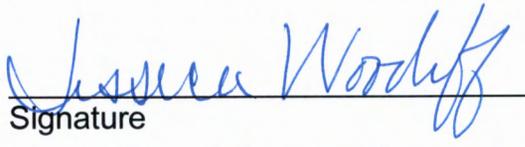
Clark County and REACH CDC (the Contractor) agree to the terms and conditions of the County's Basic Interagency Agreement and this Contract by signing below:

FOR CLARK COUNTY:

FOR REACH CDC:



Mark McCauley, Acting County Manager

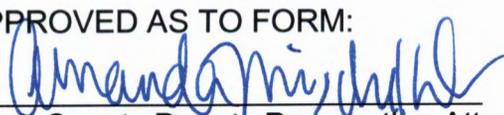


Signature

Date: 7/30/15

Director of Development

Title

APPROVED AS TO FORM:


Clark County Deputy Prosecuting Attorney

Date: 7/14/15

HOME BUDGET SUMMARY
Isabella Court Apartments

Source		Amount
A.	HOME CHDO Funds - Clark County	252,037
B.	Washington State Housing Trust Fund	4,058,799
C.	Low-Income Housing Tax Credits (LIHTC)	4,738,559
D.	REACH	200,000
E.	City of Vancouver HOME	205,765
F.	Tax Exempt Bonds	3,094,537
TOTAL		12,549,697

Itemized Cost	Total Cost	A. County HOME	B. HTF	C. LIHTC	D.* REACH	E. Vancouver HOME	F.* Tax Exempt Bonds
PROJECT COSTS							
1. Acquisition	\$326,100		326,100				
2. Construction	\$8,020,078	252,037	599,890	4,738,559	50,000	205,765	2,173,827
3. Soft Costs	\$2,721,608		1,650,898		150,000		920,710
4. Financing Costs	\$807,250		807,250				
5. Capitalized Reserves	\$175,000		175,000				
6. Other**	\$499,661		499,661				
PROJECT TOTALS	\$12,549,697	252,037	4,058,799	4,738,559	200,000	205,765	3,094,537

**Permit fees, impact/mitigation fees, real estate tax

2014-HOME-14H1
STATEMENT OF WORK
Isabella Court Apartments

PROJECT DESCRIPTION

- A. The proposed Isabella Court project will consist of 49 units of affordable housing newly constructed at 3112 NE 62nd Avenue in Vancouver, Washington. The project is located on the northern portion of a 3.41 acre site. The plan is to have an additional phase of the project on the site in the future. All units will be restricted to households with residents 62 years and older with incomes at or below 60% of area median income.
- B. The project will contain one efficient four-story, secure entry building. The project includes 46 one-bedroom units, 3 two-bedroom units, and one manager unit. At least 10% of the units will be fully accessible with 100% of the units ADA-adaptable enabling seniors to age in place as their needs change. This includes wide doorways, bathrooms and kitchens with clearances, and cabinetry designed to be easily removed when a unit needs to be wheelchair adaptable. There will be a range of accessible showers and transfer tubs. The development is surrounded by accessible walkways.
- C. The development includes a community room with kitchen and open layout that can adapt to a variety of group activities. All common areas will incorporate universal design principles to ensure they are safe and appropriate for an aging population. Measures to help those residents with mobility limitations maintain their independence will include various informal seating/resting areas with views outside and handrails in the halls and common areas.
- D. The building will be a secure entry building. Interior windows from the corridor into the community room and management offices will encourage participation and engagement for residents. Commons areas are located near the elevators to encourage use and social interaction. All flooring will be smooth resilient surface allowing for greater mobility and fewer trip hazards. Attention will be made to lighting and color transitions to also ensure fewer trip hazards in units and in common areas.
- E. In consideration of the benefits to be derived from this Agreement, the County agrees to provide HOME funds to the Contractor for construction of the project described herein and in the Contractor's proposal and according to the project budget and terms in this Agreement.
- F. The subsidiary of the community housing development organization may be a for-profit or nonprofit organization and must be wholly owned by the community housing development organization. If the limited partnership or limited liability company agreement permits the community housing development organization to be removed as general partner or sole managing member, the agreement must provide that the removal must be for cause and that the community housing development

organization must be replaced with another community housing development organization.

PERIOD OF PERFORMANCE, CONTRACT PERIOD AND EXPENDITURE SCHEDULE

- A. 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.

- B. All services must be provided, all HOME 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.

PROJECT BUDGET

- A. The County will provide the Contractor with funds in an amount not to exceed the amount shown on the first page of the Contract, and on the Budget Summary, for purposes of completing the project described herein. The use of these funds shall be expressly limited to the activities described in this Contract.

- B. Construction shall be completed within four years of the date of final signature on this Contract.

- C. Any reduction in the total budget authority will be done after consultation with the Contractor and will require a modification of this Agreement. Any funds unspent at the end of the Agreement period will be retained by the County for allocation to another HOME project.

LOAN TERMS

These funds are provided to the Contractor as a loan. The terms are one and one-half percent interest for 30 years with minimum payments of \$1,500 per year. The first 20 years shall be the HOME Program affordability period. The last 10 years shall be a local affordability period.

UNDERWRITING AND SUBSIDY LAYERING GUIDELINES

Clark County has reviewed the Project Development Budget to ensure that the costs being funded by the HOME Program are eligible and the HOME funds per unit do not exceed the maximum per-unit subsidy limits. The Operating Pro-Forma has also been reviewed and cash flow projections appear to be reasonable given current economic conditions. The subsidy analysis has been completed following the procedures in the Clark County HOME policies. The number of Clark County HOME-assisted units will be two.

PAYMENT PROVISIONS

- A. 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:

- i. 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.
 - a. 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.
 - b. 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.
 - c. 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.
 - ii. 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.
- B. Construction Costs: Cost of construction of the new apartments. The Contractor may request 50% of the funding when 55% of the project has been completed and the final 50% can be requested when the occupancy permit has been received by the Contractor.
- C. Match Requirements. The Contractor shall document total match expenditures with each voucher.
- D. Time of Payment. The County will make payment to the Contractor as soon as practicable but not more than 15 days after said invoice is received and approved by the Department of Community Services unless other acceptable payment arrangements are agreed to by the County and Contractor.

- E. 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
PROJECT: Isabella Court Apartments

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

<u>ACTIVITY</u>	<u>COMPLETION DATE</u>
Financial closing	October 2015
Construction start	December 2015
Construction complete	November 2016
Leasing completed	December 2016

SPECIAL TERMS AND CONDITIONS HOME INVESTMENT PARTNERSHIP PROGRAM

The County is a participating jurisdiction applicant for HOME Investment Partnership Program funds under the Cranston-Gonzalez National Housing Affordable Housing Act of 1990 (the Act), Pub. L. 93-383, as amended, and receives HOME funds for the purpose of carrying out eligible housing activities under the Act and under regulations issued by the Department of Housing and Urban Development (HUD) under 24 CFR Part 92. The County and various cities within Clark County have agreed to cooperate in the undertaking of essential 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).

New construction or rehabilitation projects shall have a minimum of five percent of the total project units (but not less than one) accessible to persons with mobility impairments and an additional two percent minimum of the units (but not less than one) accessible to persons with sensory impairments.

ADMINISTRATIVE REQUIREMENTS

The Contractor shall comply with the following additional requirements and standards related to administration:

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 92.505
- 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 92.505
- OMB Circular A-133, "Audits of State and Local Governments and Non-Profit Organizations"

AFFORDABILITY / HOME UNIT RENTS

1. This project has two, one-bedroom Clark County HOME-assisted units. For properties with five or more HOME rent assisted units, at least 20% of HOME-assisted units shall not exceed the Low Home Rents and the remaining HOME rent assisted units cannot have rents exceeding the High Home Rents. There are an additional two City of Vancouver-funded HOME units and 13 state-funded HOME units.

Clark County HOME Assisted Units				Total Project Units
High HOME Rent	Low HOME Rent	Fixed/Floating Units	Other Units	
2	0	Floating	47	49

2. The Contractor shall provide the County with the address of each HOME-assisted unit by the time the occupancy permit is obtained.
3. The Contractor shall annually inspect each HOME unit and the Contractor shall provide the County with certification that the unit is suitable for occupancy.
4. The County will inspect the HOME units during construction, at project completion, and every three years thereafter throughout the affordability period. The County will charge a reasonable rental monitoring fee during the period of affordability.
5. The length of the HOME affordability period is 20 years, and the HOME affordability period terminates December 31, 2036.
6. HOME rental units must achieve initial occupancy within 18 months of project completion. If the units are not leased within six months, the Contractor shall report marketing efforts and, if requested by the County, submit an enhanced marketing plan.

7. Income Threshold. All funds used for rental housing shall assist households who have an annual income that is 60% of the area median income or less. Annually, Clark County shall provide updated HOME program maximum income and rent limits as established by the U.S. Department of Housing and Urban Development.
8. If the tenant pays utilities, the maximum allowable HOME rents charged to HOME assisted units shall be reduced by the amount of tenant paid utilities. The Contractor may use only utility allowances prepared by the Vancouver Housing Authority, and utility allowances shall be updated annually.
9. Review of Tenant Income. The Contractor shall, on an annual basis, collect, review and maintain tenant income information and provide a copy to the County. At move in and every sixth year, the Contractor shall examine source documents evidencing annual income for the family. This will include at least two months of source documentation.
10. Annual Review and Approval of Rent. The County will review HOME assisted units rents annually and must approve any rent increase for HOME assisted units.
11. Increases in Household Income. Households whose incomes rise above 60% of the AMI shall pay a rent not greater than 30% of their income for housing provided a) the rent they pay does not exceed the Fair Market Rent (FMR) established by HUD and b) the amount they pay for rent is not less than the greater of their current rent or the monthly rent that was set in their prior year's lease agreement. Adjusted income shall be calculated according to the rules for the Section 8 Program. Any resulting increase in rent is subject to the provisions of outstanding leases, and in any event, households shall be given not less than thirty days prior written notice of any increase.
12. During the affordability period, the Contractor will first offer the County-funded HOME units to individuals living outside the City of Vancouver but within Clark County or the City of Woodland.
13. Recaptured or Repaid HOME Funds. Any repaid or recaptured HOME funds must be returned to the County. The affordability requirements will be imposed by deed restrictions and covenants.

CERTIFICATION REGARDING LOBBYING

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

1. 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 the Contractor, a Member of Congress, an officer or employee 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 the Contractor, 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.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
4. 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. 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.

COMMENCEMENT OF PROJECT

Upon release of project-related funds by HUD pursuant to 24 CFR Part 58 (Environmental Review Procedures), the County will furnish the Contractor with written notice to proceed. No work on the project shall occur prior to the Notice to Proceed without prior written approval from the County.

CONFLICT OF INTEREST

1. Interest of Officers, Employees, or Agents. The Contractor shall ensure that no employee, agent, consultant, elected or appointed official, or officer who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities may obtain a financial interest or financial benefit from a HOME-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.

2. No owner, developer, or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor) whether private, for-profit or nonprofit (including a community housing development organization (CHDO) when acting as an owner, developer, or sponsor) may occupy a HOME-assisted affordable housing unit in a project during the required period of affordability specified in §92.252(e) or §92.254(a)(4). This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.

CONSTRUCTION DOCUMENTS

1. The Contractor will submit to the County all project components, including plans, specifications, bid documents, RFPs, RFQs and estimates that will be paid with HOME funds for review and approval at least ten (10) working days prior to requesting bids for construction.
2. All specifications and drawings will be in conformance with current 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. 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.
4. Energy Star Appliances. All appliances in HOME-assisted units shall have earned the Energy Star rating (Energy Star appliances).
5. 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.
6. Inspections. The County shall be invited to all construction progress inspections or will approve a third-party independent inspector.
7. The Contractor will provide documentation to the County at project completion showing that the project activities were completed in accordance with this Agreement and the specifications of the Construction Documents, and will provide a copy of the cost certification.

COPYRIGHT

If this Agreement results in any copyright material, the 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>.
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 Clark County HOME Project Application
- 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 Contract is the complete expression of the terms hereto, and any oral representations or understanding not incorporated herein are excluded. Further, any modification of this Contract shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both 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 Contract does not constitute a waiver of the provisions of this Contract.

ENVIRONMENTAL REVIEW

1. Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by Clark County of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part §58. The parties further agree that the provision of any funds to the project is conditioned on Clark County's determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review.
2. The Contractor agrees it shall not undertake or commit any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and the Contractor agrees that the violation of this provision may result in the denial of any funds under the agreement.
3. The construction contract may not be executed until the completion of the environmental clearance and written advice from Clark County to proceed with the project and/or proceed with execution of the contract.
4. 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 Department of Archaeology and Historic Preservation at (360) 586-3065.
5. Historic Preservation. The Contractor will meet the historic preservation requirements of Public Law 89-665 and the Archeological and Historic Preservation Act of 1974 (Pub. L. 93-291) and Executive Order 11593, including the procedures prescribed by the Advisory Council on Historic Preservation in the Regulations at 36 CFR Part 800. Activities affecting property listed in or found to be eligible for inclusion in the National Register of Historic Places will be subject to the requirements set forth in the HUD Environmental Review Procedures at 24 CFR Part 58.

FAITH-BASED ACTIVITIES

The Contractor shall comply with the requirements of 24 CFR 92.257 and shall ensure that funds provided under this Agreement shall not be utilized for inherently religious activities such as worship, religious instruction, or proselytization.

FIRE PROTECTION AND SAFETY STANDARDS

Any HOME housing assistance including multi-family housing units of less than four stories and single family housing shall be protected by a hard-wired or battery operated smoke detector installed in accordance with NFPA 72. Section 31(e) of the Fire Administration Authorization Act of 1992 (P.L. 102-522) provides that the Federal requirements mandated by the Act shall apply, unless the State or local jurisdiction in which the property is located has more stringent prevention and control standards.

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:
 - i. 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.
 - ii. For Profit Contractors – A Balance Sheet, Income Statement, and Statement of Cash Flows.
 - iii. 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.
 - i. 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 contract 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.

- ii. 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 contract 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.

6. 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.

HOUSING QUALITY STANDARDS

1. Housing that is assisted with HOME funds shall, at a minimum, meet the housing quality standards of 24 CFR 982.401. In addition, housing that is newly constructed or substantially rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances.
2. Housing rehabilitated with HOME funds shall meet all applicable local codes for rehabilitation, and the Clark County Housing Rehabilitation Policies and Procedures and General Conditions and Standards.
3. The following are considered suitable for HOME-assisted housing: built-in dishwasher, washer/dryer, refrigerator, stove, air conditioner, and furnace. Blinds, draperies, furniture, lamps, icemakers, stand-alone freezers, jetted bathtubs, and other such items are not eligible for HOME funding.

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 \$1,000,000 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. 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.
8. 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".
9. 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. The address for all certificates will be written as follows: Clark County Washington, PO Box 5000, Vancouver, WA 98666-5000.
10. 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.
11. 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 contract
- Contractor's Clark County HOME Project Application
- The Basic Interagency Agreement with Clark County
- Current version of HUD income limits
- Any other material incorporated herein by reference

LABOR STANDARDS

The Contractor shall ensure that every contract for the construction (rehabilitation or new construction) of housing that includes 12 or more units assisted with HOME funds contains a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 USC 276a-276a-5) to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 USC 327-332). The wage provisions apply to any construction contract that includes a total of 12 or more HOME-assisted units, whether one or more than one project is covered by the construction contract. Once they are determined to be applicable, the wage provisions must be contained in the construction contract so as to cover all laborers and mechanics employed in the development of the entire project, including portions other than the assisted units. Arranging multiple construction contracts within a single project for the purpose of avoiding the wage provisions is not permitted. 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 Chapter 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 POISONING

Housing assisted with HOME 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.

LOW-INCOME HOUSING TAX CREDIT PROJECTS

If HOME funds are provided at below the market interest rate, to qualify for the 9% credit, at least 40% of the assisted units must be reserved for households with incomes at or below 50% of the area median income; all remaining units must be leased to households at or below 60% of area median income.

Otherwise, at least 20% of the units must serve households with incomes at or below 50% of area median income (to meet HOME requirements) and remaining units must meet the tax credit limit (50 or 60% area median income).

For units to qualify as both LIHTC and HOME-assisted units, rents cannot exceed either program limit. Low HOME rent units are subject to Low HOME rents and LIHTC limits and High HOME rent units are subject to High HOME rents and LIHTC.

NATIONAL FLOOD INSURANCE

The Contractor may not receive HOME funding for acquisition or construction for use in any area that has been identified as having special flood hazards and is not participating in the National Flood Insurance Program, as provided by Section 3(a) and 202(b) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and the Regulations thereunder (44 CFR 1 and 24 CFR 92.352).

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; Civil Rights Act of 1964, Title VI; Civil Rights Act of 1968, Title VIII; Executive Order 11063; Executive Order 11246; Age Discrimination Act of 1975; Architectural Barriers Act of 1968; Americans with Disabilities Act; 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. Specifically, the Contractor is prohibited from taking any discriminatory actions defined in the HUD Regulations at 24 CFR 6.
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; Title II of the Cranston-Gonzales National Affordable Housing Act; Federal Register, February 3, 2012, Page 5661, Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity; and the Rehabilitation Act of 1973 as amended).

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 as amended, Executive Order 11063, as amended by Executive Order 12259, implemented at 24 CFR 107.) The Contractor's website shall contain a link to the County's Fair Housing information:
<http://www.clark.wa.gov/commserv/fairhousing/index.html>. The contractor will also ensure that the Equal Housing Opportunity notice is posted in the leasing office and include the Equal Housing Opportunity logo in information or advertisements for this project.
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. Limited English Proficiency. The Contractor 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).
6. Section 3
 - A. The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 (hereafter "Section 3"). 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.
 - B. The Contractor shall comply with HUD's regulations in 24 CFR 135, which implement Section 3. As evidenced by its execution of this Agreement, the Contractor certifies that it is under no contractual obligation or other impediment that would prevent it from complying with the Part 135 regulations.
 - C. 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.

- D. 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.
- E. By signature to this Agreement, the Contractor certifies that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the Agreement 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.
- F. Noncompliance with 24 CFR 135 may result in sanctions, termination of this Agreement, and debarment or suspension from future HUD-assisted contracts.

The Contractor shall provide each applicant, participant, and beneficiary of activities funds by this Agreement with information to apprise such persons of the protections against discrimination covered by the above Acts, Executive Orders, and regulations. The HUD Notice 928-1 found online at: <http://www.hud.gov/utilities/intercept.cfm?http://www.hud.gov/offices/ftheo/promotingfh/928-1.pdf> and the Clark County ADA and Section 504 of the Rehabilitation Act of 1973 Notice as attached 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 (USC Title V, Chapter 15).

NON-SUBSTITUTION FOR LOCAL FUNDING

The Contractor shall not use funds provided under this Contract 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. Any itemized cost category expenditure subtotal that will exceed 10% of its allocated HOME 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

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.

PROCUREMENT

The project was funded by the Urban County Policy Board based on the information supplied in the Contractor's HOME Project 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 Uniform Administrative Requirements as described in 24 CFR 92.504 and with Executive Order 11246 - Nondiscrimination in Employment by Government Contractors and Subcontractors.

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 92.503 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 HOME financed activity, subject to state and federal record retention schedules.

PROJECT

1. For purposes of this Agreement, "Project" means a site together with any buildings or sites upon which the building or buildings are located, that are under common ownership, management, and financing, and are to be assisted with HOME funds,

under a commitment by the owner. It includes all the activities associated with the site and building.

2. Housing that accounts for less than one hundred percent of the dwelling units in a project qualifies as affordable housing if it meets the affordability criteria set established at 24 CFR 92.252 or 92.254. Each building in the project must contain housing that meets these standards.

PROMISSORY NOTE, DEED OF TRUST AND COVENANT

The Contractor shall enter into a Promissory Note, Deed of Trust and Covenant with the County that runs with the land for the HOME period of affordability, for repayment of the loan and shared equity. The Deed of Trust shall require the Contractor to operate the facility for the original purpose for which it received HOME funds.

The Deed of Trust and Promissory Note will impose conditions, including the maintaining of property insurance to full insurable value of the structure, which the County determines are necessary to protect the HOME funds. The Contractor shall keep the property free and clear of all other charges, liens, or encumbrances impairing the security of the Deed, subject to encumbrances created pursuant to this Contract and shown in the budget attached to this agreement, any loan documents related to the project, and regulatory agreements related to the sources of the financing.

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 HOME Investment Partnership Program.
2. During construction projects, the Contractor shall erect a durable and adequately visible sign at the construction site, identifying the source of funds.
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 Agreement, in accordance with 24 CFR 92.508.

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 Agreement was signed. The dates are:

- 1st Quarter – January, February, March - due on April 15th
2nd Quarter – April, May, June - due on July 15th
3rd Quarter – July, August, September - due on October 15th
4th Quarter – October, November, December - due on 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 Agreement, if construction is covered by the Davis-Bacon Act, the Contractor will maintain records of the hours worked and rates of compensation for all personnel performing work under this Agreement. These records will be kept for a period of six years from the date of the submission of the final performance report under this Agreement.
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. 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);
 - Hispanic or non-Hispanic for the above racial/ethnic categories;
 - Gender data;

- Female head of household; and
- Disability status.

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 and provide 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.

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

RESERVES

1. Replacement Reserve. Borrower shall establish and maintain a reserve account from Property rents ("Replacement Reserve") for the replacement of building components, including appliances and mechanical systems. The Replacement Reserve shall be maintained in a separate interest-bearing account unless otherwise approved in writing by County. Any funds withdrawn from the Replacement Reserve shall be used solely for replacement of building components for the Property.
2. Operating Reserve. Borrower shall establish and maintain a reserve account from Rents ("Operating Reserve") for operating costs. Funds in the Operating Reserve, including interest, shall not be used for any other purpose. The Operating Reserve shall be maintained in a separate interest-bearing account unless otherwise approved by County. All funds withdrawn from the Operating Reserve shall be used solely for operating costs of the Property not covered by Property revenues.

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.

SURVIVABILITY

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

TENANT PROTECTION

1. The lease between a tenant and an owner of rental housing assisted with HOME funds must be for not less than one year, unless by express mutual agreement between the tenant and the owner, and may not contain any of the provisions enumerated at 24 CFR 92.253 (Tenant and Participant Protections). The Contractor shall adopt a written tenant selection policy and criteria that meets the requirements of 24 CFR 92.253.
2. An owner may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing; or for other good cause. To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of the tenancy.
3. Rental project owners are prohibited from charging fees that are not customarily charged in rental housing, except that rental owners may charge reasonable application fees to prospective tenants, parking fees (only if such fees are customary for rental housing projects in the neighborhood) and fees for services, as long as the services are voluntary and fees are charged for services provided.
4. The lease may **not** contain any of the following provisions:
 - a) Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
 - b) Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;
 - c) Excusing owner from responsibility. Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
 - d) Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
 - e) Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the

opportunity to present a defense, or before a court decision on the rights of the parties;

- f) Agreement by the tenant to waive any right to a trial by jury;
- g) Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
- h) Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

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.