

**RESOLUTION 2024-C**

**A RESOLUTION OF THE TOWN OF EATONVILLE, WASHINGTON,  
APPROVING FUNDING DOCUMENTS IN SUPPORT OF THE EATONVILLE  
GENERATOR PROJECT FOR FOOD BANK AND SENIOR LUNCHESES**

**WHEREAS**, the Town of Eatonville has obtained federal funding for the installation of a Generator at the Eatonville Community Center in the amount of \$235,455; and

**WHEREAS**, Pierce County is the pass-through entity for the Eatonville Generator Project through the Community Development Block Grant (CDBG) program administered by the U.S. Department of Housing and Urban Development; and

**WHEREAS**, the Town is obligated to execute certain documents to ensure timely distribution of the CDBG funds, including an agreement with Pierce County Human Services and subrecipient covenant agreement; now, therefore;

**THE TOWN COUNCIL OF THE TOWN OF EATONVILLE, WASHINGTON,  
HEREBY RESOLVES AS FOLLOWS:**

**THAT:** The Mayor is authorized to execute on behalf of the Town, the Community Service Programs Contract for Public Facility Improvements with Pierce County Human Services, attached hereto as Exhibit A.

**PASSED** by the Town Council of Town of Eatonville and attested by the Town Clerk in authentication of such passage this 8<sup>th</sup> day of January 2024.


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David Baublits, Mayor

ATTEST:

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Miranda Doll, Town Clerk

 <b>Pierce County</b>		<b>HUMAN SERVICES: COMMUNITY SERVICE PROGRAMS</b> <b>CONTRACT FOR PUBLIC FACILITY IMPROVEMENTS</b>	
<b>Title:</b>	Eatonville Generator for Food Bank and Senior Lunches	<b>Contract Number:</b>	SC-110690
<b>Start Date:</b>	7/01/2023	<b>End Date:</b>	06/30/2025
		<b>Fiscal Year:</b>	2021
<i>The County reserves the right to extend this Agreement for additional periods. The decision to extend is subject to the availability of funding, the continued priority of need for a specific service, and satisfactory performance by the Subrecipient during the period specified in this Agreement. Notification of intent to extend Agreement for additional periods with the Subrecipient will occur prior to the expiration of this Agreement.</i>			
<b>ALN(s):</b>	14.218	<b>FAIN(s):</b>	B-21-UC-53-002
<b>TOTAL CONTRACT FUNDING NOT TO EXCEED:</b>		<b>\$235,455.00</b>	
<b>Total Amount Per Fund Source</b> – Fund sources are broken down and identified due to spending restrictions on each one.		<b>CDBG (HUD)</b>	
		\$235,455.00	
<b>Subrecipient:</b>	Town of Eatonville		
<b>Mailing Address:</b>	PO BOX 309, Eatonville, WA 98328-0309		
<b>Contact Name:</b>	Seth Boettcher	<b>Title:</b>	Town Administrator
<b>Phone:</b>	360 832-3361 X105	<b>Email:</b>	sboettcher@eatonville-wa.gov
<b>Fiscal Contact:</b>	Miranda Doll	<b>Email:</b>	townclerk@eatonville-wa.gov
<b>Agency UBI:</b>	272-000-002	<b>Agency UEI:</b>	L9AMJGACAZ48
<b>Human Services Contract Team</b>			
<b>Contract Manager:</b>	Stephanie Bray, Community Development Supervisor	<b>Email:</b>	<a href="mailto:Stephanie.Bray@piercescountywa.gov">Stephanie.Bray@piercescountywa.gov</a>
<b>Program Contact:</b>	Megan Gaskell, Human Services Program Specialist 2	<b>Email:</b>	<a href="mailto:Megan.Gaskell@piercescountywa.gov">Megan.Gaskell@piercescountywa.gov</a>
<b>Contract Contact:</b>	Bryan Barmore, Office Assistant 3	<b>Email:</b>	<a href="mailto:Bryan.Barmore@piercescountywa.gov">Bryan.Barmore@piercescountywa.gov</a>
NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and agreements contained herein, County and Subrecipient, mutually agree that Subrecipient shall provide the services and comply with the requirements set forth herein and the exhibits and attachments, incorporated by reference into this Agreement:			
<b>EXHIBITS AND ATTACHMENTS</b>			
A: Statement of Work		E: Subaward Information	
B: Compensation and Financial Requirements		F: Covenant	
C: Special Terms and Conditions			
D: General Terms and Conditions			
This Agreement, including all Exhibits and other documents incorporated by reference, contains all the terms and conditions agreed upon by the parties. No other understandings and representations, verbal or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind the parties. The parties signing below warrant that they have read and understand this Contract and have authority to enter this Agreement.			
		David Baublits, Mayor	
<b>Subrecipient Signature</b>	<b>Printed Name and Title</b>	<b>Date</b>	
<b>Approved "As to Form Only" by Deputy Prosecuting Attorney</b>	<b>Date</b>	Gary Robinson, Finance Director	<b>Date</b>
Heather Moss, Human Service Director	<b>Date</b>	Bruce Dammeier, County Executive (over \$250k)	<b>Date</b>

## EXHIBIT A – STATEMENT OF WORK

Town of Eatonville, hereinafter referred to as the “Subrecipient” has been granted a Subcontract by Pierce County, hereinafter referred to as the “County”, reflected by the **Total Agreement Amount** set forth herein on page one (1) of this Agreement, of **Community Development Block Grant (CDBG) funds** from the 2021 award (B-21-UC-53-002) dated August 11, 2021 from the US Department of Housing and Urban Development. Subrecipient shall use this funding to implement the Agreement requirements set forth below.

### 1. BACKGROUND AND PURPOSE

- 1.1. The intent of this Agreement is to install a generator to allow for continued operations during power outages for the Eatonville Family Agency food Bank and senior lunches, as described in the Subrecipient’s applications for funding received in response to NOFA-20-001-CDBG-PF21

### 2. SUBRECIPIENT RESPONSIBILITIES

- 2.1. To accomplish the intent of this agreement the Subrecipient shall plan, administer, and implement the Eatonville Generator for Food Bank and Senior Lunches as follows:
  - 2.1.1. The Subrecipient shall serve income-eligible clients that are residents of either unincorporated Pierce County or the Pierce County Consortium of Cities and Towns.

#### Pierce County Consortium

City of Buckley	City of Bonney Lake	Town of Carbonado
City of DuPont	City of Fife	Town of Eatonville
City of Edgewood	City of Fircrest	City of Gig Harbor
City of Milton	City of Orting	City of Puyallup
City of Roy	Town of Ruston	Town of South Prairie
Town of Steilacoom	City of Sumner	City of University Place
Town of Wilkeson	Unincorporated Pierce County	

- 2.1.2. Funding cannot be applied to clients that reside within/projects located in the cities of Auburn, Enumclaw, Lakewood, Pacific, or Tacoma.
- 2.1.3. Funding will be used for the Eatonville Generator Project as described below.
  - 2.1.3.1. Property Address: 305 Center St West Eatonville WA
  - 2.1.3.2. Assessor’s Parcel Number: 3605002300, 3605002310, and 3605002322
  - 2.1.3.3. Legal Description: Lots 1 and 2, and the North one-half of Lot 3, all in Block 31, Town of Eatonville. Situate in the County of Pierce, State of Washington.
- 2.2. Population Served / Eligibility
  - 2.2.1. Clients shall meet the HUD national objective for Activities Benefiting low- and moderate-income persons at 24 CFR 570.208 (a)(2) - Limited Clientele Activities, that meets the following income definition.
    - 2.2.1.1. Income Definition: The Pierce County CDBG program income limits for 2023 are listed in the table below. Family income, as defined by the U.S. Census, must be at or below eighty percent (80%) of the HOME income limits. Funded Subrecipients will be responsible for updating the income limits utilized to determine income eligibility when HUD publishes new HOME income limits or the Subrecipient is notified by Pierce County of any updates to the Income Limits. HOME income limits are published by HUD at its website:

<https://www.hudexchange.info/manage-a-program/home-income-limits/> (select the State of Washington, Tacoma for relevant income limits).

<b>Pierce County CDBG Program 2023 HUD HOME Income Limits Tacoma, WA Effective 06-15-2023*</b>			
Household**/ Family Size	Extremely Low Income (30%)	Very Low Income (50%)	Low (80%)
1 (Person)	\$22,600	\$37,650	\$60,200
2 (Person)	\$25,800	\$43,000	\$68,800
3 (Person)	\$29,050	\$48,400	\$77,400
4 (Person)	\$32,250	\$53,750	\$86,000
5 (Person)	\$34,850	\$58,050	\$92,900
6 (Person)	\$37,450	\$62,350	\$99,800
7 (Person)	\$40,000	\$66,650	\$106,650
8 (Person)	\$42,600	\$70,950	\$113,550

2.2.2. Income for eligibility will be calculation using one of the following:

2.2.2.1. Section 8 (Part 5) annual (gross) income definition of annual income will be used. This definition for annual income may be found at 24 CFR 6.609 Note: Part 5, Section 8 rules, see the regulations at 24 CCFR Park 5 (subpart F)

2.2.2.2. The definition of adjusted gross income for purposes of reporting under Internal Revenue Service (IRS) Form 1040 (long form) for federal annual income tax purposes will be used to determine income eligibility for this project (see IRS Form 1040 instruction for income and adjustments to gross income)

2.2.2.3. One of more of the following methods must be used to determine income eligibility:

2.2.2.3.1. The Subrecipient may document client income (using third-party verification such as tax return, pay stubs etc.); or

2.2.2.3.2. The Subrecipient may obtain evident establishing that the person assisted qualifies under another program having income qualification criteria at least as restrictive as that used in the definitions of “low and moderate income person” and “low and moderate income household” (as applicable) at 24 CFR § 570.3, such as Job Training Partnership Act (JPTA) and welfare programs; or

2.2.2.3.3. The Subrecipient may obtain verifiable certification, on a form approved by the County, from the assisted person that his/her family income does not exceed the applicable income limit established in accordance with 24 CFR 24 CFR § 570.3; or

2.2.2.3.4. The Subrecipient may obtain a referral from a state, county, or local employment agency or other entity that agree to refer individuals it determines to the low and moderate-income persons based on HUD’s criteria and agrees to maintain documentation supporting these determinations.

- 2.3. All work and material for the Agreement, including any change order work, shall be at the sole risk of the Subrecipient.
- 2.4. The Subrecipient shall rebuild, repair, restore, and make good all damages to any portion of the permanent or temporary work occurring before final acceptance and shall bear all the expense to do so, except damage to the permanent work caused by: (a) acts of God, such as earthquake, floods, or other cataclysmic phenomenon of nature, or (b) acts of public enemy or of governmental authorities; provided, however, that these exceptions shall not apply should damages result from the Subrecipient's failure to take reasonable precautions or to exercise sound engineering and construction practices in conducting the work.
- 2.5. The Subrecipient will furnish all materials, supplies, tools, equipment, labor, and other services necessary for the work. The Subrecipient shall be solely responsible for all methods, techniques, safety precautions, and procedures and for specifications and/or procedures as set forth in this Agreement.
- 2.6. If the Subrecipient performs any work contrary to such laws, specifications, ordinances, rules, regulations, and procedures, the Subrecipient shall assume full responsibility and shall bear all costs attributable thereto.
- 2.7. If, during this Agreement, the work provided does not comply with the laws, specifications, ordinances, rules, regulations, and procedures, the Subrecipient shall take such corrective action as the County may require. Failure to make the necessary corrections shall be a material breach of this Agreement and cause for termination.

### 3. PERFORMANCE MEASURES/REPORTING

#### 3.1. Milestone Schedule Construction Projects:

Task	Estimated Completion Date
Relocation Notifications (if applicable)	Not Applicable
Environmental Review Complete (NEPA)	Completed September 2023
Design Begun	January 2024
Design Completed	February 2024
Bid Specs Submitted to Pierce County for Review/Approval	Spring 2024
Bid Advertised in The News Tribune & <a href="#">Bids &amp; Contracting Opportunities   Office of Minority and Women's Business Enterprises (wa.gov).</a>	Spring 2024
Bid Opening	Spring 2024
Bid Award	Spring 2024
Pre-Construction Conference	Summer 2025
Notice To Proceed	Summer 2025
Project 50% Complete	Fall 2024

Construction Substantially Complete / Notice of Completion Filed with the State	Early 2025
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- 3.2. The Subrecipient shall plan, administer, and implement the project in compliance with applicable local, state, and federal laws, and regulations. Unless specifically noted to the contrary, the Subrecipient, its consultants, and contractors shall obtain all permits and approvals necessary to lawfully implement the project.

#### 4. PERFORMANCE MONITORING

- 4.1. Failure to lawfully plan, administer, and implement the project or to demonstrate substantial process within ninety (90) days of the effective date of this Agreement, shall cause the County to re-evaluate the need for and methods of the project. The result of such re-evaluation may necessitate restructure of the scope, definition of milestones and/or units or service or termination of the Agreement for lack of need, ineffective or improper use of funds, and/or failure to implement the project in a timely and reasonable manner.

#### 5. REPORTING/DELIVERABLES

- 5.1. The Subrecipient shall submit Project Milestone Accomplishment Reports. The Project Milestone Accomplishment Report is due by the tenth (10th) of the month after costs are incurred on the project or following the end of each quarter if no costs are incurred in the quarter, from the notice to proceed until the final payment request is made.
- 5.2. The Subrecipient shall provide financial and demographic information as required by the County to demonstrate compliance with regulations, eligibility, goals, and objectives to support the HUD annual Consolidated Annual Performance Evaluation Report (CAPER), and provide such other financial or performance reports, as may be required by the County. This report includes information gathered from the public beneficiaries of these funds, which determines their income status for eligibility confirmation, as well as their racial and ethnic origin for the term of the Agreement. This form will be made availability to the Subrecipient via email.

#### 6. COUNTY RESPONSIBILITIES

- 6.1. To accomplish the intent of this Agreement, as appropriate under the circumstances, County shall:
- 6.1.1. Provide technical assistance to the Subrecipient, its contractors, and consultants, particularly regarding compliance with federal and local laws and regulations specific to implementation of this agreement, and in development of processes and procedures to assure attainment of the project goals and objectives. This will include items such as, but not limited to, review of procurement documents and processes, and review of federal and state prevailing wages and labor documentation and assistance with meeting other federal requirements. The provision of technical assistance including approval of documents on-site assistance with bidding, inspection of work, etc., does not relieve the Subrecipient, its contractors, and consultants of their obligations under this agreement, any other applicable agreement, and any applicable laws and regulations.
- 6.1.2. The County will conduct monitoring and performance assessments of all performance measures provided under this Agreement, in the manner and at reasonable times, with reasonable notice, as the County considers appropriate.
- 6.1.3. Monitoring and assessment activities include, but are not limited to, review of performance and financial reports (including all books, records, documents, and other

data), facilities, activities, and on-site visits by County staff or their designees, state, or federal representatives.

- 6.1.4. Unless the County elects to terminate this Agreement for cause, when findings from monitoring efforts or audits show that there are apparent violations of terms or conditions of the Agreement, the Subrecipient and the County shall negotiate a mutually agreement plan of action to address the identified problem. If the parties are unable t come to agreement, the Subrecipient may file a complaint per the General Terms and Conditions (GTC)

## EXHIBIT B: COMPENSATION AND FINANCIAL REQUIREMENTS

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### 1. COMPENSATION

- 1.1. Program funding is based on the services as set forth in the Statement of Work in this Agreement. The Subrecipient shall use all funds provided pursuant to this Agreement to support only the services as described within this Agreement and may not supplant other programs or fund sources.
- 1.2. Funding is contingent upon the receipt of funds from contractual Agreements between Pierce County and state government federal government, or other sources. If funding is withdrawn, reduced, suspended, or reallocated, after the effective date of this Agreement and prior to normal completion, Pierce County will notify the Subrecipient per section 1.2.1. In such instances, the County may terminate the Agreement, withdraw funding, or renegotiate the Agreement subject to those new funding limitations and conditions. If the source of funding for this Agreement is eliminated on a temporary or permanent basis, Pierce County will not be responsible for reimbursing the Subrecipient for any work performed after the receipt of the notification.
  - 1.2.1. Should a change in fund source occur or become necessary, the County shall notify the Subrecipient immediately, by issuing a formal amendment and/or written notice to the Subrecipient by email or formal and/or certified letter, whichever is applicable, unless the Agreement is formally terminated in which the County will follow the termination process per the General Terms and Conditions (GTC). The Subrecipient shall keep a copy of any notices on file with the Agreement as the record of change.
- 1.3. Funds shall not be obligated for:
  - 1.3.1. Costs incurred prior to start date of this Agreement:
    - 1.3.1.1. Any action subsequent to an order from the County for suspension or termination of the project except as may be reasonably necessary for the protection of life and property; which could otherwise be avoided; or which is otherwise eligible of the action precipitating the order for suspension or termination is found to be acceptable to the County; or
  - 1.3.2. Reimbursement requests that include ineligible or inappropriate costs pursuant to state or federal laws and regulations (e.g., RCW, WAC, CFR), or as defined in the GTC or statement of work.
    - 1.3.2.1. The Subrecipient shall refund to the County any payment or partial payment expended by the Subrecipient, Subcontractor's, or consultants which is subsequently found to be ineligible, inappropriate, or illegal.
- 1.4. The Subrecipient shall provide services in the most effective, efficient, and economical manner possible to establish a prudent financial management system.
- 1.5. The maximum consideration is not to exceed \$235,455, as shown in the funding table below. It is the responsibility of the Subrecipient to monitor their monthly expenses and ensure that they do not exceed the maximum consideration for the fund source(s).



Town of Eatonville CDBG Public Improvements project Budget – CDBG Generator for Food Bank and Senior Lunches		
Activity	Fund Source	Total
Public Facility / Improvements	Community Development Block Grant	\$235,455.00

## 2. FEDERAL FUNDING REQUIREMENTS

- 2.1. It is understood when applicable, federal funds provided by this Agreement and program income generated by the project are federal funds administered by the County and are subject to those regulations and restrictions normally associated with federal programs including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements, per 2 CFR §200.
- 2.2. Subrecipients may provide an approved federally recognized indirect cost rate negotiated between the Subrecipient and the Federal Government or, if no such rate exists, a de minimis rate of (10%) as defined in 2 CFR §200.414(f), may be used.
- 2.3. Federal funding under this Agreement is awarded by the 14.218, Assistance Listing (AL). Federal fund sources have spending limitations and/or restrictions, it is the Subrecipients responsibility to clearly separate allowable costs from unallowable costs, in accordance with federal programs, including 2 CFR §200.
- 2.4. It is expressly understood that CDBG funds may only be used for costs included in the approved project budget included in Exhibit B and may not be used for the general administration or operation of the Subrecipient and may not replace non-federal funds in any jointly funded project.

## 3. REIMBURSEMENT PROCEDURE

- 3.1. Reimbursement requests shall only be for costs actually incurred per the agreed upon rate method in the table above and supported by documentation as required in the CPR. The Subrecipient is prohibited from submitting requests for payment in excess of actual requirements for carrying out the statement of work.
- 3.2. Reimbursements shall be requested on a Contract Payment Request (CPR) form, developed and provided by the County as an attachment to the Agreement.
  - 3.2.1. The CPR shall identify the frequency in which the Subrecipient shall request reimbursement. If it is agreed upon between the Subrecipient and the County that the frequency of the request is:
    - 3.2.1.1. **Monthly:** The Subrecipient shall submit the CPR within twenty-one (21) working days following the month in which the Subrecipient has incurred expenditures for services and costs as outlined in this Agreement. The County shall issue payment no later than twenty-five (25) working days after the receipt of complete and accurate billing information as determined by the County.
    - 3.2.2. CPR's must be accompanied by the documentation to support the amount of the request for reimbursement. The County shall not release payment until the Subrecipient provides all required documentation identified in the CPR or in the statement of work. The submission of incomplete or inaccurate information on the CPR may delay the reimbursement process but shall not be considered a breach of the Agreement.
    - 3.2.3. CPRs must be signed with an original or electronic signature and received prior to

payment.

- 3.2.4. CPRs shall be submitted to the following email address: [pcccdinv@piercecounitywa.gov](mailto:pcccdinv@piercecounitywa.gov) unless otherwise specified.
- 3.2.5. The County reserves the rights to amend, delete, or add to the CPR form as necessary. Any revisions or changes will be provided to the Subrecipient in a timely manner.
- 3.3. Due to County fiscal year end and contract closeout requirements, the Subrecipient shall:
  - 3.3.1. Submit the final CPR for the calendar year (CY) in the month of January. The actual date will be determined and communicated to the Subrecipient by the County.
  - 3.3.2. When the term of the Agreement ends in any month other than December, the Subrecipient shall submit the final billing for the Agreement, based on the date determined by the County.
    - 3.3.2.1. The County will provide timely written notification, via a formal letter or an e-mail, of the submission requirements for these time frames.
    - 3.3.2.2. Failure to follow the year end and/or final CPR instructions, may result in a delayed payment or nonpayment for the given month.
- 3.4. Progress payment(s) to the Subrecipient will be made based on percentage of work completed to date but not to exceed ninety-five percent (95%) of the contract and will include required reports and certification of work completed. Final billing will be submitted to the County when the work has been once hundred percent (100%) completed, the contract fully performed, and the Certification of Occupancy and/or final inspection obtained (where applicable). Final payment will not be release to the Subrecipient until all documentation from all contractors on the project is provided. This includes all approved Intents to Pay Prevailing Wages, Affidavits of Wages Paid, lien releases, and weekly payroll reports and certification, and all labor, material, and tax lien are satisfied. Contracts of \$35,000 or more require receipt of releases in response to a Notice of Public Department of Revenue, and Washington Employment Security when applicable prior to release of final payment to the Subrecipient and general contractors.

#### **4. PROGRAM INCOME**

- 4.1. If program income as defined in 24 CFR Part 570.500(a) is generated from the use of CDBG funds, then all such income shall be identified and accounted for and reporting to Pierce County. With the written consent of the County, program income may be used y the Subrecipient for the same project t/ program for which this Agreement originally provides and under the same terms and conditions as provided in 24 CFR 570.504. Program income in the form or repayments to, or interested earned on, a revolving fund as defined in 24 CFR 570.500(b) shall be substantially disbursed from the revolving fund before additional cash withdraws are made from the U.S. Treasury for the same activity. If program income is not used in accordance with these conditions, such program income shall be returned to the County. The Subrecipient shall transfer to the County any CDBG funds on hand or any accounts receivable attributable to the use of CDBG funds that do not meet the above requirements.

#### **5. UNEXPENDED FUNDS AND INCOME**

- 5.1. At the end of this Agreement, all unexpended CDBG funds, any uncollected and/or unexpended program income remaining in Subrecipient's accounts, and any remaining equipment or operation supplies with a value of more than \$5,000, shall be immediately returned to the County unless otherwise specifically authorized in writing by the County.

## **EXHIBIT C – SPECIAL TERMS & CONDITIONS**

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### **1. COMPLIANCE WITH LOCAL AND FEDERAL REGULATIONS**

- 1.1. The Subrecipients and its consultants and contractors shall comply with the following federal laws and regulations, wherever and wherever they are applicable. The Subrecipient and its consultants and contractors shall timely obtain all permits and approvals necessary to lawfully implement the project.
- 1.2. The Subrecipient and its contractors and consultants shall include in all contracts, subcontracts, and purchase orders for this project the following list of laws and regulations and shall require compliance with such laws and requirements:
  - 1.2.1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) relating to non-discrimination in performance of the project and to the benefits deriving from it, as implemented by HUD regulation 24 CFR 570.601(a)(1)
  - 1.2.2. Title VIII of the Civil Rights Act of 1968, as amended, also known as the Fair Housing Act (42 U.S.C. 3601-2630), relation to non-discrimination in housing, as implemented by HUD regulation 24 CFR 570.601 (a)(2)
  - 1.2.3. Executive Order 11063, as amended by Executive Order 12259, relating to non-discrimination in housing, as implemented by HUD regulation 24 CFR 570.601(b)
  - 1.2.4. Construction projects must comply with the applicable requirements of Section 504 of the Rehabilitation Act of 1973 and The Americans with Disabilities Act of 1990 (ADA)
  - 1.2.5. Section 109 of the Housing and Community Development Act of 1974, as amended, prohibiting discrimination in program benefits due to race, religion, color, national origin, sex, age (Age Discrimination Act) or disability (Section 504), as implemented by HUD regulation 24 CFR 570.602, and the Americans with Disabilities Act (ADA) requirements, as implemented by HUD regulation 24 CFR 570.614(b)
  - 1.2.6. Executive Order 19988 relation to evaluation of flood hazards and the flood hazard and insurance protection requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106(a)), as implemented by HUD regulation 24 CFR 570.605.
  - 1.2.7. The relocation, acquisition, and displacement requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as implemented by HUD regulation 24 CFR 570.606
  - 1.2.8. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4851b), and implementing regulations at 24 CFR 35.80-35.175, 35.900 -35.1020 and 35.1300-35.1355 implemented by 24 CFR 570.608.
  - 1.2.9. EPA's Lead Renovation, Repair and Painting Program Rule (40CFR 745.61 – 745.339). EPA RRP rule applied to pre-1978 housing and child-occupied facilities and schools located in public and commercial buildings.
  - 1.2.10. The regulations, policies, guidelines, and uniform administrative requirements of 2 CFR 200 et seq. as they related to the acceptance and use of federal funds as implemented by HUD regulation 24CFR 570.610 and 24 CFR 570.502 (applicability of uniform administrative requirements)
  - 1.2.11. The National Environmental Policy Act (NEPA) of 1969 and other statutory environmental requirements, as implemented by HUD regulation 24 CFR 570.604

- 1.2.12. Executive Orders 11625, 12138, and 2 CFR 200.321 in regard to use of minority and women's business firms, as implemented by HUD regulation 24 CFR 570.904(d).
- 1.2.13. The Subrecipient agrees that CDNG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, as implemented by HUD regulation 24 CFR 570.207(a)(3).
- 1.2.14. HUD Regulations for implementing the Community Development Block Grant contained in 24 CFR 570.
- 1.2.15. The Drug-Free Workplace Act of 1988 (41 U.S.C. 8103) and regulations set forth at 48 CFR 23.500.
- 1.2.16. The Subrecipient will comply with all applicable Washington State requirements regarding liens and shall disclose all potential lien claimants as a condition of payment and requirement the prime contractor to disclose all potential lien claimants prior to payment by the Subrecipient.
- 1.2.17. The Construction Labor standards and wage rates set forth in Section 110 of the Housing and Community Development Act of 1974 as amended (42 U.S.C §5310) and as implemented by the HUD regulation of 24 CFR 570.603. Provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.
- 1.2.18. The Davis Bacon Act (DBA) and Related Acts or HUD-assisted (DBRA)(40.U.S.C §3141 - §3148 provides that contracts to which federal funding is applied for the construction, alternation, and/or repair, including painting and decorating, or of public buildings or public works, which involved the employment of laborers and /or mechanics, shall contain provisions with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with wage provisions, and termination of the contract or debarment for failure to adhere to the required provisions.
- 1.2.19. Any construction performed as a part of this agreement is considered a public work project and subject to the Prevailing Wages of Public Works Act (Chapter 19.12 RCW). All bid specifications and contracts for public work projects must contain a provision stating that the required prevailing rates of pay and stipulate that all worked shall receive no less than Washington State prevailing rate of wage for work performed. All contractors and subcontractors working on this project are required to fully comply with these regulations.
- 1.2.20. Executive Order 11246, as amended, addressing non-discrimination in employment based on race, color, religion, sex, sexual orientation, gender identity, or national origin, and as implement by HUD regulation 24 CFR 570.607(a):

During the performance of this Agreement, the Subrecipient agreement as follows:

- 1.2.20.1. The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion sex, sexual orientation, gender identity, or national origin. The Subrecipient will take affirmation action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation,
- 1.2.20.2. The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual

orientation, gender identity, or national origin, The Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not 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, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees, and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- 1.2.20.3. The Subrecipient, will, in all solicitations or advances for employees placed by or on behalf of the Subrecipient, state that all qualified applications will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 1.2.20.4. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed or disclosed the compensation of the employees or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicant to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- 1.2.20.5. The Subrecipient will send to each labor union or representative of works with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers 'representative of the Subrecipient's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 1.2.20.6. The Subrecipient will comply with all provisions of Executive Order No. 11245 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 1.2.20.7. The Subrecipient will furnish all information and reports, required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by

the County and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- 1.2.20.8. In the event of the Subrecipient's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspected in whole or in part and the Subrecipient may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965 or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by the law.
- 1.2.20.9. The Subrecipient will include the provisions of paragraphs 1.2.20.1 through 1.2.20.7 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive order no. 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or Vendor. The Subrecipient will take such action with respect to any subcontract or purchase order as the County may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that in the event of the Subrecipient becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction, the Subrecipient may request the United States to enter into such litigation to protect the interest of the United States.
- 1.2.21. Section 3 of the Housing and Community Development Act of 1968 as amended, dealing with employment and training of County low-income residents as employees and trainees and utilization of Pierce County businesses as contractors, subcontractors, and suppliers, as implemented by HUD regulations 24 CFR 75 et seq. and 24 CFR 570.607(b):
  - 1.2.21.1. 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 1701u. 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.
  - 1.2.21.2. The parties to the Agreement agree to comply with HUD's regulations at 24 CFR 75 et seq, which implement Section 3. As evidenced by either execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.
  - 1.2.21.3. The Subrecipient agrees to send each labor organization or representative of the workers with which the Subrecipient has a collective bargaining agreement or other understand if any a notice advising the labor organization or works representative of the

Subrecipients commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for the training and employment positions can see the notice. That notice shall describe the Section 3 preference, shall set forth minimum number of job titles and subject to hire, availability of apprenticeship and training positions, the qualification for each, and the name and location of the person(s) taking applications for each of the positions, and the anticipated date that the work shall begin.

- 1.2.21.4. The Subrecipient agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR 75 et seq. and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR 75 et seq. The Subrecipient will not subcontract with any subcontractors where the Subrecipient has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR 74 et seq.
- 1.2.21.5. The Subrecipient will certify that any vacant employment positions including training positions, that are filled (1) after the Subrecipient is selected but before the contract is executed and two (2) with persons other than those to whom the regulations of 24 CFR et seq. require employment opportunities to be direct, were not filled to circumvent the Subrecipients obligations under 24 CFR 75 et seq.
- 1.2.21.6. Noncompliance with HUD's regulations in 24 CFR 75 et seq. may result in sanctions, termination of this contract of default, and debarment or suspension from future HUD-assisted contracts.
- 1.2.21.7. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7 (b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b) also applied to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contract and subcontract shall be given to Indian organizations and Indian-owned economic enterprises. Parties to this Agreement that are subject the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b)

Note: Copies of applicable laws and regulations are available upon request from the Department of Human Services. A listing of these applicable laws and regulations are to be incorporated in each contract, subcontract, and consultant agreement issued by Subrecipient or its contractors.

## **2. ADDITIONAL INSURANCE REQUIREMENTS: CONSTRUCTION, PERFORMANCE, PAYMENT, AND FIDELITY BONDS**

- 2.1. Each construction contractor on the project shall be required to maintain, throughout the life of any construction contract, a one hundred percent (100%) performance bond.
- 2.2. Each construction contractor shall also maintain, through the life of any construction contract, a payment bond for one hundred percent (100%) of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
- 2.3. All bonds required under this section shall be provided no later than ten days after contract award.
- 2.4. Throughout the life of this Agreement the Subrecipient shall maintain an annual Fidelity or Performance Bond in an amount not less than twenty five percent (25%) of the value of this Agreement. Proof of insurance against employee dishonesty in an amount approved by the County may be substituted in lieu of bond if approved by the County.

## **3. PUBLIC WORKS AND PREVAILING WAGE REQUIREMENTS**

- 3.1. Any construction performed as part of this agreement is considered a public work and is subject to applicable statutes and regulations (Including RCW 39). The Director of the Department of Labor & Industries shall arbitrate all disputes of the prevailing rate of wage under State law as applicable.
- 3.2. Construction must be publicly bid and bid specifications must include:
  - 3.2.1. A provision stating the required prevailing rates of pay and stipulate works shall receive no less than the prevailing rate of wage. Those bid and contract documents must also contain:
    - 3.2.1.1. A list of the applicable prevailing wage rates, or
    - 3.2.1.2. The URL to the Department of Labor & Industries prevailing wage rates pages (currently: <https://secure.lni.wa.gov/wagelookup/searchforms.aspx>) and
      - 3.2.1.2.1. Identify the exact wage publication date to use (e.g. “Use October 14 2010 rates”
      - 3.2.1.2.2. State that the county in which the public works project is located is Pierce County;
      - 3.2.1.2.3. Specify that a copy of the applicable wage rates is available for viewing in your office; and,
      - 3.2.1.2.4. Explain that your agency will mail a hard copy of the applicable wage rates upon request.
  - 3.2.2. Note: Whether method 3.2.1.1 or 3.2.1.2 above is followed, a printed version of the rates must be saved as part of the project records.
  - 3.2.3. A provision stating that for projects where both the state prevailing wage law and the federal Davis-Bacon and related Acts apply, contractors and subcontractors must pay the higher of the state or federal wage rates, on a classification-by-classification basis.
  - 3.2.4. Document that any contractors or subcontractors are not listed on the Department of Labor and Industries Prevailing Wage Section Contractors Not Allowed to Bid on Public Works Projects list prior to award of any contracts or subcontracts.



- 3.2.5. Construction projects are subject to the bonding requirements of RCW 39.08 and 2 CFR 200.325 when applicable.

#### 4. ADDITIONAL NEPA REQUIREMENTS

- 4.1. Funding is subject to the National Environmental Policy Act (NEPA) regulations. The County must be contacted if there are any changes to the project after completion for the NEPA process. The County must also be contacted in the event cultural resources are discovered during ground disturbance because of this project. The Subrecipient will include this condition in any contracts or subcontracts to complete the work.
- 4.2. **The only ground disturbance anticipated as part of the NEPA process is a ten (10) feet to fifteen (15) feet trench, two (2) feet wide and two (2) feet deep which is required to install an underground power line from the generator to a Transfer/disconnect switch.** If any additional ground disturbance is necessary, the project must be stopped, and Pierce County Community Development staff notified. Pierce County must reconsider Historic Preservation under NEPA including Section 106 consultation with Washington State Department of Archaeological and Historic Preservation and tribes that have indicated an interest in Pierce County HUD funded projects. This process takes a minimum of 30 days.
- 4.3. In accordance with *Guidelines for the Inadvertent Discovery of Human Skeletal Remains on Non-Federal and Non-Tribal Lands in the State of Washington*, any person engaging in ground disturbing activity that encounters skeletal human remains must cease all activity which may cause further disturbance to the remains, make a reasonable effort to protect the area from further disturbance, and report the presence and location of those remains to the county coroner and local law enforcement (Chapters 27.44;68.5' and 68.60 RCW). Pierce County Department of Human Services staff must then be contacted.
- 4.4. If any potentially archaeological or historic materials are discovered during project activities, work in the immediate vicinity must stop, the area must be secured, and Pierce County Department of Human Services staff must be contacted. Thereafter, DCC staff must contact the concerned Tribe cultural staff and cultural committee and notify the Washington State Department of Archaeology and Historic Preservation.

#### 5. PROCUREMENT AND SUBCONTRACTS

- 5.1. The Subrecipient may, upon the County's prior review and specific written approval of the contract instrument, enter any contract or procurement action authorized or necessary for the successful completion of their Agreement (other than contract for incidental procurements not related to the accomplishment of the project which do not require County approval).

#### 6. REVERSION OF ASSETS

- 6.1. Where the Subrecipient is a city or town that is a member of the Pierce County Urban County Consortium for the CDBG program real property acquired or improvement with CDBG Funds in conjunction with this Agreement is subject to a reversion of assets limiting the Subrecipients right to dispose of said property or to use it for a purpose other than that specific in the Agreement until five years after Pierce County is no longer a CDBG entitlement recipient.
- 6.2. Where the Subrecipient is not either a city or a town that is a member of the Pierce County Urban County Consortium for the CDBG program, real property acquired or improved with CDBG funds in conjunction with this Agreement is subject to a reversion of assets limiting the Subrecipients' rights to dispose of said property or to use it for a purpose other than that specified in this Agreement for a period of thirty (30) years after the Agreement end date.

- 6.3. Additional Block Grants received during an active 'length of interest', or an increase in the value of this grant by Amendment to the Agreement, shall be cumulative when determining the 'Value of Grant' and the County's 'Length of Interest' and shall increase the length of that interest. The Deed of Trust may be revised accordingly. Such Interest begins with the Agreement end date (as amended) and will terminate thirty (30) years from the Agreement end date (as amended).
- 6.4. This provision will be implemented through the execution of:
  - 6.4.1. A Deed of Trust in favor of the County, placed on the property at the time this Agreement is entered into or at such later time as may be acceptable to the County. Such right will be equivalent to the percentage share of Block Grant funds provided in relation to the worth of the real property at the time of initiation of the project(s).
  - 6.4.2. A Secured Promissory Note in the amount of this Agreement
  - 6.4.3. A Subrecipient's Covenant Agreement for the length of the period of interest.
  - 6.4.4. Any combination of the above documents
- 6.5. Disposition of real property acquired and/or improved in whole or in part with Block Grant funds shall be subject to approval by the County and shall be at current appraised fair market value. The property may be disposed of for lesser value including donations if the disposition at the lesser value is necessary to meet one of HUD's national objectives and is permissible under state and local law and is approved by the County. When disposition is recommended by the Subrecipient for lesser value, or if the County should determine that disposition for such lesser value is in the best interest of the program, those reason shall be fully documented.
- 6.6. Non-expendable equipment, materials, operating supplies, and other assets other than real property, purchased in whole or in part with CDBG funds, who per unit fair market value (or total value for supplies) at the time of completion of use is more than \$5,000, are the property of the County are to be utilized, maintained, inventoried controlled and disposed of, pursuant to applicable federal regulations.
- 6.7. The Subrecipient shall be responsible for loss or damage to all such equipment, materials, operating supplies, and other assets in its care, and after completion of use shall return all such equipment, materials and assets to the County for disposition within thirty (30) days following completion of the project(s), unless otherwise specified.
- 6.8. If such equipment, materials, operating supplies, or other assets are partially funded from other sources, the County shall share any funds received because of said disposition at a percentage of value received equal to the percentage of the original costs provided by the individual funding sources.
- 6.9. Any equipment, materials, operation supplies, and other assets with per unit fair market value (or total value for supplies) at the time of completion of use of less than \$5,000, may be retained or disposed of by the Subrecipient. The County retains no financial interest in these items.
- 6.10. Any assets whose fair market value is in question should be referred to the County before any disposition action is taken by the Subrecipient.

## **7. CLIENT ASSETS AND RECORDS**

- 7.1. Except as otherwise provided by court order the Subrecipient shall ensure than any client shall have unrestricted access to his or her personal property. The Subrecipient shall not interfere with the client's ownership, possession, or use of such property. Upon termination of the agreement, the Subrecipient shall immediately release to the client all of the client's personal property.

- 7.2. The Subrecipient shall maintain all project records required by applicable federal, state and county regulations, which are incorporated herein by reference. The public, County representatives, the State Auditor, and officials of the federal government shall be granted reasonable access to all records associated with this Agreement until three (3) years after the County submits their annual performance and evaluation report to HUD which will be done on September 30<sup>th</sup> of the year the project is completed and/or after the period of affordability has been met, whichever is later, in accordance with 24 CFR 570.502(a)(7)(ii).
- 7.3. The Subrecipient shall maintain records and files for this project containing the following items:
- 7.3.1. Notice of Grant Award
  - 7.3.2. Motions, resolutions, or minutes documentation Board or Council actions
  - 7.3.3. A copy of this Scope and the County's notice to proceed on this project.
  - 7.3.4. Correspondence regarding budget revision requests
  - 7.3.5. Copies of all invoices and reports submitted to the County for this project.
  - 7.3.6. Copies of approved invoices and warrants
  - 7.3.7. Records documenting those costs reimbursed with funding provided under this Scope are allowable in accordance with 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Such records include, but are not limited to:
    - 7.3.7.1. Personnel costs require payroll time sheets for actual salary and fringe benefit costs. Time sheets must be signed by a supervisor and annotated to document percent of time charged against this project. Direct salaries and wages of employees chargeable to more than one grant program or other cost objective(s) must be supported by time distribution records. Timesheets should contain an after the fact determination of the actual activity of each employee and be annotated to document the time charged to the project if daily hours being paid for by the respective CDBG award are not noted.
    - 7.3.7.2. Staff travel costs require documentation of mileage charges for private auto use must include a) destination and starting location, and b) purpose of trip.
    - 7.3.7.3. Copy machine use, postage, telephone use, and office supplies when these costs are shared with other programs and no invoice is available require log sheets or annotated invoices.
  - 7.3.8. Documentation of the solicitation process used to select vendors and subcontractors with original purchase orders and subcontracts.
  - 7.3.9. Documentation of the solicitation process used to select vendors and subcontractors with original purchase orders and subcontracts.
  - 7.3.10. Documentation of client income, demographics and eligibility as required in the Exhibit A, Statement of Work.

## **8. CONFLICT OF INTEREST AND CODE OF CONDUCT**

- 8.1. The Subrecipient covenants that no person who presently exercise any functions or responsibilities in connection with the Community Development Block Grant (CDBG) program has any person

financial interest, direct or indirect, in this Agreement as outlined in Section 6 of the General Terms and Conditions and/or 24 CFR 670.611

## **9. AFFIRMATIVE ACTION**

- 9.1. If the Subrecipient has an established Affirmative Action Plan in place, it shall furnish a copy to the County as part of this Agreement. Where the Subrecipient has no existing Affirmative Action Plan, it must complete and abide by an Affirmative Action Plan approved by the County and incorporated as part of this Agreement. When new full-time or part-time employees or trainees are hired, the Subrecipient should make a “good faith” effort to hire woman, minorities, and low- and moderate-income Pierce County residents for all positions to be filled.

## **10. RELIGIOUS ACTIVITY**

- 10.1. As noted in the General Terms and Conditions (GTC), the First Amendment to the Constitution of the United States of America prohibits Congress from enacting any laws respecting the establishment of religion. Regulations have been established for the Community Development Block Grant Program addressing involvement of religious organizations. For reference, see 24 CFR 570.200(j) and 24 CFR 5.109.

## EXHIBIT D – GENERAL TERMS & CONDITIONS

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- 1. Amendments.** All amendments to this Agreement shall be in writing and approved by the County.
- 2. Applicable Law and Venue.** This Agreement shall be governed, construed, and interpreted according to the laws of the State of Washington. In the event either Subrecipient or County deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, Subrecipient and County agree that any such action or proceedings shall be brought in Pierce County Superior Court. Subrecipient and County shall be responsible for their own attorney's fees and costs.
- 3. Assignability.** No portion of this Agreement may be assigned to any other individual, firm, or entity without the prior express written approval of County.
- 4. Confidentiality.** Subrecipient, its employees, subcontractors, consultants, and their employees shall maintain the confidentiality of all confidential information provided by County in performance of this Agreement.
- 5. Close-Out.** Subrecipient shall submit to County at the end of the period of performance of this Agreement all financial, performance, and other reports as required by Exhibit's A and B of this Agreement.
- 6. Conflict of Interest and Code of Conduct.** County may, in its sole discretion, by written notice to Subrecipient, terminate this Agreement if it is found, after due notice and examination by County or its agent that there is a violation of chapter 42.23 RCW, or any similar statute involving the Subrecipient in the procurement of, or performance of this Agreement. In the event this Agreement is terminated as provided above, County shall be entitled to pursue the same remedies against Subrecipient as it could pursue in the event of a breach of this Agreement by Subrecipient. The rights and remedies of County provided for in this section (6) shall not be exclusive and are in addition to any other rights and remedies provided by this Agreement or law. The existence of facts upon which County makes a determination under this section (6) shall be an issue and may reviewed as provided in the Dispute Resolution section (10) below.
- 7. Data Security.** Subrecipient agrees to abide by and maintain adequate data security measures consistent with applicable laws and regulations and industry standards and best practices.
- 8. Debarment.** Subrecipient shall assure that its officers, agents, subcontractors, and consultants shall not fund, Agreement with, or engage the services of any consultant, subcontractor, supplier, or other party who is debarred, suspended, or otherwise ineligible to receive funds. Subrecipient certifies that Subrecipient is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in the Agreement by any federal department or agency. If requested by County, Subrecipient shall complete a certification to the terms of this section (8).
- 9. Defend, Hold Harmless and Indemnity.**
  - 9.1. Subrecipient, and its officers, agents, employees, subcontractors, and/or consultants, agree to defend, indemnify and save harmless County and its appointed and elective officers and employees, from and against all loss or expense including, but not limited to, judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the County, and its elected or appointed officials or employees, for damages because of personal or bodily injury, including death, at any time resulting therefrom, sustained by any person or persons, or on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Subrecipient, its officers, agents, employees, subcontractors, and/or consultants, successor or assigns, or the County, or its appointed or elected officers, employees or agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, or its appointed or elected officials or employees.

- 9.1.1. The preceding section (9.1) is valid and enforceable only to the extent of Subrecipient's negligence where the damages arise out of services or work in connection with or collateral to, a contract or agreement relative to construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition in connection therewith, a contract or agreement for architectural, landscape architectural, engineering, or land surveying services, or a motor carrier transportation contract and where the damages are caused by or result from the concurrent negligence of (1) the County or its agents or employees, and (2) the Subrecipient or the Subrecipient's agents or employees.
- 9.2. With respect to performance of this Agreement and as to claims against the County, its officers, agents, and employees, Subrecipient expressly waives its immunity under RCW 51, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of Subrecipient. This waiver is mutually negotiated by the parties to this Agreement.
- 9.3. In addition to any other remedy authorized by law, County may retain so much of the money otherwise due Subrecipient as deemed necessary by the County to ensure indemnification until disposition has been made of such suits or claims subject to the provisions of this section.
- 9.4. No liability shall attach to the County by reason of entering into this Agreement, except as expressly provided herein.
- 9.5. Capital Projects
- 9.5.1. Subrecipient shall bear sole responsibility for damage to completed portions of the project and to property located off the project caused by erosion, siltation, run-off, or other related items arising during construction of the project.
- 9.5.2. Subrecipient shall also bear sole responsibility for any pollution of rivers, streams, ground water, or other waters which may occur as a result of construction operations.
- 9.5.3. Subrecipient shall exercise all necessary precautions throughout the life of the project to prevent pollution, erosion, siltation, and damage to property.
- 10. Dispute Resolution.** Differences between Subrecipient and County arising under this Agreement shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled, or other appropriate action may be promptly taken. Subrecipient and County shall meet and confer in good faith for the purpose of reaching a mutually satisfactory resolution of the dispute within fifteen (15) days of the date delivered or mailed postage paid to the County address identified on page one (1) of this Agreement, of said request.
- 11. Drug-Free Workplace.** Subrecipient shall maintain a written drug-free workplace policy, notifying employees that the possession or use of a controlled substance is prohibited in the workplace, and specifying the actions which will be taken against employees for any violation of the policy. The policy shall be developed and prominently posted as soon as practically possible, but no later than sixty (60) calendar days after the effective date of this Agreement.
- 12. E-Verify Participation.** Subrecipient agrees to comply with Pierce County Code 2.106.022, as applicable, by signature of this Agreement.
- 13. Entire Agreement.** This written Agreement represents the entire Agreement between the Subrecipient and County and supersedes any prior oral statements, discussions, or understandings between Subrecipient and County.

- 14. Future Non-Allocation of Funds.** Notwithstanding any other terms of this Agreement, if sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the County will not be obligated to make payment for services of amounts after the end of the fiscal period through which funds have been appropriated and allocated, unless authorized by County ordinance. No penalty or expense shall accrue to the County in the event this provision applies.
- 15. Independent Contractor Relationship.** Subrecipient and County are and shall at all times be deemed independent contractors. Nothing herein shall be construed as creating the relationship of employer and employee, or principal and agent, between Subrecipient and County and the County or any of the Subrecipient's employees or agents. Subrecipient and County shall each retain all authority for services rendered, standards of performance, control of personnel, and other matters incident to the performance of services by Subrecipient and County, respectively, pursuant to this Agreement.
- 16. Insurance and Bond.** The insurance coverages specified in this section (16) are required unless modified by separate addendum to this Agreement. Insurance requirements, if any, contained in the separate addendum shall take precedence over this section (16).
- 16.1. Throughout the life of this Agreement and any Amendments, Subrecipient and its consultants and subcontractors, shall at Subrecipient's and its consultants' and subcontractors' own expense maintain with an insurance carrier authorized or eligible in the State of Washington, at a minimum, the insurance set forth below.
- 16.1.1. Commercial Automobile Liability: Bodily Injury Liability and Property Damage Liability Insurance \$1,000,000.00 each occurrence OR combined single limit coverage of \$2,000,000.00, with no greater than a \$1,000.00 deductible.
- 16.1.2. Commercial General Liability: Bodily Injury Liability and Property Damage Liability Insurance \$1,000,000.00 each occurrence OR combined single limit coverage of \$2,000,000.00, with no greater than a \$1,000.00 deductible.
- 16.1.3. Professional Liability Insurance – are ☐ or are not ☒ applicable to this Agreement:
- 16.1.3.1. Errors and Omissions Insurance providing \$1,000,000.00 limit coverage, with no greater than a \$1,000.00 deductible for all liability which may be incurred during the life of this Agreement.
- 16.1.4. Either blanket Employee Dishonesty Coverage in the minimum amount of **\$235,455** OR a separate fidelity or faithful performance bond in the amount of **\$58,864.00** payable to "Pierce County." The insurance or bond shall guarantee Subrecipient faithfully accounts for all funds received by Subrecipient under this Agreement and assures that such funds received by Subrecipient under this Agreement are used for solely allowable and permissible purposes under this Agreement and the performance of this Agreement.
- 16.2. Subrecipient shall have County named as an additional insured on all required insurance policies and such insurance carried by Subrecipient shall be primary over any insurance carried by County.
- 16.3. Subrecipient shall provide a certificate of insurance and endorsements to be approved by County's Risk Manager prior to execution of this Agreement. Subrecipient shall not commence work under this Agreement until all required evidence of insurance and related documentation has been obtained and approved by County's Risk Manager.
- 16.3.1. Subrecipient shall ensure all certificates of insurance (COI) and endorsements are submitted to the County upon annual renewal. Failure to have valid insurance on file with the County may result in a corrective action or termination of the Agreement.

- 16.4. Subrecipient may comply with these insurance requirements through a program of self-insurance that meets or exceeds the limits set forth above in section 16.1. Subrecipient must provide County with adequate documentation of self-insurance to be approved by County's Risk Manager prior to execution of this Agreement. Subrecipient shall not commence work under this Agreement until all required proof of adequate self-insurance and related documentation has been obtained and approved by County's Risk Manager.
- 16.5. In the event of non-renewal, cancellation, or material change in self-insurance or coverage under this Agreement, Subrecipient shall provide County with forty-five (45) days advance notice of such event.
- 16.6. County has no obligation to pay Subrecipient's insurance premiums.
- 16.7. If at any time County has reasonable grounds to believe insurance coverage and/or bond amounts for this Agreement are inadequate, County may request, in writing, that Subrecipient increase insurance coverage or bond amount and Subrecipient shall comply within fifteen (15) days of receipt of said written request from County.
- 16.8. County shall have no obligation to report occurrences unless a claim has been properly filed pursuant to relevant provisions in the Revised Code of Washington (RCW).

**17. Improper Influence.** Subrecipient and County warrant that each did not and will not employ, retain, or Agreement with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each agrees, warrants, and represents that no gratuity whatsoever has been or will be offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.

**18. Licensing and Accreditation Standards.** Subrecipient agrees to comply with all applicable federal, state, and local licensing requirements, all applicable accrediting or certification standards, and any other standards or criteria established by County to ensure quality of services, and to supply proof of said compliance upon demand.

**19. No Third-Party Beneficiary.** County does not intend by this Agreement to assume any contractual obligations to anyone other than Subrecipient, and Subrecipient does not intend by this Agreement to assume any contractual obligations to anyone other than County. County and Subrecipient do not intend that there be any third-party beneficiary to this Agreement.

**20. Non-Discrimination.**

- 20.1. During the performance of this Agreement, Subrecipient shall comply with federal, state, and local laws including, but not limited to:
  - 20.1.1. Section 703, Titles VI and VII of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Civil Rights Act of 1991 [42 U.S.C. 1981].
  - 20.1.2. The Americans with Disabilities Act of 1990 (ADA) [42 U.S.C. 12101 et seq.].
  - 20.1.3. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.].
  - 20.1.4. Sections 503 and 504 of the Rehabilitation Act of 1973 [29 U.S.C. 793 and 794], the Age Discrimination in Employment Act of 1967 [29 U.S.C. 621].
  - 20.1.5. The Age Discrimination Act of 1975 [42 U.S.C. 6102].
  - 20.1.6. The Vietnam Era Veterans Readjustment Assistance Act of 1974 [38 U.S.C. 2011].
  - 20.1.7. Any relevant Executive Order (E.O.) issued by the President of the United States.
  - 20.1.8. The Washington State Law Against Discrimination [Chapter 49.60 RCW].



- 20.1.9. Any related provisions of the Code of Federal Regulations (CFR), Washington Administrative Code (WAC) and Revised Code of Washington (RCW), or any subsequent amendments to these provisions.
- 20.2. Requirements of County's Equal Employment Opportunity Policy are incorporated by reference to this Agreement and include, but are not limited to, the following:
  - 20.2.1. Subrecipient shall not discriminate against any employee or applicant for employment, nor conduct any unlawful employment practices because of race, color, religion, creed, national origin, sex, sexual orientation, age, marital status, veteran status, the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a disabled person. This requirement does not apply, however, to a religious corporation, association, or educational institution with respect to the employment of individuals of a particular religion to perform work connected with the operation of such corporation, association, or educational institution, in pursuit of its activities.
  - 20.2.2. Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of Subrecipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, national origin, sex, sexual orientation, age, marital status, veteran status, or the presence of any sensory, mental, or physical disability, genetic information, or the use of a trained guide dog or service animal by a disabled person. For newspaper advertisements, Subrecipient may state that Subrecipient is an Equal Opportunity Employer, instead of using the longer qualification.
  - 20.2.3. Subrecipient will not, on the basis of race, color, religion, creed, national origin, sex, age, disability, sexual orientation, marital status, or veteran status:
    - 20.2.3.1. Deny an eligible individual any services or other benefits provided under this Agreement, or any subcontracts awarded pursuant to this Agreement.
    - 20.2.3.2. Provide any services or other benefits to an individual which are different or are provided in a different manner from those provided to others under this Agreement or any subcontracts awarded pursuant to this Agreement.
    - 20.2.3.3. Subject an individual to unlawful segregation or separate treatment, or unlawful discriminatory treatment in any manner related to the receipt of any services and/or the use of the Subrecipient's facilities, or other benefits provided under this Agreement; nor
    - 20.2.3.4. Deny any individual an opportunity to participate in any service provided by this Agreement or afford an opportunity to do so which is different from that afforded others under this Agreement. In determining: (1) the types of service or the benefits to be provided; (2) the class of individuals to whom, or the situation in which, such services or other benefits will be provided; or (3) the class of individuals to be afforded an opportunity to participate in any service or other benefits; the Subrecipient will not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, religion, creed, national origin, sex, sexual orientation, age, marital status, veteran status, or the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a disabled person.
  - 20.2.4. As required by Title II/III of the ADA regarding places of public accommodation, Subrecipient will ensure equal opportunity for individuals with disabilities to receive

services. Subrecipient will make reasonable modifications to policies, practices, and procedures that deny equal access to individuals with disabilities.

- 21. Payment of Taxes.** Subrecipient shall pay all federal, state, and local taxes incurred by Subrecipient. Subrecipient shall require payment of all federal, state, and local taxes incurred by any of its subrecipients, subcontractors, consultants, and agents who are paid from funds provided under this Agreement or act in furtherance of this Agreement. Satisfactory performance of this section (21) is a condition precedent to payment by the County under this Agreement.
- 22. Political Activity Prohibited – Byrd Anti-Lobbying Compliance.** By signature of this Agreement, the Subrecipient agrees none of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, lobbying activities, or to further the election or defeat of any candidate for public office as defined in 2 CFR §200.450 or any successor.
- 23. Proprietary Software.** In the event Subrecipient accesses County’s proprietary software applications to perform any work under this Agreement, Subrecipient shall read and agree to the terms and conditions of the software license agreement, and shall not violate the terms and conditions of the software license agreement including, but not limited to:
- 23.1. The use of the software application shall be restricted to employees or subcontractors.
  - 23.2. The Subrecipient shall not “pirate” or reverse engineer the software application; and/or
  - 23.3. Otherwise use the application in any way that may harm the County.
- 24. Recordkeeping, Reporting, and Audits.**
- 24.1. Subrecipient shall maintain all records required by applicable federal, state, and local regulations and to demonstrate compliance with this Agreement. The public shall be granted reasonable access to all “public records” associated with this Agreement for up to six (6) years following the termination or expiration of this Agreement in accordance with, and subject to any limitations or exemptions under the Public Records Act, RCW 42.56, or any other applicable state or federal law. This Agreement is subject to review by any Federal or State auditor. County or its designees shall have the right to review and monitor the financial and service components of this Agreement by whatever means are deemed expedient by the County. Such review/right to access may occur with or without notice, and may include, but is not limited to, on-site inspection and inspection of all records or other materials which the County deems pertinent to this Agreement and its performance. Subrecipient shall preserve and maintain all financial records and records relating to performance of this Agreement for six (6) years after termination or expiration, and shall make them available for such review, within Pierce County, State of Washington, upon reasonable request.
  - 24.2. Subrecipient shall maintain written policy and procedural manuals for all services, information systems, personnel, and accounting/finance in sufficient detail such that operations can continue should staff changes or absences occur.
  - 24.3. Subrecipient shall establish and maintain in conformance with applicable accounting laws, regulations, and standards an accounting system that, at a minimum:
    - 24.3.1. Adequately and separately identifies all funding sources and all application of funds associated with providing the required services including, but not limited to, local, state, and federal grants, fees, donations, federal funds, and all other funds, public or private.
    - 24.3.2. Provides a means to gather fiscal data necessary to determine; a) the cost of a unit of service; b) the bid price; and c) if funds were generated more than allowable costs.

- 24.3.3. Accurately identifies all costs incurred by Subrecipient, even when no revenue is received from services.
- 24.4. Subrecipient shall maintain all records containing information pertaining to projects, contracts, grants, or sub-grant awards, and all authorizations, obligations, non-obligated balances, assets, outlays, liabilities, expenditures, and revenue.
- 24.5. Subrecipient shall maintain all books, records, documents, reports, and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in performance of this Agreement. Subrecipients shall maintain their fiscal books, records, documents, and other data in a manner consistent with relevant generally accepted accounting principles.
- 24.6. Upon reasonable request by County, Subrecipient shall provide to County all information, data, and other reporting, to the fullest extent permitted by law, that is required by the County to comply with federal, state, and local laws and to meet the County's reporting obligations.
- 24.7. Audit Obligations
  - 24.7.1. Subrecipient shall submit to the County's fiscal representative an independent audit engagement letter and satisfy the other conditions set forth below, as applicable:
    - 24.7.1.1. Subrecipients that are required to have a Single Audit under 2 CFR §200 Subpart F must submit a copy of the independent audit engagement letter to the County upon execution of this Agreement.
    - 24.7.1.2. When state funds are also to be paid under this Agreement, a Schedule of State Financial Assistance must also be included.
    - 24.7.1.3. Subrecipient shall inform the County's fiscal representative in advance of the date and time of the independent auditor's exit interview with Subrecipient so that a County representative can be present if the County so desires.
    - 24.7.1.4. Subrecipient shall submit the independent Certified Public Accountant (CPA) auditor's financial statement report, Single Audit reports and the management letter (collectively referred to as "reports") to the County within thirty (30) calendar days following the issuance of such reports. Further, Subrecipient shall:
      - 24.7.1.4.1. Provide comments on any findings and recommendations in the reports, including a plan for corrective action for any findings.
      - 24.7.1.4.2. Make available working papers of the reports to County.
    - 24.7.1.5. Subrecipient shall include all relevant audit requirements in any subcontracts.
  - 24.7.2. When Subrecipient is a state or local government entity, the Office of the State Auditor will conduct the audit.
  - 24.7.3. Audits of non-profit organizations are to be conducted by a certified public accountant selected by the Subrecipient in accordance with 2 CFR §200.509.
  - 24.7.4. In the event Subrecipient's independent auditor does not provide the assurances necessary to satisfy relevant legal audit requirements, County retains the right to request a full audit and Subrecipient will be responsible for all costs incurred to provide the required audit and assurances.

- 24.7.5. If Subrecipient receives an annual audit due to requirements other than stated in this Agreement, Subrecipient shall submit all reports from these audits to the County's fiscal representative in accordance with section 24.7.1.4 above.
- 24.7.6. For Subrecipients who are not required to obtain a Single Audit, County, at its discretion, may require the Subrecipient to obtain an independent review or an independent audit, at the Subrecipient's expense, conducted by an independent CPA. A Single Audit requirement may also apply.

**25. Religious Activities.** In accordance with the First Amendment of the United States Constitution and with Article 1, Section 11 of the Washington State Constitution, generally, funds received under this Agreement may not be used for religious activities. The following restrictions and limitations apply to the use of funds provided by County under this Agreement:

- 25.1. Subrecipient may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the services funded under this Agreement.
- 25.2. Subrecipient may engage in inherently religious activities, but such activities must be separated in time or place from the services provided to beneficiaries under this Agreement and participation in such activities by individuals to receive services under this Agreement must be voluntary.
- 25.3. In performance of this Agreement, Subrecipient shall not discriminate against an individual beneficiary, or a prospective beneficiary of services based on religion or religious belief.

**26. Severability.** In the event any term or condition of this Agreement, or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable.

**27. Subrecipient Assets.**

- 27.1. Title to all property furnished by Subrecipient in performance of this Agreement shall remain with the regulating authority; and title to all property furnished by the County in performance of this Agreement shall remain with County.
- 27.2. Subrecipient shall obtain prior written approval by County when purchasing nonexpendable personal property if the cost of the personal property is to be reimbursed as a direct item of cost under this Agreement. This approval may be accomplished by inclusion in the Agreement Budget.
- 27.3. Title of all non-expendable personal property purchased by Subrecipient, the cost of which Subrecipient is reimbursed as a direct item of cost under this Agreement, shall pass to and vest in the County upon acceptance of such property by the Subrecipient.
- 27.4. Non-expendable personal property purchased by Subrecipient under the terms of this Agreement, in which title is vested in the County, shall not be rented, loaned, or otherwise passed to any person, partnership, corporation, association, or organization without the prior express written approval of the County.
- 27.5. Any non-expendable personal property furnished to, or purchased by, Subrecipient, title to which is vested in the County shall, unless otherwise provided herein or approved by the County, be used only for the performance of this Agreement.
- 27.6. As a precedent to reimbursement for the purchase of non-expendable personal property, title to which shall be vested in the County, Subrecipient agrees to provide all necessary information and documents for the County to execute such security agreements and other documents as shall be

necessary for the County to protect its interest in such property in accordance with the Uniform Commercial Code as codified in Title 62A RCW.

- 27.7. Subrecipient will furnish to County by the fifteenth (15th) day of October each year while this Agreement is in effect, unless otherwise stated, an inventory of all property purchased with funds provided by the County for use under the terms of this Agreement. The inventory list shall include all nonexpendable personal property, including small and attractive items, purchased with funds provided by the County under the terms of this Agreement. For the purposes of this clause, conducting and providing an inventory consists of sighting, tagging, or marking, describing, recording, and reporting the property involved.
- 27.8. The Subrecipient shall be responsible for any loss or damage to property of the County, including all expenses resulting from such loss or damage, which results from negligence, willful misconduct, or lack of good faith on the part of the Subrecipient, or which results from the failure on the part of the Subrecipient to maintain and administer the property in accordance with sound management practices. Furthermore, the Subrecipient shall ensure that all County property in its possession, when returned to the County, shall be in a like condition to that in which it was when furnished to the Subrecipient or the condition in which the property was when acquired by the Subrecipient through purchase, except that in all cases, reasonable wear and tear shall be allowed.
- 27.9. Within three (3) calendar days of discovery of loss or destruction of or damage to County property, Subrecipient shall notify the County in writing and include appropriate documentation (i.e., police, fire, or accident reports). Subrecipient shall take all reasonable steps to protect that property from further damage.
- 27.10. Within five (5) working days after termination, or completion of this Agreement, unless otherwise mutually agreed in writing between Subrecipient and County, Subrecipient shall surrender to County all property of the County.
- 27.11. County may, at its discretion, abandon in place any property in which title is vested in the County under the terms of this Agreement insofar as permitted by law, rule, or regulation.
- 27.12. Non-expendable personal property acquired by the Subrecipient, the cost of which is reimbursed by the County or the Subrecipient with funds provided through this Agreement, shall be subject to the same constraints, procedures, treatment, handling, disposition, and other matters as specified above. The Subrecipient shall take all steps necessary to ensure that the interest of the County in such property shall be protected and safeguarded.
- 27.13. Subrecipient will maintain property record cards and property identification tabs as may be directed by the County. This applies only to property purchased with federal, state, and/or County funds specifically designated for such purchase.

## **28. Suspension & Termination.**

- 28.1. County may, upon written notice to Subrecipient, immediately suspend or terminate this Agreement in whole or in part or withhold any payment to Subrecipient in whole or in part, whenever County, in its sole discretion, determines that such suspension or termination is in the County's interests. This includes, without limitation, the occurrence of any one or more of the following:
  - 28.1.1. Expected or actual funding from the state, federal government, or other source(s) is withdrawn, reduced, or limited in any manner after the effective date of this Agreement and prior to its normal completion.

- 28.1.2. Performance of this Agreement is rendered unfeasible or impossible for any reason.
- 28.1.3. Subrecipient fails to comply with any of the terms or conditions of this Agreement or when Subrecipient fails to substantiate Subrecipient's compliance with this Agreement when requested to do so by County.
- 28.1.4. Subrecipient uses Agreement funds improperly or illegally.
- 28.1.5. Subrecipient provides materials, information, reports, or documentation which are incomplete, incorrect, or false, either knowingly or negligently.
- 28.1.6. Subrecipient fails to provide services, information, reports, or documentation required by this Agreement in a timely and reasonable manner.
- 28.1.7. Subrecipient fails to resolve in a timely fashion audit finding(s) associated with this Agreement which could materially impact performance of this Agreement.
- 28.1.8. Subrecipient is unable to carry out the terms and conditions of this Agreement in compliance with applicable federal, state, or local law; or
- 28.1.9. Any illegal act by Subrecipient.
- 28.2. Whenever the Agreement is terminated in accordance with the above (section 28.1), Subrecipient shall be entitled to reimbursement for appropriate, approved, and eligible costs actually incurred by Subrecipient and supported by appropriate documentation prior to termination. Termination of this Agreement by County at any time during its term, whether for default or convenience, shall not constitute a breach by County.
- 28.3. County's forgiveness of Subrecipient's nonperformance of any provision of this Agreement in one (1) instance does not constitute a waiver of any provision of this Agreement, nor of future nonperformance of the same provision.
- 28.4. If Subrecipient receives a notice of termination from County, Subrecipient shall:
  - 28.4.1. Cease performance under this Agreement to the extent specified in the notice of termination.
  - 28.4.2. Place no further orders or agreements for goods, services, or facilities to complete the performance now terminated.
  - 28.4.3. Assign to County all Subrecipient's rights, title, and interest under the orders and agreements placed by Subrecipient to complete the performance now terminated.
  - 28.4.4. Deliver or convey title to:
    - 28.4.4.1. Any property produced by the work terminated.
    - 28.4.4.2. Any usable personal property in which County has a secured interest.
    - 28.4.4.3. Any usable property carried on the County's inventory.
    - 28.4.4.4. Any real property in which County, or any entity names by County, has a secured interest.
  - 28.4.5. Send a final request for reimbursement, supported by appropriate documentation, for the performance now terminated to County within thirty (30) calendar days of the date of termination.
- 28.5. Upon termination, County will:

- 28.5.1. Arrange to take delivery of property or the right, title, or interest of real property conveyed by Subrecipient in conjunction with this Agreement; and
- 28.5.2. Make final payment upon receipt of final billings for all authorized services, if Subrecipient has provided documentation that County's interests are fully protected.
- 28.6. The rights and remedies in this section (28) are in addition to any other rights and remedies provided by law or under this Agreement.

**29. Survivability.** The terms and conditions contained in the Agreement that by their sense and context are intended to survive the expiration of this Agreement shall so survive.

**30. Waiver.** Waiver of any breach or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Agreement shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by Subrecipient and County.

**EXHIBIT E – SUBAWARD INFORMATION**

<b>Subrecipient Name:</b>	Town of Eatonville
<b>Subrecipient Unique Entity Identifier (UEI):</b>	L9AMJGACAZ48
<b>Federal Award Identification Number (FAIN):</b>	B-21-UC-53-0002
<b>Federal Award Date:</b>	August 11, 2021
<b>Subaward Period of Performance Start and End Date:</b>	July 1, 2023
<b>Subaward Budget Period Start and End Date:</b>	June 30 2025
<b>Amount of Federal Funds Obligated:</b>	\$235,455
<b>Total Amount of Federal Funds Obligated to Subrecipient (including the current financial obligation):</b>	\$235,455
<b>Total Amount of Federal Funds Committed to Subrecipient:</b>	\$235,455
<b>Federal Award Project Description:</b>	Community Development Block Grant ("CDBG") B-21-UC-53-0002 from the US Department of Housing and Urban Development
<b>Name of Primary Awarding Entity:</b>	Housing and Urban Development (HUD)
<b>Name of First Pass Through Entity:</b>	Pierce County
<b>Contact Information for Pierce County:</b>	Megan Gaskell
<b>Assistance Listing Number (ALN):</b>	14.218
<b>Assistance Listing Program Title:</b>	Community Development Block Grant
<b>Research and Development:</b>	No
<b>Indirect Cost Rate:</b>	No



**EXHIBIT F: COVENANT**

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When Recorded Return To:

Pierce County Department of Human Services or its successor  
Community Development Unit  
3602 Pacific Ave, Suite 200  
Tacoma, WA 98418  
Attn: Megan Gaskell

**SUBRECIPIENT COVENANT AGREEMENT**  
CDBG Public Facilities

Grantor: Town of Eatonville (“Grantor” and “Subrecipient”)  
Grantee: Pierce County (“Grantee” and “Beneficiary”)

This Subrecipient Covenant Agreement (“Covenant Agreement”) is made by Town of Eatonville (“Subrecipient”) and is part of the consideration for the financial assistance provided by Pierce County (“County”) for the 2021 CDBG Eatonville Generator for Food Bank and Senior Lunches project on the real property (“Property”) legally described as follows:

**Assessor’s Parcel Nos.:** 3605002300, 3605002310, and 3605002322.

**Legal Description:** Lots 1 and 2, and the North one-half of Lot 3, all in Block 31, Town of Eatonville. Situate in the County of Pierce, State of Washington.

This Covenant Agreement will be recorded with the Pierce County Auditor’s Office and shall constitute a restriction upon the use of the property described herein, subject to and in accordance with the terms of this Covenant Agreement, until five years (5 years) after Pierce County is no longer a Community Development Block Grant (CDBG) recipient.

The covenants contained herein are to be taken and construed as covenants running with the land and shall pass to and be binding upon the Subrecipient, his successors and assigned heirs, grantees, or lessees of the Property, beginning on the date of substantial project completion. Each and every contract, deed or other instrument covering or conveying the property, or any portion thereof, shall be conclusively held to have been executed, delivered and accepted subject to such covenants, regardless of whether such covenants are set forth in such contract, deed or other instruments.

NOW, THEREFORE, a covenant is hereby made as follows:

1. NOW, THEREFORE, a covenant is hereby made for until five years following the date at which point Pierce County is no longer a Community Development Block Grant recipient:
  1. The real property described above will be used to provide public services to benefit low-to-moderate income individuals seeking services at the property as proposed in their

application for funding NOFA No. 20-001-CDBG-PF21 and specified in the Agreement No SC-\_\_\_\_\_ between the Subrecipient and County dated on or about \_\_\_\_\_, 2023 including any amendments thereto. Income status will be based on the United States Department of Housing and Urban Development ("HUD") median income and household size, revised annually; and

2. The Subrecipient will maintain safe and sanitary facilities and will comply with all state and local building codes, licensing requirements and other requirements regarding the condition of the structure and the operation of the project in the jurisdiction in which the facility is located; and
3. The Subrecipient will keep any records and make any reports relating to compliance with this covenant that the County may reasonably require; and
4. **DEFAULT:** If a violation of any of the foregoing covenant occurs, the County may, after thirty days' notice to the Subrecipient, and/or any successors, institute and prosecute any proceeding at law or equity to abate, default the loan, prevent or enjoin any such violation or to compel specific performance by the Subrecipient of its obligations hereunder; provided that, the Subrecipient shall not be required by any provision herein to evict a tenant. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage, or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violations or any similar breach or violation hereof at any later time.

IN WITNESS WHEREOF, Grantor has executed this Covenant Agreement or has caused the same to be executed by its representatives thereunder duly authorized.

**Grantor:**  
Town of Eatonville

By: \_\_\_\_\_  
(name)

Its: \_\_\_\_\_  
(title)

(signature)

STATE OF WASHINGTON)  
                                )ss.  
County of Pierce)

On this day personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Signature of officer and official seal  
Notary Public in and for the state of Washington,  
residing at \_\_\_\_\_, Washington.

NOTICE CONCERNING ORAL AGREEMENTS  
Oral agreements or oral commitments to lend money, extend credit or to forbear from enforcing repayment of a debt are not enforceable under Washington State Law.