

CLARK COUNTY STAFF REPORT

DEPARTMENT: Community Services

DATE: 07/26/16

REQUESTED ACTION: That the County Manager approve a contract with City of Camas for CDBG-funded improvements.

☐ Consent ☐ Hearing ☒ County Manager

BACKGROUND

This Federally-funded contract will provide the City of Camas with Community Development Block Grant (CDBG) funds in the amount of \$250,000. These funds will be used by the City to upgrade water and sewer systems on NE Franklin Street between 19th and 22nd Avenues in Camas, WA.

CDBG funds will be used to remove existing dilapidated asphaltic roadway and underlying material and to install new 3 inch asphaltic roadway. The funds will also pay for new ADA ramps, sidewalks and driveways where installation of new water and sewer service will impact exiting facilities.

The Community Development Block Grant, one of the longest-running programs of the U.S. Department of Housing and Urban Development, funds local community development activities such as affordable housing, anti-poverty programs, and infrastructure development.

- ☒ This is a new project
- ☐ This is a continuation of an existing project

COUNCIL POLICY IMPLICATIONS

There are no known Council policy implications.

ADMINISTRATIVE POLICY IMPLICATIONS

There are no known administrative policy implications.

COMMUNITY OUTREACH

Outreach efforts included a County Request for Application (RFA) process, public meetings and forums required by a HUD citizen participation plan, and newspaper advertising.

BUDGET IMPLICATIONS

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

BUDGET DETAILS

Local Fund Dollar Amount	\$0
Grant Fund Dollar Amount	\$250,000 HUD CDBG Grant B-16-UC-53-0006. CFDA Number 14.218.
Account	Fund 1939 (CDBG)
Company Name	City of Camas (Contract #2016-CDBG-1602)

DISTRIBUTION:

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

For questions please contact Rebecca Royce or Jay Carstens at 360-397-2130.


 Jay Carstens, Management Analyst


 Vanessa Gaston, Director

APPROVED: _____
CLARK COUNTY, WASHINGTON
BOARD OF COUNTY COUNCILORS

DATE: _____

SR# _____

APPROVED: 
 Mark McCauley, County Manager

DATE: 8/1/16

BUDGET IMPACT ATTACHMENT – NONE**Part I: Narrative Explanation**

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

Part II: Estimated Revenues

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Total	\$0	\$0	\$0	\$0	\$0	\$0

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

Part III: Estimated Expenditures

III. A – Expenditures summed up

Fund #/Title	FTE's	Current Biennium		Next Biennium		Second Biennium	
		GF	Total	GF	Total	GF	Total
Total	\$0	\$0	\$0	\$0	\$0	\$0	\$0

III. B – Expenditure by object category

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Salary/Benefits						
Contractual						
Supplies						
Travel						
Other controllables						
Capital Outlays						
Inter-fund Transfers						
Debt Service						
Total	\$0	\$0	\$0	\$0	\$0	\$0

CONTRACT# 2016-CDBG-1602

between

CLARK COUNTY, Department of Community Services

P.O. Box 5000, Vancouver, WA 98666

and

CITY OF CAMAS

616 NE Fourth Ave, Camas, WA 98607

Program/Services Being Funded: Franklin North Neighborhood
Contract Period: July 1, 2016 through December 31, 2016
Budget Authority: \$250,000 - **Funding is subject to Clark County's receipt of federal funds**
Funding Source: Fund 1939 - Community Development Block Grant
DUNS Number: 103021895
CFDA Number: 14.218

Contractor Program Contact	Contractor Fiscal Contact	County Program Contact	County Fiscal Contact
Jim Hodges 360-817-7234 jhodges@cityofcamas.us	Cathy Huber Nickerson 360-834-2462 chuber@cityofcamas.us	Rebecca Royce 360-397-2075 x 7863 rebecca.royce@clark.wa.gov	Rhonda Hills 360-397-2075 x 7836 rhonda.hills@clark.wa.gov


Clark County, hereinafter referred to as the "County," and City of Camas, hereinafter referred to as the "Contractor," agree to the terms and conditions of the County's Basic Interagency Agreement and this Contract by signing below:

FOR CLARK COUNTY:


Mark McCauley, County Manager

8/1/16
Date

FOR CITY OF CAMAS:


Scott Higgins, Mayor

7/20/2016
Date

APPROVED AS TO FORM ONLY:


Deputy Prosecuting Attorney

BUDGET SUMMARY
CONTRACT #2016-CDBG-1602

<u>Source</u>	<u>Fund Amount</u>
A. Clark County CDBG Reprogrammed	\$40,000
B. Clark County CDBG Entitlement*	\$210,000
C. City of Camas	\$215,000
D. Sponsor contribution	\$45,000

Itemized Cost	Total Cost	A	B*	C	D
1. Construction	\$465,000	\$40,000	\$210,000	\$215,000	\$0
2. Engineer/Architect	\$45,000	\$0	\$0	\$0	\$45,000
PROJECT TOTALS	\$510,000	\$40,000	\$210,000	\$215,000	\$45,000

Match is 51.0% (\$260,000 / \$510,000)

- * The Clark County CDBG Entitlement funds are a pre-award for this reimbursement project. This allows the City of Camas to obligate CDBG funds after May 15, 2016, and before the grant agreement is executed between HUD and Clark County. Work can begin after May 15, but all CDBG regulations must be followed, including Davis-Bacon Act regulations. Once Clark County has executed the grant agreement with the U.S. Department of Housing and Urban Development, eligible costs can be reimbursed.

**STATEMENT OF WORK
CITY OF CAMAS
FRANKLIN NORTH NEIGHBORHOOD**

1. PROJECT DESCRIPTION

This project consists of upgrading the water and sewer systems on NE Franklin Street between 19th and 22nd Avenues in Camas, WA. The City of Camas Sewer Utility will pay for the replacement of 660 lineal feet of new 8 inch sewer main and approximately 13 new 6 inch sewer laterals. The City of Camas Water Utility will pay for the installation of new copper water services to each residence, new water boxes and upgraded water meters. Two fire hydrants will also be evaluated and replaced with these funds if they do not meet current standards.

CDBG funds will be used to remove the existing dilapidated asphaltic roadway and underlying material and install new underlying material and 3 inch asphaltic roadway. CDBG funds will also pay for new ADA ramps as needed in the project area, along with sidewalks and driveways where installation of new water and sewer service will impact exiting facilities.

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

2. CONTRACT PERIOD

- 2.1. Subject to its other provisions, the contract period is shown on the face sheet of this Contract. Services must be provided and billable costs incurred within the contract period.
- 2.2. The Contractor shall have an additional 30 days following the expiration of the contract to submit reports and to complete non-billable end-of-contract activities.

3. FUNDING ELIGIBILITY

This project qualifies for CDBG funding under 24 C.F.R. § 570.201(c) Public Facilities and Improvements, under the Low/Mod Income Area National Objective. The project is located in census tract 414, block group 1, which is 54.05 percent low-income.

4. BUDGET

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

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

- 4.2. The Contractor will apply the funds received from the County under this contract in accordance with the Budget Summary and the Statement of Work.

5. PAYMENT PROVISIONS

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

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

- 5.1.1.1. For direct costs, detail will include:

- 5.1.1.1.1. Salaries and benefits: name or employee ID number, salary/benefits paid, and dates;

- 5.1.1.1.2. Other direct costs: vendor names, dates of service and amount.

- 5.1.1.2. For allocated costs, the Contractor shall provide a copy of an allocation method or plan to the County for review and approval by the Department of Community Services Finance Staff prior to the first invoice being reimbursed. Approval will be in writing and copied to both the Contractor and the contract file. The Contractor will submit one of the following documents to meet this requirement:

- 5.1.1.2.1. Cost Allocation Plan that defines how direct, shared, and administrative costs are allocated; or;

- 5.1.1.2.2. A Cost Allocation methodology that defines how direct, shared, and administrative costs are allocated.

- 5.1.1.3. No administration costs are allowed under this Contract.

- 5.1.2. For services that are also funded by a third party, the Contractor shall provide a detailed cost itemization by cost center and funding source.

Detail shall identify which service or work was funded by the County and by other parties.

- 5.2. Match Requirements. When approximately 50 percent of the CDBG funds have been expended and with each voucher thereafter, the Contractor shall document total match expenditures in proportion to the amount requested. At the conclusion of the project, match shall be equal to or greater than the amount shown on the Budget Summary. The required match may be cash or in kind.
- 5.3. Payment Provisions for Construction Projects where Federal Labor Standards Apply, and Change Orders. For construction projects subject to Federal Labor Standards Provisions (Davis-Bacon), the County shall reserve the final 10% of grant funds budgeted on the construction line item (as specified in the Budget Summary) pending the County's receipt of a complete and correct set of certified payrolls from project contractor(s). The final billing for retainage shall include copies of all executed change orders and the final project cost.
- 5.4. The Contractor agrees to allow the County to make adjustments to the individual budget lines of this Contract when necessary and in the interests of both parties, provided the total contract amount remains unchanged.

**PROJECT SCHEDULE
CITY OF CAMAS
FRANKLIN NORTH NEIGHBORHOOD**

ACTIVITY	COMPLETION DATE
Engineering/Design and bid document preparation	June 2016
Bid invitation and contractor selection	July 2016
Construction	November 2016
Project close out	December 2016

1. The Contractor shall meet the completion dates listed in the Project Schedule table above unless modified by the County in writing.
2. The Contractor agrees to allow the County to extend the Project Schedule when necessary and in the interests of both parties. The Contractor grants the County the right to unilaterally extend, in writing, the Project Schedule and Contract Period without the signature of the Contractor.

SPECIAL TERMS AND CONDITIONS COMMUNITY DEVELOPMENT BLOCK GRANT

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

1. ACCESS, MONITORING AND INSPECTIONS

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

2. ACCESSIBILITY

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

3. ACQUISITION AND RELOCATION

- 3.1. Any acquisition of real property for any activity assisted under this Contract which occurs on or after the date of the Contractor's submission of its CDBG application to the County will comply with Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (hereinafter referred to as the Uniform Act) (42 USC, Sections 4601 - 4655) and the regulations at 24 C.F.R. 42, as provided in 24 C.F.R. 570.606.
- 3.2. Any acquisition, demolition, or conversion to another use of real property assisted under this Contract shall comply with Section 104(d) of the Housing and Community Development Act of 1974 which requires the one-for-one replacement of all occupied or vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than low/moderate-income dwelling units.

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

4. APPLICABILITY OF LAW

- 4.1. The Contract is and shall be construed as being executed and delivered within the State of Washington and it is mutually agreed by the Contractor and the County that all contracts and agreements between the Contractor and the County shall be governed by laws of the State of Washington, both as to interpretation and performance.

- 4.2. Venue shall be Clark County, Washington.

5. ANTI-LOBBYING

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

- 5.1. No federally appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- 5.2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- 5.3. It will require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

6. CLAIMS OR DAMAGES

The County is not liable for claims or damages arising from the Contractor's performance of this Contract.

7. CONFLICT OF INTEREST (24 C.F.R. §570.611)

7.1. Applicability.

7.1.1. In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 24 C.F.R. §85.36 and 24 C.F.R. §84.42, respectively, shall apply.

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

7.2. Persons covered.

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

7.3. Conflicts prohibited.

The general rule is that no persons described in section 7.2 who exercise or have exercised any functions or responsibilities with respect to activities assisted under this Contract, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from an activity assisted by these funds, or have a financial interest in any contract, subcontract, or agreement with respect to an activity assisted by these funds, or with respect to the proceeds of the activity assisted by these funds, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

8. CONSTRUCTION DOCUMENTS

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

requesting bids for construction.

- 8.2. All specifications and drawings will be in conformance with current engineering and design standards of the jurisdiction where the project is located, and with the general specifications set forth in the Contractor's application for this project. All plans, specifications, and drawings shall be completed, stamped and signed by a licensed professional architect, landscape architect, or engineer.
- 8.3. Any change in the scope of the project shall require a modification of this Contract.
- 8.4. The Contractor shall obtain all necessary and appropriate land use permits, zoning approvals, and any other permits and approvals required by local, county, state and federal law.
- 8.5. The Contractor shall appropriately bid, award the contract, and contract for construction of the project. The Contractor shall assume the rights and responsibilities of owners of the project, except that the County will provide funds for the improvements generally described in this Contract.
- 8.6. In the event not all improvements can be made with the project funds, the County, in consultation with the Contractor, shall determine the priority of the improvements to be made.
- 8.7. The Contractor shall provide the County with one set of final record documents: the "As-Built" plans, which are stamped, certified, and signed.

9. CONTRACTOR REGISTRATION

The Contractor shall keep current with DUNS registration, and the Contractor shall register with System for Award Management (SAM), in accordance with 48 C.F.R. Part 4, Subpart 4.11. <https://www.sam.gov/portal/public/SAM/>

10. COPYRIGHT

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

11. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION

- 11.1. This certification is required by the regulations set forth in Title 2 C.F.R. Part 180. The terms "covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded," as used in this clause, have the meanings set out in Title 2 C.F.R. Part 180.

11.2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction

LOWER TIER COVERED TRANSACTIONS

- a) The lower tier Grantee certifies, by signing this Contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - b) Where the lower tier Grantee is unable to certify to any of the statements in this Grant, such Grantee shall attach an explanation to this Grant.
- 11.3. Before entering into a “covered transaction” with another party at the next lower tier, the Contractor agrees by signing this Contract that it will first verify that the person or party with whom it intends to do business is not excluded or disqualified. The Contractor may do this by:
- 11.3.1. Checking the federal Excluded Parties List System at sam.gov; or
 - 11.3.2. Collecting a certification from the person or party; or
 - 11.3.3. Adding a clause or condition to the covered transaction with that person or party that fully meets the requirements set out in Title 2 C.F.R. Part 180.
- 11.4. The Contractor agrees by signing this Contract that it shall not knowingly enter into any lower tier covered transaction with a person or party who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
- 11.5. The certification in this clause is a material representation of fact upon which reliance is placed at the time of Contract execution and at the time of any subsequent modification(s). If it is at any time determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- 11.6. Before hiring any new employee, the Contractor shall conduct a search of the Federal Excluded Parties List System referenced above to ensure that the individual is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. The search must be conducted by the Contractor *prior to* making an employment offer. Evidence of search results must be maintained in the employee’s personnel file.
- 11.7. The Contractor shall maintain written documentation of its compliance with the above-stated requirements and make said documentation available to Clark

County for review upon request.

12. DOCUMENTS INCORPORATED BY REFERENCE

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

- 12.1. The Basic Interagency Agreement with Clark County;
- 12.2. Contractor's proposal for CDBG funds;
- 12.3. CDBG Program Policies and Procedures, as now established or hereafter amended;
- 12.4. Current version of HUD income limits; and
- 12.5. Environmental Review Record (ERR) for the project.
- 12.6. U.S. Department of Housing and Urban Development Community Development Block Grant B-16-UC-53-0006, as amended.

13. DUPLICATION OF COSTS

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

14. EMPLOYMENT VERIFICATION PROGRAM

- 14.1. If the amount of this Contract is equal to or greater than \$25,000, the Contractor shall enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security (DHS) agreeing to participate in the E-Verify Program. The Contractor shall submit a copy of the MOU to the County prior to starting work under this Contract and shall verify employment eligibility using the E-Verify website throughout the term of the Contract.
- 14.2. If the Contractor has sub-contracts in an amount equal to or greater than \$25,000 working in support of this Contract, the Contractor is responsible for ensuring that the sub-contractor provide a DHS MOU or proof of pending application (followed by an MOU) within 30 days after the contract start date.
- 14.3. Pre-employment searches must be conducted by the Contractor (and its covered subcontractors) prior to making offers of employment. Evidence of search results must be maintained in each employee's personnel file. Upon completion of this Contract, the Contractor shall provide the County with a written document certifying the authorized employment status of its employees and those of any

sub-contractors assigned to the perform work under the Contract.

- 14.4. E-Verify program and enrollment information is available at the Department of Homeland Security website: <http://www.uscis.gov/e-verify>.

15. ENTIRE CONTRACT

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

16. ENVIRONMENTAL REVIEW

- 16.1. Upon release of project-related funds by HUD pursuant to 24 C.F.R. Part 58 (NEPA Environmental Review Procedures), no choice limiting acting on the project shall occur without a fully executed contract.

- 16.2. National Environmental Policy Act and Related Laws and Authorities as Implemented.

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

- 16.3. In the event of an inadvertent discovery of potentially significant archaeological materials (bones, shell, stone tools, hearths, etc.) and/or human remains during project activities, all work in the immediate vicinity should stop, the area must be secured, and the discovery must be reported to the Department of Archaeology and Historic Preservation (DAHP) (360-586-3056) and all relevant Native American tribes. In the event human remains are identified, local law enforcement, the county medical examiner, State Physical Anthropologist at DAHP (360-586-3534), the Clark County planning office, and the affected Tribes should be contacted immediately. Compliance with all applicable laws pertaining to archaeological resources (RCW 27.53, 27.44 and WAC 25-48) and human remains (RCW 68.50) is required. Contractor shall include this language in its contract with the general contractor.

16.4. Environmental Mitigation Measures

16.4.1. In the event environmental mitigation measures are required by the environmental review process, the Contractor shall include the requirements within the construction contract between the Contractor and its selected General Construction Contractor.

16.4.2. All of the following environmental mitigation measures shall be completed before Contractor submits an invoice for final payment.

There are no mitigation measures.

17. FAITH-BASED ACTIVITIES

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

18. FISCAL REQUIREMENTS

18.1. The Contractor is required to comply with Generally Accepted Accounting Principles (GAAP) or Governmental Generally Accepted Accounting Principles (GGAAP) and that meets the financial management systems requirements of the Contract.

18.2. The requirement in section 18.1 may be met either by submission of an annual independent auditor's report or by the submission of semi-annual financial reports based upon the mid-point and end of the Contractor's fiscal year, if an annual audit is not performed.

18.3. The Contractor shall adhere to 2 C.F.R. Part 200 for cost principles and federal award requirements.

18.4. If the Contractor (1) expends \$750,000 or more in Federal awards during the Contractor's fiscal year or (2) the Contractor is a State Auditor's Office BARS user, regardless of expenditure level, the Contractor shall prepare a Schedule of Expenditures of Federal Awards (SEFA) in accordance with Title 2 C.F.R §200.508.

18.5. Copies of independent audit reports shall be submitted to the County. Copies of other financial records may be required. The Contractor shall provide to the County a corrective action plan for any audit findings within thirty (30) days of having received the auditor's report. Failure to fulfill this requirement may result in corrective action, including withholding payment until the financial information or audit is received.

18.6. If the Contractor expends \$750,000 or more in federal funds during the fiscal

year, an audit report is required. Where applicable, the Contractor shall include a corrective action plan for audit findings. Failure to fulfill this requirement may result in corrective action, including withholding payment until the financial information or audit is received.

18.6.1. Non-Profit Contractors and Public Entities - The audit report must meet Title 2 C.F.R §200 requirements with assurances of financial record keeping that will enable identification of all federal funds received and expended by the OMB Catalog of Federal Domestic Assistance number. Title 2 C.F.R §200 requires the Contractor to provide the auditor with a schedule of Federal Expenditure for the fiscal year(s) being audited. Title 2 C.F.R §200 audits for fiscal years that include this contract shall be completed and submitted to the County within nine months from the end of the Contractor's fiscal year unless otherwise approved by the County in writing.

18.6.2. For Profit Contractors - An independent audit, an independent limited scope audit or other evidence negotiated with and approved by the County that provides positive assurance of meeting GAAP or GGAAP. Independent audits for fiscal years that include this contract shall be completed and submitted to the County within nine (9) months from the end of the Contractor's fiscal year unless otherwise approved by the County in writing.

18.7. If applicable, the Contractor shall include a Corrective Action Plan for audit findings. Failure to fulfill this requirement may result in corrective action, including withholding payment until the financial information or audit is received by the County.

18.8. If there is no audit requirement, the Contractor shall submit to the County semi-annual financial reports based upon the mid-point and end of the Contractor's fiscal year. These reports shall be submitted within forty-five days of the mid-point and end of the Contractor's fiscal year. The financial reports shall include:

18.8.1. Non-Profit Contractors - A Statement of Financial Position, Statement of Activities, and Statement of Changes in Net Assets and Statement of Cash Flows.

18.8.2. For-Profit Contractors - A Balance Sheet, Income Statement, and Statement of Cash Flows.

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

19. INSURANCE

19.1. At the execution of this Contract, the Contractor must provide an original

ACORD Form with the Commercial General Liability (CGL) or Business Owners Policy (BOP), showing the broker of record, insurance limits, renewal dates, deductible that is less than or equal to \$5,000, and \$1,000,000 of annually renewing occurrence based coverage. A "Claims-Made Policy" is not acceptable. In the case where the underlying insurance policy is expended due to excessive defense and/or indemnity claims, before renewal, the Contractor warrants and guarantees the coverage limits, to include indemnity and defense up to the listed limit, from its own resources regardless of coverage status due to cancellation, reservation of rights, or any other no-coverage-in-force reason. Coverage shall not contain any endorsements excluding nor limiting product/completed operations, contractual liability or cross liability. In all cases, the Contractor's policy is primary and they waive their right of subrogation.

- 19.2. At the execution of this Contract, and assuming vehicles are used in the Contractor's business, an ACORD Form shall be provided with \$1,000,000 in annually renewing occurrence based coverage for all vehicles owned, used, or leased by Contractor. If vehicles are not used, on letterhead, a letter to the County must state the same. This coverage may be added to the above CGL or BOP ACORD Form(s).
- 19.3. At the execution of this contract, Contractor shall provide proof of statutory workman's compensation insurance for all its employees that is acceptable and in compliance with Labor and Industries Workers' Compensation Division in the State of Washington. The Contractor will defend Clark County against any third party subrogation claims from Labor and Industries as if the injured Contractor employee belonged to Clark County, Washington.
- 19.4. The Contractor shall require any architect, engineer, land surveyor, or other licensed professional to obtain and maintain a professional Errors and Omissions insurance policy to protect against legal liability arising out of Contract activity. Such insurance shall provide a minimum of \$1,000,000 per occurrence, with a \$3,000,000 aggregate, with a maximum deductible of \$25,000. It should be an occurrence based policy. However, if the policy is a claims-made policy, then tail coverage must be provided for three years after the end of the contract or completion of the project.
- 19.5. The Contractor shall purchase and maintain fire and extended coverage insurance policies for all structures improved or constructed with funds under this Contract. The fire and extended coverage insurance policies shall be in the amount of 100% of the insurable value of the structure and improvements.
- 19.6. It is the Contractor's responsibility to provide evidence of continuing coverage during the overlap periods of the policy and the Contract and to notify the County of any change in its insurance.
- 19.7. The Contractor agrees to endorse the County as an "Additional Insured" on the CGL or BOP policy with the following, or similar, endorsement providing equal

or broader additional insured coverage: the CG2026 07 04 Additional Insured - Designated Person or Organization endorsement, or the CG2010 10 01 Additional Insured - Owners, Contractor, or the CG2010 07 04 Contractor, or Contractor endorsement, including the "Additional Insured" endorsement of CG2037 10 01 Additional Insured - Owners, Contractor - Completed Operations, which shall be required to provide back coverage for the Contractor's "your work" as defined in the policy and liability arising out of the products-completed operations hazard. The Additional Insured Endorsement shall read "Clark County Washington".

- 19.8. All insurers used must have an AM Best's Rating of A-VII or better. The Contractor shall provide its own insurance protection at its own expense for any property (contents or personal property) maintained on the premises. In addition, Contractor shall insure the real property and all fixtures and improvements for its full insurable replacement value against loss or damage by fire and other hazards included within the term "extended coverage." All policies and renewals on the real property shall be in a form and with a carrier acceptable to Clark County. Clark County shall be the named insured. The address for all certificates will be written as follows: Clark County Washington, PO Box 5000, Vancouver, WA 98666-5000.
- 19.9. Should the Contractor provide an umbrella or excess coverage for any of the associated coverage(s), they shall be written in a "Follow Form" manner and Clark County Washington shall be listed and endorsed as an additional insured.
- 19.10. Clark County Washington reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverage's and/or endorsements, or to reject any insurance policies which fail to meet any one or more of the criteria stated herein. This ability to selectively reject may also include the capacity and or financial position or reputation of the insurer. Should Clark County not receive the ACORD form renewal during the active project, payment to the Contractor may be held up or suspended until coverage with an additional insured endorsement is reestablished.

20. INTERPRETATION OF CONTRACT

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

- 20.1. Applicable federal and state statutes and regulations, including current version of HUD income limits
- 20.2. Statement of Work
- 20.3. Special Terms and Conditions contained in this Contract
- 20.4. Exhibits or attachments indicated in this Contract

- 20.5. CDBG Program Policies and Procedures, as now established or hereafter amended
- 20.6. The Basic Interagency Agreement with Clark County
- 20.7. Contractor's proposal for CDBG funds
- 20.8. Any other material incorporated herein by reference

21. LABOR STANDARDS

- 21.1. Contractor agrees that all laborers, workers, or mechanics employed by it or by any contractor or subcontractor in the work of this Contract will be paid not less than the prevailing rate of wage for an hour's work in accordance with the provisions of the Revised Code of Washington, Chapter 39.12, and all rules and regulations promulgated pursuant thereto. The State of Washington prevailing wage rates applicable for this public works project, which is located in Clark County, may be found at the following website address of the Department of Labor and Industries:

<https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>

- 21.2. In case any dispute arises as to what the State of Washington prevailing rates of wages for work of a similar nature are and such dispute cannot be adjusted by the parties involved, the matter shall be referred to the director of the Department of Labor and Industries of the State of Washington for arbitration, and the director's decision therein shall be final and conclusive and binding on all parties involved in the dispute.
- 21.3. The Contractor, by its signature on this Contract, agrees to defend and hold harmless the County from any claims based on alleged failure to pay prevailing wages.
- 21.4. The Contractor will require that project construction contractors and subcontractors pay their laborers and mechanics minimum wage rates in accordance with the Davis-Bacon Act (40 USC Sections 3141-3144, 3146, and 3147) and HUD requirements as pertinent to such contracts and the applicable requirements of the regulations of the Department of Labor under 29 C.F.R. Parts 3 and 5, governing the payment of wages and the ratio of apprentices and trainees to journeymen; provided that if wage rates higher than those required under such regulations are imposed by state or local law, nothing hereunder is intended to relieve the Contractor of its obligation, if any, of the requirements of 29 C.F.R. 5.5.

22. LEAD-BASED PAINT

Housing assisted with CDBG funds is subject to the Lead-Based Paint Poisoning

Prevention Act (42 USC 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 4851-4856) and implementing regulations at 24 C.F.R. 35.

23. NONDISCRIMINATION

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

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

23.3. Fair Housing. The Contractor will take necessary and appropriate actions to prevent discrimination in federally assisted housing and lending practices related to loans insured or guaranteed by the federal government (Civil Rights Act of 1968, Title VIII) (Fair Housing Act) (42 USC Sections 3601 - 3639). The Contractor's website shall contain a link to the County's Fair Housing information:

<http://www.clark.wa.gov/commserve/fairhousing/index.html>.

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

23.5. The Contractor will not discriminate against any employee or applicant for employment in connection with this Contract because of age, marital status, and

familial status, except when there is a bona fide occupational limitation. The Contractor will not refuse to hire, employ or promote, or bar, discharge, dismiss, reduce in compensation, suspend, demote, or discriminate in work activities, terms or conditions because an individual has a physical or mental disability in any employment in connection with this Contract unless it can be shown that the particular disability prevents the performance of the work involved. Such action will include, but not be limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training. (Executive Order 11246, as amended.)

- 23.6. Contractors and Suppliers. No contractor, subcontractor, union or vendor engaged in any activity under this Contract will discriminate in the sale of materials, equipment or labor on the basis of age, sex, sexual orientation, marital status, race, creed, color, national origin, disability, and familial status. No contractor, subcontractor, union or vendor engaged in any activity under this Contract will refuse to hire, employ or promote, or bar, discharge, dismiss, reduce in compensation, suspend, demote or discriminate in work activities, terms or conditions because an individual has a physical or mental disability in any employment in connection with this Contract unless it can be shown that the particular disability prevents the performance of the work involved. Such practices include upgrading, demotion, recruiting transfer, layoff, termination, pay rate, and advertisement for employment. (Executive Order 11246 as amended)
- 23.7. Limited English Proficiency. The agency shall take necessary and appropriate actions to assist clients with limited English proficient persons, Executive Order 13166 and the HUD Notice "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient (LEP) Persons" (Federal Register, January 22, 2007 pages 2731- 2754).
- 23.8. The Contractor shall provide each applicant, participant, and beneficiary of activities funded by the Contract with information to apprise such persons of the protections against discrimination covered by the above Acts, Executive Orders, and regulations. The HUD 928.1 Notice found online at: <http://www.hud.gov/utilities/intercept.cfm?http://www.hud.gov/offices/fheo/promotingfh/928-1.pdf> and the Clark County ADA and Section 504 of the Rehabilitation Act of 1973 Notice provide such information.

24. NONPARTICIPATION IN POLITICAL ACTIVITIES

The Contractor agrees that no funds provided, nor personnel employed under this Contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of the Hatch Act, Chapter 15 of Title V, United States Code.

25. NON-SUBSTITUTION FOR LOCAL FUNDING

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

26. OPERATION/MAINTENANCE

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

27. PROCUREMENT STANDARDS

- 27.1. The project was funded by the Urban County Policy Board based on the information supplied in the Contractor's CDBG application submitted in response to the Clark County 2016 CDBG Program RFA.
- 27.2. In awarding contracts pursuant to this Contract, the Contractor will comply with all applicable requirements of local and state law for awarding contracts, including but not limited to procedures for competitive bidding, contractor's bonds, and retained percentages. In addition, the Contractor will comply with the Uniform Administrative Requirements as described in 24 C.F.R. §92.504 and with Executive Order 11246 - Nondiscrimination in Employment by Government Contractors and Subcontractors.
- 27.3. A cost or price analysis shall be made and documented in connection with every procurement action, and shall be submitted to the County for review. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices, and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.
- 27.4. Contractor must follow the procurement requirements in 2 C.F.R. Part 200 as described in Clark County's Community Development Block Grant Program Procedures Manual.

28. PROGRAM INCOME

The Contractor shall follow the requirements of 24 C.F.R. 570.500 and 504 regarding program income. The receipt and expenditure of program income shall be recorded as a part of the financial transactions of the project(s) funded under this Contract. Program income shall be reported with each voucher request, disbursed first, and disbursed

primarily for the benefit of the project(s) funded by this Contract. The County shall determine whether income is being used to continue or benefit a project or projects authorized by this Contract. Program income remaining when the Contract expires, or received after the Contract's expiration, shall be repaid to the County.

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

29. PROJECT ADMINISTRATION AND COORDINATION

The project will be coordinated by Contractor staff and in compliance with 24 C.F.R. 570.502 (Applicability of uniform administrative requirements). The Contractor will perform all necessary and customary functions in the management and supervision of Contractor personnel for all work performed under the Contract. The Contractor will be responsible for compensation of Contractor staff with Contractor funds for all work performed under this Contract.

30. PROPERTY MANAGEMENT

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

31. PUBLIC INFORMATION

- 31.1. In all news releases and other public notices related to projects funded under this Contract, the Contractor should include information identifying the source of funds as the Clark County Community Development Block Grant Program.
- 31.2. During construction projects, the Contractor shall erect a durable and adequately visible sign at the construction site, identifying the source of funds. Sign specifications may be found in the *Clark County CDBG Procedures Manual*.
- 31.3. The Contractor shall place a plaque permanently in the highest foot traffic area readily visible to the public. The minimum size should be 12" by 12". The plaque should identify the funding sources, the project name, and the year constructed.

32. RECORDS

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

33. REPORTING

- 33.1. The Contractor will submit quarterly progress reports. The reports will be due to the County on the 15th day after the end of the quarter, starting with the quarter in which the Contract was signed.
- 33.2. The Contractor will provide documentation to the County at project completion showing that the project activities were completed in accordance with this Contract.
- 33.3. In addition to the records referred to in the Records Section of this Contract, the Contractor will maintain records of the hours worked and rates of compensation for all personnel performing work under this Contract. These records will be kept for a period of seven years from the date of the submission of the final performance report under this Contract.
- 33.4. The Contractor will provide documentation to the County at project completion showing that the sources and value of its contribution to the project are equal to those specified in the Budget Summary in the Statement of Work.
- 33.5. The Contractor will perform all necessary and appropriate community information activities as directed by the County.

34. REQUIRED RECORDS

- 34.1. Financial Management - Such records will identify adequately the source and application of funds for activities within this Contract, in accordance with the provisions of 24 C.F.R. 85.20. These records will contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
- 34.2. Citizen Participation - Narrative and other documentation describing the process used to inform citizens concerning the amount of funds available, the ranges of project activities undertaken, and opportunities to participate in funded block grant projects.
- 34.3. Relocation - Indication of the overall status of the relocation workload and separate relocation record for each person, business, organization, and farm operation displaced or in the relocation workload.
- 34.4. Equal Opportunity - The Contractor shall maintain and provide records containing the following information for each applicant and each assisted person. This is to show the extent people have participated in, or benefited from, the activities carried out under this Contract.
 - 34.4.1. Name of the household or person assisted;

- 34.4.2. Income category (i.e. very low-income (0-30% of MFI), low-income (31 to 50% of MFI), or low/mod-income (50 to 80% of MFI));
- 34.4.3. Racial/ethnic data (White, Black/African American, Asian, American Indian/ Alaskan Native, Native Hawaiian/Other Pacific Islander, American Indian/Alaskan Native & White, Asian & White, Black/African American & White, American Indian/Alaskan Native & Black/African American, Other/multi-racial);
- 34.4.4. The above racial/ethnic categories shall also document Hispanic or non-Hispanic;
- 34.4.5. Gender data;
- 34.4.6. Female head of household; and
- 34.4.7. Disability
- 34.4.8. The Contractor will also maintain data which records its affirmative action in equal opportunity employment, and its good faith efforts to identify, train, and/or hire lower-income residents of the project area and to utilize businesses that are located in or owned in substantial part by persons residing in the area of the project.
- 34.4.7. The Contractor shall provide the County a copy of its latest Equal Employment Opportunity Commission, State and Local Government Information (EEO-4), EEOC Form 164.
- 34.5. Compensation Paid - Records of the hours worked and rates of compensation for all personnel performing work under this Contract.
- 34.6. Property Acquisition - If the project involves property acquisition, the Contractor's files must contain the following records:
 - 34.6.1. Official Determination to Acquire - A citation of the action that constitutes the official determination to acquire, the date of the action, and the applicable HUD grant number.
 - 34.6.2. Notice of Intent to Acquire the Property - A copy of the notice, citation of the date of transmittal to owner, and evidence of receipt by the owner.
 - 34.6.3. Invitation to Accompany Appraiser - Evidence that owner was invited to accompany each appraiser on his inspection of the property.
 - 34.6.4. Appraisal Reports - A copy of each appraisal report, on which determination of just compensation was based.
 - 34.6.5. Review Appraisal - Arrange for a review appraisal to assure appraisal meets applicable standards.
 - 34.6.6. Determination of Just Compensation - A copy of the resolution,

certification, motion or other document constituting the determination of just compensation.

- 34.6.7. Purchase Offer - A copy of written purchase offer of just compensation, including all basic terms and conditions of such offer, and a citation of the date of delivery to the owner.
- 34.6.8. Purchase Agreement, Deed, Declaration of Taking, Tenant Waivers - A copy of each such document and any similar or related document utilized in conveyance.
- 34.6.9. Settlement Cost Reporting Statement - A copy of the statement.
- 34.6.10. Purchase Price Receipt - Evidence of owner receipt of purchase price payment.
- 34.6.11. Ninety Days' Notice to Surrender Possession of Premises - A copy of the notice. As an alternative, a copy of this notice may be included in the relocation or property management files.
- 34.6.12. As provided in 24 C.F.R. 570.606, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and HUD's implementing regulations in 24 C.F.R. 42 apply to all real property acquisition by a grantee for an assisted program activity, regardless of the source of funding for the acquisition itself.

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

35. RETENTION OF RECORDS

Required records will be retained for at least a period of six (6) years from the date of the submission of the final performance report in which the activity is covered, except as follows:

- 35.1. Records that are the subject of audit findings will be retained for the minimum period or until such audit findings have been resolved, whichever is later.
- 35.2. The retention period for real property and equipment records starts from the date of the disposition, or replacement, or transfer at the direction of HUD.
- 35.3. Any record with a longer retention schedule for purposes of public records disclosure required by the Revised Code of Washington (RCW).

36. REVERSION OF ASSETS

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

- 36.1. Used to meet one of the national objectives in 24 C.F.R. 570.208, until five years after expiration of the Contract, or for a longer period of time as determined appropriate by the grant recipient; or

- 36.2. Disposed of in a manner which results in the County being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property.
37. HUD SECTION 3 REQUIREMENTS (this section applies if the total contract amount is \$100,000 or more)
- 37.1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- 37.2. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- 37.3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- 37.4. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- 37.5. By signature to this Contract, The Contractor certifies that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment

opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

- 37.6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.
- 37.7. 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. 450e) also applies to the work to be performed under this contract. 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 contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to 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).

38. SURVIVABILITY

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

39. TERMINATION

- 39.1. The award or continuation of this Contract is dependent upon the availability of future funding. The County's payment obligations are payable only and solely from funds both appropriated and otherwise legally available for this Contract.

- 39.1.1. The absence of initial appropriated or other lawfully-available funds shall render the Contract null and void to the extent funds are not appropriated or available.

- 39.1.2. If the funds upon which the County relied to establish this Contract are withdrawn, reduced, or limited, or if additional or modified conditions are placed on such funding, the County may terminate this Contract by providing no fewer than ten (10) calendar days written notice to the Contractor. The termination shall be effective on the date specified in the notice of termination.

- 39.2. The County shall have the right to terminate this Contract, in whole or in part, with or without cause any time by providing no fewer than ten (10) calendar days written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to this Contract, with such exceptions, if any, specified in the notice of termination. The County shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such

purpose, for all goods delivered, services performed, and obligations incurred prior to the date of termination in accordance with the terms hereof.

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

39.4. Any notice required to be given pursuant to the terms of this section shall be in writing and shall be sent by certified or registered mail, return receipt requested, postage prepaid, or by hand delivery, to the receiving party at the address listed on the signature page, or at any other address of which a party has given notice. Notice shall be deemed given on the date of delivery or refusal as shown on the return receipt if delivered by mail, or the date upon which such notice is personally delivered in writing.

40. WAIVER OF DEFAULT

If the County waives any breach of this Contract by the Contractor on any occasion, such waiver shall not be deemed to be a waiver of any subsequent breach of this Contract by the Contractor.