

State of Oregon

Housing and Community Services Department

Multiple Award Grant Opportunity

Notice of Funds Availability #4082

Capacity Building Training Funds Availability

NOFA Issued Date: **September 24, 2014** NOFA Due Date: **October 24, 2014**
Due Time: **4:00 PM PDT**

Grant Agreement Begin Date: **September 1, 2014**

Grant Agreement End Date: **June 30, 2015**

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1.0 INTRODUCTION.

The State of Oregon acting by and through its Housing and Community Services Department (“Agency”) is issuing a Notice of Funds Availability (“NOFA”) for organizations with a successful track record of providing training and/or technical assistance program, materials, seminars, and other activities that increase an organization’s skills and abilities to develop, preserve, and operate multifamily housing that is affordable to low- and very low-income Oregonians.

1.1 Background.

Agency is Oregon's housing finance agency, providing financial and program support to create and preserve opportunities for quality, affordable housing for Oregonians of lower and moderate income. Agency administers federal and state antipoverty, homeless and energy assistance, and community service programs. Agency also assists in the financing of single-family homes, the new construction or rehabilitation of multifamily affordable housing developments, as well as grants and tax credits to promote affordable housing.

House Bill 2436 (2009), established the document recording fee for deed and mortgage records of the counties. The funds that are collected will provide a revenue source, the General Housing Account Program (“GHAP”), to be used to increase housing opportunities for the low and very low income residents of the State of Oregon.

1.2 Purpose.

To provide funding for the purpose training and/or technical assistance to multifamily affordable housing providers to develop and maintain assets through capacity building activities that increase an organization's skills and ability to develop, preserve, and operate housing affordable to low- and very low-income Oregonians.

2.0 APPLICATION REQUIREMENTS.

2.1 Application Submission.

Applications must be submitted no later than:

DUE DATE:
October 24, 2014, by 4:00 PM PDT

to:

DELIVERY ADDRESS:
Oregon Housing and Community Services
Attn: Lisa Goonan
725 Summer Street NE, Suite B, Salem, OR 97301
Phone: 503-986-2102
Email: Lisa.Goonan@oregon.gov

Applications must be received and date and time stamped by the Agency receptionist, no later than the Application closing date and time. Applications must be delivered in a sealed envelope, which clearly identifies the NOFA number, the Application name, the contact person name, agency name and address, and the Application closing time and date. **Mis-deliveries and late submittals shall not be accepted or considered.** Post-marked dated Applications will not be considered unless actually received by the Agency by the Application Closing Date and Time specified herein.

One (1) original signed application by an authorized signer and three (3) copies must be submitted. The application must not exceed ten (10) double-sided pages; 12 pt font; 1" margins, excluding the cover sheet.

Faxed, electronically transferred, late or incomplete applications will not be accepted or reviewed. All applications and any accompanying documentation become the property of Agency, subject to public record, and will not be returned.

Agency will not be held responsible for any error or omissions from downloading the NOFA. The official solicitation document is the one held at the Agency.

Those proposals which are incomplete or which do not meet all requirements of the NOFA, will be deemed by Agency to be "non-responsive" and will be rejected. Applications considered complete, or "responsive," will be evaluated to determine if they comply with the administrative, contractual, and technical requirements of the NOFA. If the proposal is unclear, the applicant may be asked to provide written clarification to assist Agency in determining the issue of the application's responsiveness.

2.2 NOFA Questions.

All inquiries relating to the NOFA process, administration, deadline or award, or to the substantive technical portions of the NOFA, must be directed to the individual listed above. All questions regarding the intent of program must be submitted in writing (e-mail). When appropriate, revisions, substitutions, or clarifications shall be issued as addenda to this NOFA. Changes/modifications to the NOFA requirements shall **ONLY** be recognized if in the form of written addenda issued by Agency. Agency shall provide copies of any addenda to all known NOFA applicants as well as posted at www.oregon.gov/OHCS.

2.3 Mandatory Application Requirements.

Applicants must submit applications per the format described in the attached application package (see Attachment 2) in order to be considered eligible to compete under this NOFA.

2.4 Funding Criteria.

Funding Amount. A maximum amount of fifty thousand dollars (\$50,000) may be awarded per grant. **Only two grants will result from this NOFA**, as solely determined by Agency and based on Agency review and acceptance of application and budget which may be negotiated or revised at the discretion of the Agency. There is no guarantee of grant award or funding dollar amount.

Eligible Activities. In general, activities that the organization will provide in the area of training and/or technical assistance to organizations that supply Oregon's affordable housing.

Area of Emphasis. Activities that supply training and/or technical assistance to organizations that maintain Oregon's affordable housing.

3.0 SCORED CRITERIA.

Applications will be scored based on the final criteria:

3.1 Narrative – maximum of 20 points possible.

The nature of the training/technical assistance in terms of:

- a) Addressing need
- b) How need was determined
- c) Measurable impacts on affordable housing that can reasonably be expected from this training or technical assistance.
- d) Budget/proforma

3.2 Outcomes – maximum of 10 points possible.

Number and nature of organizations that will receive training and geographical area covered. Emphasis on organizations in rural Oregon.

4.0 EVALUATION CRITERIA

4.1 Evaluation Process.

Applications shall be reviewed by an Agency review team. The review team shall make its recommendations to the Agency Director and Executive Team who shall make the final funding decisions. This process may take up to 60 days from the day the application is submitted, after which time applicants shall be notified in writing.

Agency reserves the right to request clarification or changes to the application and budget as necessary.

The final selection, if any, shall be those Applications that best meet the requirements, set forth in the Application, based on the recommendation from the team review, as approved by the Director.

4.2 Notice of Award.

Applicants will be notified of award or non-award in writing by the Agency.

5.0 GENERAL NOFA TERMS.

5.1 Agency may require clarification to understand any of the applicants scored criteria. Any necessary clarifications or modifications will be made before executing any award and may become part of the final Agreement.

5.2 Submission of an Application does not constitute an agreement between Agency and Applicant, nor does it secure or imply that Applicant will be selected.

5.3 All costs associated with applicant's submission of an application are the sole responsibility of the applicant and shall not be borne by the state of Oregon.

5.4 Successful applicants will be required to maintain appropriate levels of Workers Compensation, General Liability, and Automobile Liability insurance.

5.5 ORS 60.701 requires that foreign corporations be registered by the State of Oregon, Office of the Secretary of State, before conducting business in the state. A foreign corporation (ORS 60.001) means a corporation-for-profit incorporated under a law other than the law of the State of Oregon. If a firm is selected for the Agreement as a result of this solicitation they must register to do business in Oregon.

5.6 By submitting an application, Applicant accepts all of the terms and conditions of this NOFA, the sample Grant Agreement, and any terms and conditions imposed by the requirements of the funding source and the Agency. No funds will be released prior to all program conditions being met and funding agreements executed.

5.7 Agency reserves the right, at its sole discretion: (1) to amend the NOFA prior to the closing date (2) to amend the deadline for submitting applications; (3) to determine whether a application does or does not substantially comply with the requirements of this NOFA; (4) to waive any minor irregularity, informality, or nonconformance with this NOFA; (5) to obtain from and/or provide to other public agencies, upon request, references, regarding the applicant's performance; (6) at any time prior to Agreement execution: (a) to reject any application that fails to substantially comply with all prescribed NOFA procedures and requirements; and (b) to reject all applications received and cancel this NOFA upon a finding by Agency that there is good cause and that such cancellation would be in the best interests of the State; and (7) seek clarification on any or all applications.

5.8 This NOFA and one copy of each original response received, together with copies of all documents pertaining to the award of an Agreement, shall be kept by Agency and made a part of a file or records, which shall be open to public inspection. If an application contains any information that is considered a trade secret under ORS 192.501 (2), each sheet of such information must be marked with the following legend:

“This application constitutes a trade secret under ORS 192.501 (2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance” ORS 192.501 (2). Therefore, non-disclosure of documents or any portion of a document submitted as part of a proposal may depend upon official or judicial determination made pursuant to the Public Records Law.

If an application contains any information that may be considered exempt from disclosure under the various grounds specified in Oregon Public Records Law, ORS 192.430 through 192.505, applicant must clearly designate any portion of its application as exempt, along with a citation to the authority relied upon. Application of the Oregon Public Records Law shall determine whether any information is actually exempt from disclosure. Identifying a application in whole as exempt from disclosure is not acceptable. Failure to identify a portion of the application as exempt from disclosure, and the authority used, shall be deemed a waiver of any future claim of non-disclosure of that information.

5.9 The successful Applicant will be required to assume responsibility for all services outlined and finalized in the Agreement, whether the Grantee, a representative or subcontractor produces them. Agency considers the Grantee responsible for any and all contractual matters, including performance of work and the stated deliverables.

**ATTACHMENT 1
STATE OF OREGON
OREGON HOUSING AND COMMUNITY SERVICES**

SAMPLE GRANT AGREEMENT # _____

Capacity Building Training Grant

This General Housing Account Program Grant Agreement No. _____ (this "Agreement") is entered into by and between the State of Oregon, acting by and through its Housing and Community Services Department together with its successors and assigns hereinafter referred to collectively as "Agency" and _____ hereinafter referred to as "Grantee".

Recitals

- A.** House Bill 2436 (2009), establishes a document recording fee for deed and mortgage records of the counties. The funds that are collected will provide a revenue source, the General Housing Account Program ("GHAP"), to be used to increase housing opportunities for the low and very low income residents of the State of Oregon. This grant is subject to the Application Procedures, in which the funds were awarded and (as amended from time to time) (Regulations); and the Funding Approval, including any special conditions, constitute part of this Grant Agreement.
- B.** The Agency provides funding for the purpose of operating support and organizational development support for Oregon Public Housing Authorities and Oregon non-profits serving low and moderate-income people throughout the state of Oregon in accordance with Oregon Administrative Rule 813 Division 55.
- C.** The Agency has reviewed the Grantee's application (the "Application") and determined the activities, as hereinafter defined, are feasible and merit funding. The Application, as approved by Agency is incorporated herein by reference.

Agreement

NOW THEREFORE, for good and sufficiency consideration, including the terms and conditions herein, it is agreed by and between the parties hereto as follows:

1. Incorporation of Recitals; Agreement Purpose.

a. Incorporation of Recitals.

The foregoing Recitals are incorporated herein by reference.

b. Agreement Purpose.

Grant funding is provided for capacity-building activities that increase an organization's skills and ability to develop, preserve, and operate multi-family housing which is affordable to low- and very low-income Oregonians.

2. Term of Agreement.

Unless terminated or extended, this Agreement covers the period **September 1, 2014 through June 30, 2015**. This Agreement shall become effective on the date this Agreement has been signed by every party and, when required, approved by the State of Oregon Department of Justice. The expiration of the term of this Agreement, including if this Agreement is terminated prior to the end of the above-described term, shall not terminate remedies available to Agency or to Grantee hereunder.

3. Scope of Work.

The Scope of Work to be performed by Grantee is described in Exhibit A, the Application as approved or modified by Agency in Exhibit B, the Award Letter, both of which are attached hereto and incorporated by reference. Grantee shall perform the work (the "Work") described in Exhibits A and B, which are attached hereto and incorporated reference, in accordance with the terms and conditions of this Agreement.

4. Grant Funding and Consideration.

The Grant funds available to Grantee from Agency under this Agreement shall not exceed \$_____. Grant funds are to be used in conjunction with this Agreement, Grantee assumes sole liability for breach of the conditions of the grant by Grantee or any of its subrecipients, and shall, upon breach of grant conditions that requires the State to return funds to the grantor, whether such breach is by Grantee hold harmless and indemnify the State for an amount at least equal to the grant funds received under this Agreement.

5. Funding Appropriation.

Funds specified in the Consideration section of this Agreement or otherwise may include funds which have not yet been appropriated, but which Agency anticipates receiving for use in funding this Agreement. All disbursements of funds hereunder are contingent upon them being lawfully and fully appropriated, allocated, and available to Agency. Grantee's obligation to perform the work described in the Work Plan is conditioned upon Agency receipt of corresponding program funds.

6. Request for Funds.

Disbursements of Grant funds are contingent upon satisfactory performance of Grantee towards fulfilling the approved Activities as described in the approved Application except as modified with the express consent of the Agency.

- a. Grantee shall, no more than monthly but no less than quarterly, submit details Disbursement Requests for funds for Agency review and approval. Grantee shall include detailed reporting (see Section 7) along with each Disbursement Request for funds.
- b. Any changes to the approved Application budget must be requested in writing 30 days prior to the next scheduled payment date.
- c. Expenses incurred before the effective date or after the termination date of this Agreement will not be covered or reimbursed.
- d. If Grant Activities include funding for travel expenses, reimbursements shall not exceed the per diem rates stated in the Oregon Accounting Manual at <http://www.oregon.gov/DAS/SCD/SARS/policies/oam/40.10.00.PO.pdf>. Per diem rates may be subject to change without notice in accordance with government standards.

Further, in accordance with U.S. Department of Treasury Regulations, 31 CFR Part 205, implementing the Cash Management Improvement Act, Grantee shall limit any request for funds to the minimum amount needed to accomplish its described purposes and to time the request in accordance with the actual, immediate requirements in carrying out grant programs to be funded through the request for funds.

7. Reporting Requirements.

Grantee shall submit reports along with each Disbursement Request. The reports must include a narrative progress report, which describes the overall status of Grantee's organizational, economic development/social service and housing production activities identified in the approved Application. The report must describe major accomplishments, tasks completed or underway, products completed, and any proposed changes to the work products or time lines.

8. Remedies Related to Requests for Funds.

a. Withholding of Grant Funds from Request.

Agency may withhold any and all requested funds from Grantee under this Agreement if Agency, in its sole discretion, determines that Grantee has failed to timely satisfy any material obligation arising under this Agreement or otherwise. Grantee obligations include, but are not limited to providing complete, accurate and timely reports satisfactory to Agency about its performance under this Agreement as well as timely satisfying all Agreement obligations, including federal requirements relating to any awarded grant funds. Agency also may withhold any and all requested funds from Grantee if Agency, in its sole discretion, determines that the rate of requests for funds in any expenditure category is substantially different from approved budget submissions.

b. Redistribution or Retention of Funds.

If Grant funds are not obligated for reimbursement by Grantee in a timely manner as determined by Agency at its sole discretion, Agency may at its sole discretion, reduce Grantee funding and redistribute such funds to other Grantees or retain such Grant funds for other Agency use. Agency may implement adjustments pursuant to this subsection by modifying the applicable. This remedy is in addition to any other remedies available to Agency under this Agreement or otherwise.

9. Termination.

- a.** Agency may immediately terminate this Agreement in whole or in part upon written notice to the Grantee for cause related to any material misrepresentation, malfeasance, gross negligence, abandonment of performance or loss of authority to perform any of its obligations hereunder by Grantee, whether directly by Grantee or through one or more of its subrecipients, agents, subcontractors, successors or assigns, as determined by Agency in its sole discretion.
- b.** Agency may, upon 30 days written notice, terminate this Agreement in whole or in part for cause including, but not limited to events described above in subsection 9.a. Cause may include any event, including an event of default, as determined by Agency in its sole discretion that renders inappropriate the continuation of this Agreement. An event of default constitutes an act or omission by Grantee, agents, representatives, contractors, or assigns by which Grantee, as determined by Agency at its sole discretion, fails to timely and appropriately perform one or more material obligations, or otherwise breaches a duty, owed to Agency under this Agreement. Such events and events of default may include, but are not limited to an occurrence of any of the following:
 - 1)** Grantee fails to fulfill timely any of its obligations under this Agreement;
 - 2)** Grantee fails to comply timely with directives received from Agency or from an agency that is the original source of the grant funds;
 - 3)** Funds provided under this Agreement are used improperly or illegally by Grantee or any of its subrecipients;
 - 4)** Funding for grant programs are denied, suspended, reduced or eliminated;
 - 5)** Federal or state laws, regulations or guidelines are modified or interpreted in such a way that Agency is prohibited from paying for or lacks authority to pay for any Scope of Work performance under this Agreement or to pay for any such performance from the planned funding source(s);
 - 6)** Funding, appropriations, limitations or expenditure authorization to expend funds is denied, suspended, reduced or eliminated;
 - 7)** Any certification, license or certificate required by law to be held by Grantee or others to provide the services required by this Agreement is for any reason denied, revoked, suspended, limited or not renewed;

- 8) Grantee (a) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) commences a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect), (e) is adjudicated as bankrupt or insolvent, or (f) fails to controvert in a timely or appropriate manner, or agrees in writing to, an involuntary petition for bankruptcy; or
 - 9) Grantee is suspended, debarred, proposed for debarment, declared ineligible or voluntarily excluded from participating in agreements or contracts with any federal department or agency.
- c. Grantee may, upon 30 days written notice, terminate this Agreement in whole or in part, if;
- 1) Agency unreasonably fails to provide timely funding hereunder and does not correct such failure within the 30-day notice period.
 - 2) Agency provides one or more material directives which are contrary to federal or state laws, rules, regulations, guidelines, or original funding source requirements and does not correct such directives within the 30-day notice period.
- d. Agency may terminate this Agreement in whole or in part immediately upon written notice to Grantee if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a competent court (in a final determination) in such a way that OHCS no longer has the authority to meet its obligations under this Agreement.
- e. Upon issuance of any notice to terminate this Agreement and prior to the effective date of the termination, OHCS may, in its sole and absolute discretion, require that Grantee obtain prior OHCS approval from it for any additional expenditures that would obligate OHCS to reimburse it from Agreement grant funds or otherwise.
- f. Notwithstanding the above, or any termination thereunder, Grantee shall not be relieved of its liability to Agency damages sustained by virtue of by Grantee's breach of this Agreement, whether directly or by an agent, including subrecipients. Agency may withhold any reimbursement to Grantee in the amount of compensation for damages due Agency from Grantee (as estimated by Agency in its sole discretion) until such time as the exact amount of damages has been agreed upon or otherwise finally determined.
- g. In the event of termination of this Agreement by either party, all unexpended money, property, finished or unfinished documents, data, financial reports, audit reports, program reports, studies and reports purchased or prepared by Grantee under this Agreement shall be delivered to OHCS within sixty (60) days of the date of termination or upon such date as requested by Agency.
- h. Termination of this Agreement shall not impair or invalidate any remedy available to Agency hereunder, at law, or otherwise.

10. Compliance.

Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement. Without limiting the generality of the foregoing, Grantee expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated.

11. Governing Law; Venue; Consent to Jurisdiction.

This Agreement shall be governed by the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Department and Subgrantee related to this Agreement shall be conducted exclusively within the Circuit Court of Marion County, Oregon (unless Oregon law requires that it be brought and conducted where the real property is located) or, if necessary, the United States District Court for the District of Oregon. In no event shall this provision be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. GRANTEE, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

12. Confidentiality.

Grantee shall protect the confidentiality of all information concerning applicants for and recipients of services funded by this Agreement. It shall not release or disclose any such information except as necessary for the administration of the program(s), as authorized in writing by the applicant or recipient or as required by law. All records and files shall be appropriately secured to prevent access by unauthorized persons. Grantee shall ensure that all its officers, employees and agents are aware of and comply with this confidentiality requirement.

13. Monitoring.

- a. Agency may monitor the activities of each Grantee as it deems necessary or appropriate, among other things, to ensure Grantee comply with the terms of this Agreement and that Grant fund awards are used properly for authorized purposes hereunder Agency also may ensure that performance goals are achieved as specified in the Activities, referenced in Exhibit A. Monitoring activities may include any action deemed necessary or appropriate by Agency including, but not limited to the following: (1) the review (including copying) from time to time of any and all Grantee files, records and other information of every type arising from or related to performance under this Agreement; (2) arranging for, performing, and evaluating general and limited scope audits; (3) conducting or arranging for on-site and field visits and inspections; (4) review of Grantee fiscal and program reports prior approval documentation; and (5) evaluating, training, providing technical assistance and enforcing compliance of Grantee and its officers, employees, agents, contractors and other staff. Agency may utilize third parties in its monitoring and enforcement activities, including monitoring by peer agencies. Agency monitoring and enforcement activities may be conducted in person, by telephone and by other means deemed appropriate by Agency and may be effected through contractors, agents or other authorized representatives. Grantee consents to such monitoring and enforcement by Agency and agrees to cooperate fully with same, including requiring by agreement and causing that its subrecipients so cooperate.

Agency reserves the right, at its sole and absolute discretion, to request assistance in monitoring from outside parties including, but not limited to the Oregon Secretary of State, the Attorney General, the federal government, and law enforcement agencies.

- b. Grantee shall fully and timely cooperate with Agency in the performance of any and all monitoring and enforcement activities. Failure by Grantee to comply with this requirement is sufficient cause for Agency to require special conditions and may be deemed by Agency as a failure by the Grantee to perform its obligations under this Agreement.
- c. Agency generally will advise the Grantee as to its observations and findings generated by any on-site visit; usually through an exit interview. Within 60 days after an on-site inspection, Agency will endeavor to provide Grantee with a written report as to its findings from that inspection. Agency may advise the Grantee of any corrective action that it deems appropriate based upon its monitoring activities or otherwise. Grantee shall timely satisfy such corrective actions required by Agency.
- d. Agency may review (including copying) from time to time any and all Grantee files, records, and other information of every type arising from or related to performance under this Agreement. Within 60 days after a review, Agency will endeavor to communicate in writing to the Grantee. Agency may advise the Grantee of any

corrective action that it deems appropriate based upon its monitoring activities or otherwise. Grantee shall timely satisfy such corrective actions as reasonably required by Agency.

- e. Agency may track and follow up with Grantee regarding the correction by Grantee of findings made or other corrective actions required in Agency's monitoring of Grantee's performance under this Agreement. The tracking record developed by Agency may include, without limitation: findings, corrective actions, deliverables, due dates, responsible parties, actions taken, and final resolution. Grantees shall resolve findings and other required corrective actions within the timeframes reasonably given by Agency by written report or otherwise.

14. Remedies.

- a. If Agency determines, in its sole discretion, that Grantee has failed to comply timely with any material obligation under this Agreement, including but not limited to any Agency directive or term of a corrective action plan, Agency may, exercise any remedy available to it under this Agreement, applicable law, or otherwise. Such remedies may include, but are not limited to: (a) terminating any part or all of this Agreement; (b) withholding and/or reducing grant funds; (c) disallowing costs; (d) suspending and/or recouping payments; (e) appointing a receiver for the receipt and administration of Grant funds under this Agreement; (f) requiring corrective action as it may determine to be appropriate; (g) bringing suit or action in an appropriate forum for the enforcement of this Agreement and any remedy, as well as the recovery of damages, including by temporary restraining order, injunction, specific performance or otherwise; (h) debarring or otherwise limiting Grantee's eligibility for other funding from Agency; (i) instituting criminal action for misstatements or fraud; and (j) requesting investigation, audit and/or sanction by other governmental bodies.
- b. The rights and remedies of Agency provided in this section shall not be exclusive and are in addition to any other rights and remedies provided under this Agreement, by law, or otherwise.

15. Return of Unexpended Funds at Program Final Expenditure Period End.

All unexpended cash or income from such funds remaining at the end of any program final period for any program(s) covered by this Agreement must be returned by Grantee to Agency no later than sixty (60) days following the expiration of the program's final expenditure period or the termination of this Agreement, whichever is earlier. This section shall not be construed as permitting an extension of the time allowed for using funds requested under a grant program that is not consistent with Department of Treasury Regulations or other controlling law.

16. Expenditures Properly Supported.

Expenditures and requests for Grant funds shall be supported by Grantee with properly executed payroll and time records, invoices, contracts, vouchers, orders, canceled checks and/or any other accounting documents pertaining in whole or in part to the Agreement in accordance with generally accepted accounting principles, Oregon Administrative Rules and applicable federal requirements as specified herein. Agency may require such other information as it deems necessary or appropriate in its sole discretion.

17. Disallowance of Costs.

Agency neither is responsible for nor shall it pay for any costs disallowed either upon request for reimbursement or as a result of any audit, review, or site visit or other disallowance action by Agency except for costs incurred by Grantee solely due to the negligence of Agency, its employees, officers or agents. If a cost is disallowed by Agency after reimbursement has occurred, Grantee shall, within thirty (30) days of notice of disallowance or such other date as may be required by Agency, either demonstrate to the satisfaction of Agency that such disallowance is in error or make repayment of such cost.

If Grantee is a county, such disallowed costs may be recovered by Agency only through repayment or withholding to the extent permitted by the [Oregon Constitution](#), and particularly Article XI, Section 10. If Grantee is other than a county, Agency may recover such disallowed costs through repayment, withholding, offset or other means permitted under this Agreement, by law or otherwise.

Grantee shall cooperate and shall cause its subrecipients to cooperate with Agency and all appropriate investigative agencies and shall assist in recovering invalid payments.

18. Records Maintenance.

Grantee shall, and shall require and cause its subrecipients to, prepare and maintain such records as necessary for performance of and compliance with the terms of this Agreement.

The Grantee and its subrecipients shall retain all records pertinent to expenditures incurred under this Agreement and otherwise in a manner consistent with the requirements of state and federal law, including but not limited to those requirements listed in [Agency' Record Retention Schedule](#), as may be modified from time to time and is available upon request. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other action that involves any of the records cited, then such records must be retained until final completion of such matters.

19. Records Access.

Agency, the Oregon Secretary of State's Office, the federal government and the duly authorized representatives of such entities shall have free access to and the right to copy all or any part of the books, documents, papers, audits and records of Grantee and its subrecipients which are related to this Agreement as they deem appropriate, including without limitation, for the purpose of making audit, examination, excerpts, and transcripts. These records are the property of Agency who may take possession of them at any time after three (3) business days' notice to Grantee or subrecipient, as the case may be. Grantee or subrecipient may retain copies of all records taken by Agency under this Section.

In its agreements with subrecipients, Grantee shall require and cause its subrecipients to comply with the requirements of this Section and to grant right of access to and ownership by Agency of the subrecipients' books and records related to this Agreement.

20. Audits.

Unless exempt by OMB Circular A-133, Grantee will obtain and submit the final fiscal year audit of its performance hereunder to Agency as soon as possible after completion of the fiscal year. Grantee will provide the audit to Agency not later than ten (10) days) after such audit is received by the Grantee.

Grantee shall and shall require and cause its subrecipients to submit to Agency satisfactory financial and compliance audits for the periods covered by the grants in accordance with the provisions of OMB Circular No. A-133 "Audits of States, Local Governments, and Non-Profit Organizations."

Agency may withhold any or all requested funds from Grantee if Grantee violates this provision and Agency may deem such failure as a material default and exercise any available remedy under this Agreement, including without limitation, termination of this Agreement.

21. Insurance and Workers Compensation.

Grantee will provide all necessary General Liability and Automotive insurance required by Oregon Law to perform services under this Grant Agreement, and provide proof of coverage upon request of Agency.

Grantee and all employers providing work, labor, or materials under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all of their subject workers. Out-of-state employers must provide Oregon worker's compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year or who otherwise constitute "subject workers" under Oregon law.

22. Dual Payment.

Grantee shall not be compensated for work performed under this Agreement from any other department of the State of

Oregon, nor from any other source, including the federal government, unless such funds are used solely to increase the total services provided under this Agreement. Any additional funds received through or for activities arising under this Agreement shall immediately be reported to Agency.

23. Third Party Beneficiaries.

Agency and Grantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

24. Notices.

Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, facsimile, or mailing the same, postage prepaid, or other written instrument, to Grantee or Agency at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section; provided however that any notice of termination hereunder shall be given by certified or registered mail, return receipt requested. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile or email shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against Agency, such facsimile transmission must be confirmed by telephone notice to Agency's primary contact. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

25. Grantee Status.

- a. Grantee shall perform all work under this Agreement as an independent contractor. Grantee is not an officer, employee or agent of OHCS or the State, as those entities are respectively defined in ORS chapter 456, 458, and in ORS 30.265, with respect to work performed under this Agreement.
- b. Grantee agrees that insurance coverage, whether purchased or by self-insurance, for Grantee's agents, employees, officers and/or subcontractors is the sole responsibility of Grantee.
- c. Grantee certifies that it is not employed by or contracting with the federal government for the work covered by this Agreement.
- d. Grantee certifies to the best of its knowledge and belief that neither the Grantee nor any of its principals, officers, directors or employees:
 - 1) Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
 - 2) Has within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract related to a public transaction; violation of federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
 - 3) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in subsection d.(2) above; and
 - 4) Has within a three-year period preceding this Agreement had one or more public transactions (federal, State or local) terminated for cause or default.

26. Attorney Fees.

In the event a lawsuit of any kind is instituted on behalf of Agency or the Grantee with respect to this Agreement, or any right or claim related thereto, including but not limited to the collection of any payment due under this Agreement or to obtain performance of any kind under this Agreement, the prevailing party is, to the extent permitted by law, entitled to its

reasonable attorney fees incurred before and during trial, on appeal, in arbitration, in bankruptcy, and in such other forum or proceeding appropriate thereto, together with such additional sums as the court or hearings officer may adjudge for reasonable costs and disbursements incurred therein. Attorney fees shall not exceed the rate Agency is charged by its attorneys.

27. Captions.

The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

28. Severability.

If any term or provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.

29. Execution and Counterparts.

This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

30. Indemnity.

Grantee shall, and shall require that its subrecipients shall, defend, save, hold harmless, indemnify, and defend (consistent with ORS Chapter 180) the State of Oregon and Agency and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Grantee or its officers, employees, subrecipients, subcontractors, or agents under this Agreement.

31. Merger Clause.

This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary Agency approvals have been obtained. Such waiver, consent, modification or change if made shall be effective only in the specific instance and for the specific purpose given.

32. Waiver.

The failure of either party to enforce any provision of this Agreement shall not constitute a waiver of that or of any other provision of this Agreement.

33. Time of the Essence.

Time is of the essence in the performance of any and all obligations under this Agreement.

34. No Limitations on Actions in Exercise of Governmental Powers.

Nothing in this Agreement is intended, nor shall it be construed, to in any way limit the actions of Agency in the exercise of its governmental powers. It is the express intention of the parties hereto that Agency shall retain the full right and ability to exercise its governmental powers with respect to the Grantee, the grant funds, and the transactions contemplated by this Agreement to the same extent as if it were not a party to this Agreement, and in no event shall Agency have any liability in contract arising under this Agreement by virtue of any exercise of its governmental powers.

35. No Assignment by Grantee.

Grantee shall not assign its rights or obligations under this Agreement without the express written consent of Agency.

Agency may assign its rights and obligations under this Agreement, including to a successor entity, at its sole discretion.

36. Oregon False Claims Act

- a. Grantee acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action or conduct by Grantee pertaining to this Agreement that constitutes a “claim” (as defined by ORS 180.750(1)). By its execution of this Agreement, Grantee certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Agreement. In addition to other liabilities that may be applicable, Grantee further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Grantee.
- b. Without limiting the generality of the foregoing, Grantee represents and warrants that:
 - 1) Grantee’s representations, certifications, and other undertakings in this Agreement are not False Claims Act Violations; and
 - 2) None of Grantee’s performance under this Agreement, including but not limited to any invoices, reports, or other deliverables in connection with its performance of this Agreement, will constitute False Claims Act Violations.
- c. For purposes of this Section 2.F., a “False Claims Act Violation” means a false claim as defined by ORS 180.750(2) or anything prohibited by ORS 180.755.
- d. Grantee shall immediately report in writing, to Agency, any credible evidence that a principal, employee, agent, subcontractor, subgrantee, or other person has made a false claim or committed a prohibited act under the Oregon False Claims Act, or has committed a criminal or civil violation of laws pertaining to fraud, bribery, gratuity, conflict of interest, or similar misconduct in connection with this Agreement or any moneys paid under this Agreement.
- e. Grantee understands and agrees that any remedy that may be available under the Oregon False Claims Act shall be in addition to any other remedy available to the State of Oregon or Agency under any other provision of law, or this Agreement.

37. Amendments.

The terms of this Agreement may not be waived, altered, modified, supplemented or amended, except by written agreement of the parties.

38. Certifications And Signature Of Grantee's Authorized Representative.

THIS AGREEMENT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF GRANTEE.

The undersigned certifies under penalty of perjury both individually and on behalf of Grantee that:

A. The undersigned is a duly authorized representative of Grantee, has been authorized by Grantee to make all representations, attestations, and certifications contained in this Agreement and to execute this Agreement on behalf of Grantee;

B. By signature on this Agreement for Grantee, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Grantee and that Grantee is, to the best of the undersigned’s knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, “Oregon Tax Laws” means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.

C. To the best of the undersigned's knowledge, Grantee has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts.

D. Grantee and Grantee's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>;

E. Grantee is bound by and will comply with all requirements, terms and conditions contained in this Agreement; and

F. Grantee further certifies to having a formal statement of nondiscrimination in employment policy.

GRANTEE, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT GRANTEE HAS READ THIS AGREEMENT, UNDERSTANDS IT, HAS THE LEGAL AUTHORITY TO BIND, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Grantee (print Grantee's name): _____

Authorized Signature: _____ Date: _____

By (print name): _____ Title: _____

Contact Telephone Number: _____ Contact Fax Number: _____

Contact E-Mail Address: _____

Grantee Address: _____

39. Signature of State's Authorized Representative.

State of Oregon acting by and through its
Housing and Community Services Department
725 Summer Street NE Suite B, Salem, OR 97301

Authorized Signature: _____
Margaret S. Van Vliet, Director or designee

_____ Date

Agency Contact Person: Don Herman
Contact Telephone Number: 503-986-2082
E-Mail Address: Don.Herman@oregon.gov