



**CITY OF ANACORTES
COVID-19 EMERGENCY HOMELESSNESS PREVENTION PROGRAM**

GRANT AGREEMENT

AN AGREEMENT, by and between ANACORTES FAMILY CENTER, hereinafter referred to as “AFC” and, _____ at _____ (home/office address), Anacortes, WA 98221, hereinafter referred to as “Landlord,” and _____ at _____ (tenant’s address), Anacortes, WA 98221, hereinafter referred to as “Tenant”, a tenant living at a property owned or legally managed by the Landlord. AFC, Landlord, and Tenant agree to carry out specific activities under this agreement, and the City of Anacortes’ (hereinafter referred to as “The City”) Community Development Block Grant Program.

SECTION 1. RECITALS

1.1 Effective June, 2004, and each subsequent year, the City of Anacortes entered into an agreement with the Department of Housing and Urban Development (hereinafter “HUD” or “Granting Authority”) providing for federal assistance under the Block Grant Program established by Title I of the Housing and Community Development Act of 1974, as amended, codified as 42 USC 5301 et. seq. and subject to 24 CFR Part 570.

1.2 The City has established a program to provide rental assistance to qualified Tenants, paid to Landlords, from its Community Development Block Grant (“Program”).

1.3 AFC has received an application from a Tenant living in a property owned or managed by the Landlord and, based on the information provided by the Landlord and Tenant applicant, is qualified to receive Program funding.

1.4 AFC has agreed to provide the Tenant, payable to the Landlord, with a total grant for rental assistance of no more than _____ Dollars (\$_____) (the “Grant”) to pay for Tenant’s rent at _____ Anacortes, Washington (“The Tenant applicant’s address”) subject to and in accordance with the conditions and covenants set forth herein.

SECTION 2. AGREEMENT

2.1 In consideration of the covenants and agreements herein contained, and for other good and valuable consideration, the Parties hereby agree that AFC will provide a Grant to the Tenant, payable to the Landlord, upon and subject to all general conditions, terms, covenants and agreements herein set forth, including but not limited to the requirements set forth in Grant Requirements.

SECTION 4. CONDITIONS PRECEDENT

The obligation of AFC to make the Grant is subject to the following conditions precedent:

4.1 The Tenant has applied for rental assistance from Anacortes Family Center and City of Anacortes' Homelessness Prevention Grant and, relying on the Tenant's information provided, AFC has determined that the Tenant is at risk of losing housing due to not making rent payments. The Tenant is eligible for assistance under the following category:

(a) The Tenant qualifies as "in need" by meeting the threshold of falling at or under 80% of Area Median Income, as defined for the Anacortes/Mount Vernon area by Housing and Urban Development (HUD).

4.2 The Tenant shall duly execute or caused to be duly executed by the parties hereto, and have the originals or copies of the following documents (which shall include any and all exhibits and attachments thereto) delivered to AFC:

(a) This Agreement;

(b) The following documents, as may be required and approved by AFC: (1) completed Emergency Grant Application; (2) documentation evidencing that the Tenant is eligible to receive the Homelessness Prevention Grant, and shall satisfy the City and HUD requirements for assisted Tenants, including income eligibility and those set forth in the Regulations; (3) compliance of the Landlord with all applicable health, building, zoning, subdivision, licensing, historic preservation, environmental, planning and land-use laws and regulations; and (4) documentation that the Landlord has paid all taxes and other fees owed to the City; and

(c) Other due diligence documents as may be reasonably required by The City.

SECTION 5. GRANT REQUIREMENTS

5.1 The Landlord and/or Tenant shall maintain complete records relating to this grant assistance for four (4) years, commencing on the date of this signed Agreement and shall provide said records to AFC for inspection and copying upon AFC's request.

5.2 The Landlord and/or Tenant shall provide AFC with such reports and information as AFC and/or The City may reasonably request in order to allow the City to comply with the Regulations and any and all applicable requirements of the granting authority.

5.3 The Landlord stipulates that the Tenant has no active eviction notices, and payment of this grant shall make the Tenant current and in good standing, with no past rent due and all fees have been waived.

SECTION 6. TERM, REPAYMENT AND SECURITY

6.1 If the Landlord and Tenant complies with all requirements set forth herein, this Agreement shall terminate one (1) year after the date of this Agreement, whereupon all obligations of the Landlord and/or Tenant for repayment of funds shall cease. Notwithstanding the foregoing, AFC expressly reserves and does not waive its rights to recover any damages arising from or relating to the Landlord's and/or Tenant's breach of any of the Grant Documents, including but not limited to this Agreement and/or any attachment hereto which occurred (in whole or in part) before said termination.

6.2 If the Landlord and/or Tenant fails to comply with all the requirements set forth herein, said failure to comply shall be deemed an Event of Default, as described below, and the Landlord shall immediately repay the amount of the Grant in full and be subject to such additional requirements as set forth herein.

SECTION 7. EVENTS OF DEFAULT

7.1 An "Event of Default" shall arise under this Agreement upon the occurrence of any one or more of the following:

7.1.1 The Landlord assigns this Agreement or any money advanced hereunder or any interest herein.

7.1.2 Any representation or warranty made herein or in any report, certificate, financial statement or other instrument furnished in connection with this Agreement or the Grant shall prove to be false in any material respect.

7.1.3 The Landlord utilizes grant funds for payments not on the eligible grant uses list or on the prohibited list in Exhibit A, and/or the Landlord and/or Tenant fails to provide required submissions listed in Exhibit A and continues such default for thirty (30) days after written notice thereof from AFC to the Landlord and/or Tenant is provided.

SECTION 8. RIGHTS ON DEFAULT

Upon the occurrence of any one or more of the Events of Default enumerated in the foregoing Section 7, and at any time thereafter, then:

8.1 The Landlord shall re-pay to AFC the amount of the Grant as set forth in Section 6.2, plus Interest and Costs, as defined in this Section.

8.1.1 The Landlord's payment required by Section 8.1 above, shall be paid in full within seven (7) business days of the date that the Landlord has been in receipt of the notice of default. Payment shall be made in lawful U.S. currency in immediately available funds either mailed or delivered to Anacortes Family Center, Attention Dustin Johnson, 2702 Commercial Avenue, Anacortes, WA 98221, or such other address as AFC may in writing designate.

8.1.2 Any payment made after said seven (7) days shall accrue interest at a rate of 12% per annum.

8.1.3 In addition to the Grant principal and interest, the Landlord shall pay all reasonable costs and attorney fees, (collectively "Costs") incurred in connection with the enforcement of this Agreement. The term "Costs" shall also include any and all amounts assessed against AFC by the granting authority resulting from said Event of Default.

8.1.4 AFC shall first apply payments from the Landlord to Costs, if any, and second to the payment of interest, and third to reduction of the outstanding balance of the Grant principal.

8.2 AFC may, at its sole option and in addition to other remedies, (i) declare and cause all or any portion of the payments or other obligations owed to it to be immediately due and payable, (ii) decline to honor the credit of the Landlord or may refuse to make further payments to the Landlord or for the Tenant, (iii) apply to any outstanding obligations any deposits or other sums at any time credited by or due from AFC to the Landlord and/or Tenant, whether arising from these Grant Documents, or otherwise, and (iv) treat the Grant Documents as being in default and may exercise any and all rights and remedies thereunder as it deems appropriate.

8.3 Upon the occurrence of an Event of Default, the rights, powers, and privileges provided in this Section 8 and all other remedies available to AFC under this Agreement, under any of the Grant Documents or at law or in equity, may be exercised by AFC, including but not limited to the commencement of an action seeking specific performance under any Grant Document, whether or not the indebtedness evidenced and secured by the Grant Documents otherwise shall be due and payable, and whether or not AFC shall have instituted action for the enforcement of its rights under any of the Grant Documents. Failure of AFC to exercise any rights or remedies at any time shall not constitute a waiver of any of the rights or remedies of AFC.

8.4 In amplification, and not in restriction of the provisions hereof, it is intended and agreed that AFC shall be deemed an intended beneficiary of the agreements and covenants of the Landlord and/or Tenant and his/her successors and assigns provided in the Grant Documents, both in its own right and also for the purpose of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants shall run in favor of AFC for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether AFC has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreement and covenants relate. AFC shall have the right, in the event of the default of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any actions or suits at law or in equity or other proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

8.5 For the purposes of carrying out the provisions and exercising the rights, powers, and privileges granted by this Section 8, the Landlord and/or Tenant hereby irrevocably constitutes and appoints AFC its true and lawful attorney-in-fact, with full power of substitution, to execute, acknowledge, and deliver any instruments, and do and perform any acts which are referred to in

this Section 8, in the name and on behalf of the Landlord and/or Tenant. The power vested in said attorney-in-fact is, and shall be deemed to be, coupled with an interest and irrevocable.

SECTION 9. MISCELLANEOUS

9.1 The Landlord and/or Tenant shall not assign or attempt to assign, directly or indirectly, any of its rights under this Agreement or under any instrument referred to herein without the prior written consent of AFC in each instance. Any assignee shall be bound by all the terms of the assigned documents.

9.2 Any notice, request, instruction, or other document to be given hereunder to either party by the other shall be in writing and delivered personally or sent by recognized overnight courier, receipt confirmed or sent by certified mail, postage prepaid, to the addresses set forth in this Agreement. Either party may change the address to which notices are to be sent to it by giving written notice of such change of address to the other party in the manner herein provided for giving notice. Any such notice, request, instruction or other document shall be conclusively deemed to have been received and be effective on the day on which personally delivered or, if sent by certified mail, on the day on which mailed or if sent by overnight courier, on the day after delivered to such courier.

Notwithstanding any provision in the Grant Documents to the contrary, the Landlord and/or Tenant agrees that the failure or delay by AFC in giving any notice or statement hereunder or under any other Grant Document, or any inaccuracy therein or incompleteness thereof, shall not in any way alter or affect the absolute and unconditional obligation of the Landlord and/or Tenant to pay and perform, in full, the obligations set forth hereunder, but any action taken or not taken by the Landlord and/or Tenant as a direct result of such lack or delay of notice, or of the Landlord and/or Tenant's good faith reliance upon a material inaccuracy therein or the material incompleteness thereof, as the case may be, shall not in and of itself, and to the extent thereof, constitute an Event of Default hereunder, so long as the Landlord and/or Tenant does not otherwise have or receive notice or knowledge of the material contents or substance of such notice, or of the intended substance of any inaccurate or incomplete notice, as the case may be, and the Landlord and/or Tenant acts at all times in good faith.

9.3 Landlord and/or Tenant agrees to execute such further documents as may be required by law or prepared by AFC to confirm the Landlord and/or Tenant's agreement.

9.4 The Landlord and/or Tenant and AFC each binds itself, its partners, successors, legal representatives, and assigns of such other party in respect to all covenants of this Agreement.

9.5 The Landlord and/or Tenant represents and warrants that the financial data, reports and other information on the Grant, Tenant, Landlord, and the information furnished to AFC by the Landlord and/or Tenant, are accurate and complete and, as to financial disclosures, fairly present the financial position of the Tenant.

9.6 The Grant Documents shall be construed in accordance with and governed by the laws of the State of Washington, without giving effect to its provisions regarding choice of laws.

9.7 The Landlord shall perform all its obligations and agreements under the documents governing the Grant Documents, the organizational documents of the Landlord and any other agreements or instruments to which the Landlord is a party and which relate to the Grant, to the Project, or to the Business. The Landlord and/or Tenant shall give notice to AFC of any notices received by it from a holder of any senior loans or notices of delinquency which may impact the continued residency of the Tenant's address.

9.8 The Landlord and/or Tenant hereby shall indemnify and hold harmless AFC and its officers, agents, or employees from any and all liability, loss, cost, damage and expense, including attorney's fees, which it may or shall incur in connection with the Grant or the Grant Documents or by reason of any good faith action taken by AFC in relation thereto. This provision shall survive the termination of this Agreement.

9.9 The Landlord shall use Grant proceeds solely for payment of Tenant's rent, landlord agrees to waive all fees, fines, or levies, and that the proceeds of the Grant will not be loaned, granted, or assigned to any party and shall in no event be used for any purpose prohibited by the Grant Documents or the Regulations.

9.10 The payment to the Landlord is subject to the availability of funding and to the continued eligibility of AFC and the City of Anacortes to receive such funds.

9.11 All activities authorized by this Agreement shall be subject to and performed in accordance with the provisions of the terms and conditions of the Agreement, and in accordance with the all regulations, and all applicable federal, state, and municipal laws, ordinances regulations, orders and guidelines, including but not limited to any applicable regulations issued by HUD.

9.12 The Landlord and/or Tenant shall maintain insurance at all times with financially sound and reputable companies as are reasonably satisfactory to AFC. The Landlord and/or Tenant shall provide AFC with copies of all applicable insurance certificates upon request.

9.13 No modification or waiver of any provision of the Grant Documents, nor consent to any departure by the Landlord and/or Tenant therefrom, shall in any event be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No failure or delay on the part of AFC in exercising any right, power, or privilege hereunder or under the Grant Documents shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power, or privilege.

9.14 All Exhibits and Attachments referred to in this Agreement are by such references fully incorporated herein.

9.15 Severability. If any provision of this Agreement is held invalid by any court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

9.16 Electronic Signatures. This agreement, and related documents entered into in connection with this agreement, are signed when a party's signature is delivered by facsimile, e-mail, or other electronic medium. These signatures must be treated in all respects as having the same force and effect as original signatures.

IN WITNESS WHEREOF, the Anacortes Family Center, the Landlord, and the Tenant, have each duly executed, or caused to be duly executed, this Agreement under seal, in the name and on behalf of each of them (acting individually or by their respective officers or appropriate legal representatives, as the case may be, thereunto duly authorized) as of the day and year first above written.

_____	<u>Dustin Johnson</u>	_____
Executive Director, Anacortes Family Center	Printed Name	Date

_____	_____	_____
Landlord	Printed Name	Date

_____	_____	_____
Tenant	Printed Name	Date

EXHIBITS:

- A. Eligible Project Costs
- B. ATTACHMENT 1.

EXHIBIT A – Eligible Project Costs

The proceeds of the Grant shall be used only for expenses of the Project as shown below:

Rental Assistance in support of residents in surviving the unknown duration of the COVID-19 Health Crisis.

The following is a list of eligible uses of this capital, with the understanding that none of the funds can be used as a duplication of benefits (i.e., rent for May paid twice):

- Rental Payments: past due, or for the current month

Capital is prohibited from being used for the following:

- Fees, fines, or any other levied expenses

The Tenant is, upon request, required to provide the following documentation to Anacortes Family Center prior to funding:

- Documentation to verify income (tax returns and/or paystubs)
- Insurance
- Lease Agreement
- An originally signed copy of this agreement

The Landlord is, upon request, required to provide the following documentation to Anacortes Family Center prior to funding:

- Documentation verifying payment
- Insurance
- Lease Agreement
- An originally signed copy of this agreement

Please Note: Attachment 1 includes general CDBG regulatory language meant to capture numerous circumstances. Any language referencing acquisition or construction is not construed as authorization to use funds for those purposes.

EXHIBIT B - ATTACHMENT 1

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM ADDITIONAL MANDATORY TERMS

SECTION 1. DOCUMENTATION OF COSTS AND OTHER FINANCIAL REPORTING

All costs shall be supported by properly executed payrolls, time records, invoices, vouchers or other official documentation, as evidence of the nature and propriety of the charges. All accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible, and upon reasonable notice, the City and United States shall have the right to audit the records of the Agency as they relate to the work. The Agency shall also:

- (A) Maintain an effective system of internal fiscal control and accountability for all CDBG funds and property acquired or improved with CDBG funds, and make sure the same are used solely for authorized purposes.
- (B) Keep a continuing record of all disbursements by date, check number, amount, vendor, description of items purchased and line item from which money was expended, as reflected in the Agency's accounting records. The line item notations must be substantiated by a receipt, invoice marked "Paid," or payroll record.
- (C) Maintain payroll and financial records for a period of four (4) years after receipt of final payment under this Agreement provided that this program has been monitored by HUD and the annual State audit (which included the CDBG Program), has been completed.
- (D) Permit inspection and audit of its records with respect to all matters authorized by this Agreement by representatives of the City, the State Auditor, or the United States at any time during normal business hours and as often as necessary.
- (E) Inform the City concerning any funds allocated to the Agency, that the Agency anticipates will not be expended during the Agreement period, and permit reassignment of the same by the City to other agencies.
- (F) Repay to the City any funds in its possession at the time of termination of this Agreement that may be due to the City or the United States.
- (G) Maintain complete records concerning the receipt and use of all program income. Program income (if applicable) shall be reported on a monthly basis on forms provided by the City.

SECTION 2. REIMBURSEMENT

The City shall reimburse the Agency only for actual incurred costs upon presentation of a properly executed invoice in a form approved by the City. Only those allowable costs directly

related to the Agency's application, approved by the City shall be paid consistent with Article II Section 2 Documentation of Costs and Other Financial Reporting. The amount of each request must be limited to the amount needed for payment of eligible costs.

Notwithstanding any other provisions in this section, reimbursement for construction contracts shall have ten percent (10%) of the payment retained until close out of funds pursuant to Article IV, Section 12 of this Agreement.

In the event the City or United States determines any funds were expended by the Agency for unauthorized or ineligible purposes or the expenditures constitute disallowed costs in any other way, the City or United States may order repayment of the same. The Agency shall remit the disallowed amount to the City within thirty (30) days of written notification of the disallowance.

- (A) The Agency agrees that funds determined by the City to be surplus upon completion of the Agreement will be subject to cancellation by the City.
- (B) The Agency agrees that upon expiration of this Agreement, the Agency shall transfer to the City any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds.
- (C) The City shall be relieved of any obligation for payments if funds allocated to the City cease to be available for any cause other than misfeasance of the City itself.
- (D) The City reserves the right to withhold payments pending timely delivery of program reports or documents as may be required under this Agreement.

SECTION 3. PROGRAM INCOME

Use of any program income received by the Agency with CDBG funds under this Agreement shall comply with 24 CFR 570.504(c), consistent with the provisions described as follows:

This project will not generate any program income.

If authorized above, program income generated from the use of CDBG funds that is allowed to be retained by the Agency will be considered additional CDBG funds, subject to all conditions applicable to the use of funds described in this Agreement. All program income shall be substantially disbursed for eligible activities before additional requests for reimbursement are made to the City. Program income not used in this manner shall be returned to the City. Complete records shall be maintained on the receipt and use of all program income. Any program income on hand when this Agreement is terminated, or received after such termination, shall be reimbursed to the City.

ARTICLE III. FEDERAL CONDITIONS

SECTION 1. BENEFIT TO LOW INCOME PEOPLE

All Agencies providing direct benefit services shall provide such services to benefit very low and low income persons to the maximum extent feasible (but not less than 51%). Individual persons or families provided a specific direct benefit or service must qualify under Federal Section 8 and

HOME income limits as established by HUD. Any deviation can be made only if it is clear that the service or benefit, to a person whose income exceeds very low and low income, is otherwise necessary as an integral part of the activity. The Agency shall maintain records that clearly document the income range and households size of the persons it serves. Furthermore, the Agency shall maintain records documenting if the person being served is a female head of household, is handicapped, and/or is an ethnic/racial minority.

SECTION 2. UNIFORM ADMINISTRATIVE REQUIREMENTS

(A) Agencies which are governmental entities (including public agencies), shall comply with the requirements and standards of OMB Circular No. A-87, "Principles for Determining Costs applicable to Grants and Contracts with State, Local and Federally recognized Indian Tribal Governments" OMB Circular A-133, "Audits of State and Local Governments" (implemented at 24 CFR Part 84) and with the following sections of 24 CFR Part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments":

- (1) Section 85.3, "Definitions";
- (2) Section 85.6, "Exceptions";
- (3) Section 85.12, Special grant or subgrant conditions for "high-risks" grantees";
- (4) Section 85.20, "Standards for financial management system," except paragraph (a);
- (5) Section 85.21, "Payment", except as modified by part 570.513;
- (6) Section 85.22, "Allowable costs";
- (7) Section 85.26, "Non-federal audits";
- (8) Section 85.32, "Equipment", except in all cases in which the equipment is sold, the proceeds shall be program income;
- (9) Section 85.33, "Supplies";
- (10) Section 85.34, "Copyrights";
- (11) Section 85.35, "Subawards to debarred and suspended parties";
- (12) Section 85.36, "Procurement", except paragraph (a);
- (13) Section 85.37, "Subgrants " ;
- (14) Section 85.40, "Monitoring and reporting program performance ", except paragraphs (b) through (d) and (f);
- (15) Section 85.41, "Financial reporting ", except paragraphs (a), (b), and (e) ;

- (16) Section 85.42, "Retention and access requirements for records", except that the period shall be four (4) years;
- (17) Section 85.43, "Enforcement";
- (18) Section 85.44, "Termination for convenience";
- (19) Section 85.51, "Later disallowances and adjustment"; and
- (20) Section 85.52, "Collection of amounts due".

(B) Agencies, except Agencies which are governmental entities, shall comply with the requirements and standards of OMB Circular No. A-122, "Cost Principles for Non-Profit Organizations" or OMB Circular No. A-21, "Cost Principles for Educational Institutions, as applicable, and OMB Circular A-133 "Audits of Institutions of Higher Education and Other Nonprofit Institutions" (as set forth in 24 CFR part 45). Audits shall be conducted annually. Such agencies shall also comply with the following provisions of the Uniform Administrative requirements of OMB Circular No. A-110 (implemented at 24 CFR part 84, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals or Other Non-Profit Organizations") or the related CDBG provision, as specified below:

- (1) Subpart A, - "General";
- (2) Subpart B, - "Pre-Award Requirements," except for § 84.12, "Forms for Applying for Federal Assistance";
- (3) Subpart C-"Post-Award Requirements," except for:
 - (i) Section 84.22, "Payment Requirements," Grantees shall follow the standards of §§85.20(b)(7) and 85.21 in making payments to subrecipients;
 - (ii) Section 84.23, "cost sharing and Matching";
 - (iii) Section 84.24, "Program Income." In lieu of §84.24, CDBG subrecipients shall follow §570.504;
 - (iv) Section 84.25, "Revision of Budget and Program Plans";
 - (v) Section 84.32, "Real Property." In lieu of §84.32, CDBG subrecipients shall follow §570.505;
 - (vi) Section 84.34(g), "Equipment." In lieu of the disposition provisions of §84.34(g), the following applies:
 - (A) In all cases in which equipment is sold, the proceeds shall be program income (prorated to reflect the extent to which CDBG funds were used to acquire the equipment); and
 - (B) Equipment not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient;
 - (vii) Section 84.51 (b), (c), (d), (e), (f), (g), and (h), "Monitoring and reporting Program Performance";
 - (viii) Section 84.52, "Financial Reporting";

(ix) Section 84.53(b), “Retention and access requirements for records.”

Section 84.53(b) applies with the following exceptions:

(A) The retention period referenced in §84.53(b) pertaining to individual CDBG activities shall be four years; and

(B) The retention period starts from the date of submission of the annual performance and evaluation report, as prescribed in 24 CFR 91.520, in which the specific activity is reported on for the final time rather than from the date of submission of the final expenditure report for the award;

(x) Section 84.61, “Termination.” In lieu of the provisions of §84.61, CDBG subrecipients shall comply with §570.503(b)(7); and

(xi) Subpart D - “After-the Award Requirements,” except for §84.71, “Close-out Procedures.”

SECTION 3. SEPARATION OF CHURCH AND STATE

In addition to, and not in substitution for, other provisions of this Agreement regarding the provision of services utilizing CDBG funds the Agency agrees that, in connection with such services:

- (A) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit such services or give preference to persons on the basis of religion;
- (B) It will not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;
- (C) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such services;
- (D) The portion of a facility used to provide services assisted in whole or in part under this Agreement shall contain no sectarian or religious symbols or decorations while it is being used to provide CDBG funded services.

SECTION 4. NON-DISCRIMINATION IN EMPLOYMENT AND PURCHASING

The Agency shall comply with Executive Order 11246 as amended by Executive Order 12086 and the regulations issued pursuant thereto (41 CFR Chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally assisted construction contracts. The Agency shall take affirmative action to ensure fair treatment in employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship.

SECTION 5. LOCAL EMPLOYMENT AND PURCHASING

Funding under this agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u. the Agency agrees to comply with provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department of Housing and Urban Development issued there under. The Agency agrees that they are

under no contractual or other disability which would prevent them from complying with these requirements.

Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and agreements for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project. Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance and community development assistance that is used for the following projects:

- (1) Housing rehabilitation (including reduction and abatement of lead based paint hazards, but excluding routine maintenance repair and replacement);
- (2) Housing construction; and
- (3) Other public construction.

SECTION 6. CONFLICT OF INTEREST

No member, officer, or employee of the Agency, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any function or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or any Subagreement, hereto or the proceeds thereof. **The Agency shall take appropriate steps to assure compliance including incorporation of the following provision in every Subcontract:**

The Contractor covenants that no person who presently exercises any functions or responsibilities in connection with the City of Anacortes CDBG Program will obtain a personal or financial interest from the CDBG assisted activity. The Contractor further covenants that he/she presently has no interest in, nor shall he/she acquire any interest, direct or indirect, either for themselves or those with whom they have business, or family, which would conflict in any manner or degree with the performance of his/her services hereunder. The contractor further covenants that in the performance of this Agreement any potential conflict, on the part of the Contractor or his/her employees, will be disclosed to the Agency and the City.

SECTION 7. DISPLACEMENT, RELOCATION, ACQUISITION AND REPLACEMENT OF HOUSING

The Agency shall comply with the requirements relating to displacement, relocation, acquisition and replacement of housing (24 CFR Part 570.606). Displacement of persons (families, individuals, businesses, non-profit organizations and farms) as a result of activities assisted with CDBG funds is generally discouraged and in all instances must receive prior written approval from the City.

SECTION 8. DAVIS BACON AND RELATED ACTS

The Agency shall comply with the requirements of the Davis-Bacon and Related Acts (DBRA) as outlined in 29 CFR parts 1-7 when the contract for construction, alteration, and/or repair exceeds \$2,000, is federally assisted, and involves the employment of laborers and/or mechanics to perform the work.

SECTION 9. LEAD BASED PAINT

The Agency shall comply with HUD Lead-Based Regulations (24 CFR Part 35 et al) issued in the Federal Register, September 15, 1999 which require elimination, as far as practical, of immediate hazards, due to the presence of paint in residential structures which may contain lead to which children under seven years of age may be exposed.

SECTION 10. DISCRIMINATION PROHIBITED

- (A) The Agency shall not, on the grounds of race, color, sex, religion, national origin, creed, marital status, or age:
- (1) Deny a qualified individual any facilities, financial aid, services or other benefits provided under this Agreement;
 - (2) Provide any facilities, services, financial aid, or other benefits which are different, or are provided in a different manner, from those provided to others under this Agreement;
 - (3) Subject an individual to segregated or separate treatment in any facility in, or in any matter if process related to receipt of any service or benefit under this Agreement;
 - (4) Restrict an individual in any way in access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with any service or benefit under this agreement;
 - (5) Treat anyone differently from others in determining if they satisfy any admission, enrollment, eligibility, membership or other requirement or condition which the individual must meet to be provided a service or benefit under this Agreement;
 - (6) Deny anyone an opportunity to participate in any program or activity as an employee which is different from that afforded others under this Agreement.
- (B) The Agency shall abide by all applicable provisions of Section 504 of the HEW Rehabilitation Act of 1973 as amended (implemented in 24 CFR part 8) prohibiting discrimination against handicapped individuals, and the Age Discrimination Act of 1975 (implemented in 24 CFR part 146) prohibiting discrimination on the basis of age, either through purpose or intent.
- (C) If assignment and/or subcontracting has been authorized in writing, said assignment or subcontract shall include appropriate safeguards against discrimination in client services binding up on each contractor or subcontractor. The Agency shall take such action as may be required to ensure full compliance with the provisions of this section, including sanctions for noncompliance.

SECTION 11. ARCHITECTURAL BARRIERS ACT/AMERICANS WITH DISABILITIES ACT

The Agency shall meet the requirements, where applicable, of the Architectural Barriers Act and the Americans with Disabilities Act, as set forth in 24 CFR 570.614. A building or facility designed, constructed, or altered with funds allocated or reallocated under the CDBG program after

December 11, 1995 and that meets the definition of “residential structure” as defined in 24 CFR part 40.2 or the definition of “building” as defined in 41 CFR part 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 USC 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (Appendix A to 24 CFR part 40 for residential structures, and Appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings). The Americans with Disabilities Act (“ADA”) (42 USC 12131; 47 USC 155, 210, 218 and 255) requires that the design and construction of facilities for first occupancy after January 26, 1993 must include measures to make them readily accessible and usable by individuals with disabilities. The ADA further requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable -- that is, easily accomplishable and able to be carried out without much difficulty or expense.

SECTION 12. OTHER PROGRAM REQUIREMENTS

The Agency shall carry out each activity in compliance with all Federal laws and regulations described in Subpart K of 24 CFR 570, regardless if the law is specifically stated in this Agreement, except that:

- (A) The Agency does not assume the City’s environmental responsibilities described in Section 570.604;
- (B) The Agency does not assume the City’s responsibility for initiating the review process under Executive Order 12372, and.
- (C) The Agency must not be suspended or debarred from participating in federal programs.

ARTICLE IV: GENERAL CONDITIONS

SECTION 1. COMPLIANCE WITH LAWS

The Agency, in performance of this Agreement, agrees to comply with all applicable Federal, State and Local Laws and ordinances, and the rules and regulations promulgated by the U.S. Department of Housing and Urban Development, including but not limited to Federal Community Development Block Grant Regulations, the Washington Law Against Discrimination, and other policies and guidelines established for the City of Anacortes CDBG Program by the Anacortes City Council. Agency agrees to comply with all provisions of the Americans with Disabilities Act and all regulations interpreting or enforcing such act. Agency agrees to comply with the National Environmental Policy Act (NEPA) through the entire course of the project.

SECTION 2. LICENSING AND PROGRAM STANDARDS

The Agency agrees to comply with and to obtain at its own expense, if necessary, all applicable Federal, State, City or Municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals, and any other standards or criteria as described in the Agreement to assure quality of services.

SECTION 3. INSURANCE

Prior to commencing work, Agency shall procure and maintain at Agency's own cost and expense for the duration of the Agreement the following insurance placed with insurers with a minimum Best's rating of A-, VI against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work or services hereunder by the Agency, his agents, representatives, employees or subcontractors.

Minimum Limits of Insurance. Agency shall maintain limits no less than:

- *Commercial General Liability:* One million dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage, and two million dollars (\$2,000,000) aggregate. Coverage shall be on an "occurrence" basis. City of Anacortes shall be named, by endorsement, as an additional insured on the Agency's insurance policy as respects this contract. Such insurance as carried by the Agency is primary over insurance carried by the City.
- *Comprehensive Automobile Liability Insurance:* One million dollars (\$1,000,000) combined single limit per accident for bodily injury/property damage.
- *Workers' Compensation and Employer's Liability:* Workers' Compensation coverage as required by the State of Washington.

Evidence of Agency's Insurance shall be presented to the City prior to the execution of the agreement. In the event of non-renewal, cancellation, or material change in coverage, thirty (30) days written notice will be furnished to the City prior to the date of cancellation, non-renewal or change.

SECTION 4. INDEMNITY

The Agency agrees to defend, indemnify and save harmless the City, its appointed and elected officers and employees from and against any and all liability, loss, costs, damage and expense, including costs and attorney fees in defense thereof because of actions, claims or lawsuits for damages resulting from personal or bodily injury, including death at any time resulting there from, sustained or alleged to have been sustained by any person or persons and on account of damage to property, arising or alleged to have arisen directly or indirectly out of or in consequence of or the performance of this Agreement, whether such injuries to persons or damage to property is due to the negligence of Agency, its subcontractors, agents, successor, assigns. This provision shall be inapplicable to the extent the City is judicially found solely negligent for such damage or injury.

SECTION 5. NOTICES

Any notices required to be given by the City to the Agency or by the Agency to the City shall be in writing and delivered to the following parties at the following addresses:

City:	Anacortes Family Center
Planning, Community & Economic Development Department	Attention: Dustin Johnson
City of Anacortes	2702 Commercial Avenue
P.O. Box 547, 904 6th Street	Anacortes, WA 98221
Anacortes, WA 98221	

SECTION 6. CITIZEN PARTICIPATION

The Agency will implement the provisions of this Agreement in such a manner as not impede the attainment of widespread citizen participation in planning and carrying out the project.

SECTION 7. ASSIGNMENT AND SUBCONTRACTING

The Agency shall not assign or subcontract any portion of the services provided within the terms of this Agreement without obtaining prior written approval from the City. All terms and conditions of this Agreement shall apply to any approved subcontract or assignment related to the Agreement.

SECTION 8. RESERVATION OF RIGHTS

Failure to insist upon strict compliance with any terms, covenants or conditions of this Agreement shall not be deemed a waiver of such, nor shall any waiver or relinquishment of such right or power at any time be taken to be a waiver of any other breach.

SECTION 9. AMENDMENTS TO AGREEMENT

The parties hereby further agree that this Agreement cannot be amended or modified without the written concurrence of both parties.

SECTION 10. FAILURE TO PERFORM

In the event of a failure by the Agency to comply, with any terms or conditions of this Agreement or to provide in any manner the activities or other performance as agreed to herein, the City reserves the right to temporarily withhold all or any part of payment pending correction of the deficiency, suspend all or part of the Agreement, prohibit the Agency from incurring additional obligations of funds until the City is satisfied that corrective action has been taken or completed, or recapture funds already disbursed to Agency. The option to withhold or recapture funds is in addition to, and not in lieu of, the City's right to terminate as provided in Article IV Section 11 of the General Conditions of this Agreement. The City may consider performance under this Agreement when considering future awards.

SECTION 11. TERMINATION

If the Agency fails to comply with the terms and conditions of this Agreement, the City may pursue such remedies as are available in accordance with 24 CFR 85.43 including but not limited to, the termination of this Agreement in the manner specified herein.

- (A) Termination for Cause – If the Agency fails to comply with the terms and conditions of this Agreement and any of the following conditions exist:
- (1) The lack of compliance with the provisions of this Agreement are of such scope and nature that the City deems continuation of this Agreement to be substantially non-beneficial to the public interest;

- (2) The Agency has failed to take satisfactory corrective action as directed by the City or its authorized representative within the time specified by same;
- (3) The Agency has failed within the time specified by the City or its authorized representative to satisfactorily substantiate its compliance with the terms and conditions of this Agreement.

The City may terminate this Agreement in whole or in part, and there upon shall notify in writing the Agency of the termination, the reasons therefore, and the effective date. The effective date shall not be prior to notification of the termination by the City to the Agency. Costs resulting from obligations incurred by the Agency after termination of the Agreement are not allowable unless specifically authorized in writing by the City.

(B) Termination for Convenience

The award may be terminated for convenience, in whole or in part, as follows:

- (1) By the City with the consent of the Agency. The two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or
- (2) By the Agency upon submitting written notification to the City. The written notification must set forth the reasons for the termination, the effective date, and in the case of partial termination, the portion to be terminated. However, in the case of a proposed partial termination, the City may terminate the award in its entirety if the City determines that the remaining portion will not accomplish the purpose for which the award was made.

(C) Termination for Withdrawal, Reduction or Limitation of Funding

In the event that funding from the Federal government is withdrawn, reduced or limited in any way after the effective date of this Agreement, and prior to its normal completion, the City may summarily terminate this Agreement as to the funds reduced or limited, notwithstanding any other termination provision of this Agreement. If the level of funding so reduced or limited is so great that the City deems that the continuation of the program covered by the Agreement is no longer in the best interest of the public, the City may summarily terminate this Agreement in whole notwithstanding any other termination provisions of this Agreement. Termination under this Section shall be effective upon receipt of written notice by the Agency or its representative.

SECTION 12. CLOSE-OUT

Upon termination of this Agreement, in whole or in part for any reason including completion of the project, the following provisions shall apply:

- (A) Upon written request by the Agency, the City shall make or arrange for payment to the Agency of allowable reimbursable costs not covered by previous payments;

- (B) The Agency shall submit within thirty (30) days after the date of expiration of this Agreement, all financial, performance and other reports required by this Agreement, and in addition, will cooperate in a program audit by City of Anacortes or its designee,
- (C) Closeout of funds will not occur unless all requirements of 24 CFR 92.507 and all outstanding issues with the general contractor and or subcontractor have been resolved to the satisfaction of the City.

SECTION 13. VENUE AND CHOICE OF LAW

Any action at law, suit in equity, or other judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted only in the Superior Court of the State of Washington, County of Skagit. It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance.

SECTION 14. SEVERABILITY CLAUSE

It is understood and agreed by the parties that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the state where made, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

SECTION 15. INTEGRATED DOCUMENT

This Agreement with any attachments constitutes the entire agreement between the parties and both parties acknowledge that there are no other agreements, written or oral, that have not been fully set forth in the text of this Agreement.