



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**August 7, 2000**

**Ordinance 13915**

**Proposed No.** 2000-0395.1

**Sponsors** Phillips and Irons

1           AN ORDINANCE authorizing the conveyance of certain  
2           park, recreation and open space property to the city of Maple  
3           Valley and authorizing the executive to enter into an  
4           interlocal agreement with the city of Maple Valley relating  
5           to the ownership, operation and maintenance of the property.

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8           **PREAMBLE**

- 9           1. The city of Maple Valley ("the city") incorporated on August 31, 1997.
- 10          2. The city desires to own, operate and maintain local parks, open space,  
11          recreation facilities and programs inside its boundaries.
- 12          3. King County desires to divest itself of ownership, management and  
13          financial responsibility for nonregional parks, open space, recreational  
14          facilities and programs inside the city boundaries as directed by Motion  
15          8056 and the King County Park, Recreation and Open Space Plan adopted  
16          by Ordinance 12349.

17 4. The county owns a property located within the city boundaries, referred  
18 to as "Lake Wilderness Local Extension," that is attached to Lake  
19 Wilderness Park and utilized for local purposes as a community center,  
20 skateboard park and historical society lease area.

21 5. The King County executive has determined that, because of the  
22 agreement of the city to operate and maintain the property in perpetuity as  
23 public park, recreation facility and open space, the property and property  
24 improvements should be conveyed to the city subject to the terms and  
25 conditions of the interlocal agreement authorized under this ordinance.

26 6. In consideration of the mutual benefits to be derived, it would be in the  
27 best interests of the citizens of King County to convey the real property  
28 and property improvements described herein to the city.

29 **BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:**

30 SECTION 1. The King County executive is hereby authorized to execute the  
31 necessary documents to convey the real property listed in the attached agreement,  
32 Attachment A to this ordinance, to the city of Maple Valley and to execute, substantially  
33 in the form of Attachment A to this ordinance, an interlocal agreement with the city of

**Ordinance 13915**

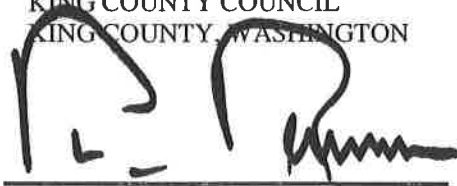
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34 Maple Valley relating to the ownership, funding, operation and maintenance of parks,  
35 open space and recreation facilities.  
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Ordinance 13915 was introduced on 7/5/00 and passed by the Metropolitan King County Council on 8/7/00, by the following vote:


Yes: 12 - Mr. von Reichbauer, Ms. Miller, Ms. Fimia, Mr. Phillips, Mr. Pelz, Ms. Sullivan, Mr. Nickels, Mr. Pullen, Mr. Gossett, Ms. Hague, Mr. Vance and Mr. Irons  
No: 0  
Excused: 1 - Mr. McKenna

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



Pete von Reichbauer, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 11 day of August, 2000.



Ron Sims, County Executive

**Attachments** A. Interlocal Agreement Between King County and the City of Maple Valley Relating to the Ownership, Funding, Operation and Maintenance of Parks, Open Space, and Recreation Facilities.doc

**Interlocal Agreement Between  
King County and the City of MAPLE VALLEY**  
Relating to the Ownership, Funding, Operation and Maintenance  
of Parks, Open Space, and Recreation Facilities

This Agreement is made and entered into this day by and between the City of Maple Valley, hereinafter called "City", and King County, hereinafter called "County".

WHEREAS the City desires to own, operate, and maintain parks, open space, recreation facilities and programs and other municipal programs, facilities and property inside its boundaries; and

WHEREAS the County owns a property located within City boundaries, hereby referred to as "Lake Wilderness Local Extension", that is attached to Lake Wilderness Park and utilized for local purposes; and

WHEREAS the County desires to divest itself of ownership, management, and financial responsibility for non-regional parks, open space, recreational facilities and programs inside the City boundaries; and

WHEREAS it is in the best interest of the public that the City and the County take those actions necessary to meet those desires and to cooperate in any transition to insure a smooth transition and avoid service disruption;

NOW, THEREFORE, the City and the County hereby agree as follows:

**1 Conveyance of Title/Existing Agreements, Contracts or Permits.**

A. Upon execution by the parties of this Agreement, King County shall convey to the City by special warranty deed all its ownership interest, and when possible by assignment any leasehold interest or shared use responsibility, in the approximately five acre property hereby referred to as "Lake Wilderness Local Extension" (as described more fully in Exhibit A, by this reference made a part hereof) which includes the following park, open space and recreation sites:

- Maple Valley Community Center - site
- Skateboard Park – site and recreational facility
- Historical Society Lease Area - site

B. The deed to said property and property improvements ("the facilities") shall contain all reservations of record known to the County, shall incorporate all Forward Thrust Bond covenants if applicable, and IAC (Interagency Committee for Outdoor Recreation) covenants if applicable. King County and the City agree to initiate transfer of sponsor status for IAC projects to the City within 90 days of the execution of this agreement.

- C. As consideration to the County, the deed shall also contain the following specific covenants pertaining to use:

“The City covenants to operate and maintain the property in perpetuity as a public park, public recreational facility, and/or public open space, except that the City may trade the property or part of the property for public park, public recreational property, and/or public open space of equal or greater value. Where IAC funding is attached to a transferred property, the City must use the IAC conversion process to trade the property or part of the property for public park, public recreational property, and/or public open space of equal or greater value. The City further covenants that it will not in any way limit or restrict access to and use of the property by non-City residents. The City also covenants that any and all user fees, including charges made by any lessees, concessionaires, service providers, and/or other assignees shall be at the same rate for non-City residents as for the residents of the City.”

However, these covenants shall not be construed in any way as precluding or prohibiting the current uses of the property for the Maple Valley Community Center or the Historical Society Lease Area sites.

- D. Any King County artwork currently located on the property referenced in section 1.A. above shall remain on site, and shall remain the sole property of King County. This Interlocal Agreement shall not be construed as conveying ownership of such artwork to the City. The City and the County hereby agree at a later date to negotiate a separate long-term agreement for any such artwork, which fully protects and preserves the artwork, respects the legal rights of the artist(s) and assures continuity of care for and continued public access to these assets. Prior to the execution of such future agreement, the City shall consult with the County prior to undertaking any activity which may impact access to and/or the integrity, and/or the viability of any such artwork.
- E. The Maple Valley Community Center building facilities are owned by Maple Valley Community Center (“MVCC”), a non-profit corporation, and will not be transferred to the City. King County and MVCC have a Joint and Cooperative Use Agreement for Maple Valley Community Center’s Use of Lake Wilderness Park. King County and the City agree to assign the Joint and Cooperative Use Agreement to the City by means of an ASSIGNMENT OF INTERLOCAL AGREEMENT AND CONSENT TO ASSIGNMENT document which shall be completed and attached to this agreement within 90 days of the execution of this interlocal agreement.
- F. King County also has a 1998 Community Development Block Grant (“CDBG”) agreement with MVCC related to funding of building improvements, attached for reference as Exhibit “B”. King County and the City agree that the City will allow MVCC to continue to use the property for CDBG-eligible activities until December 31, 2006. If, prior to December 31, 2006, the City causes MVCC to lose the use of the Community Center site or to change the primary use of the Community Center building in such a way

as to lose CDBG eligibility, the City will be responsible for reimbursing King County \$18,792 within 90 days for prior rehabilitation work on the facility pursuant to the 1998 King County - MVCC CDBG agreement.

- G. King County and the Maple Valley Historical Society, Inc. have a Joint Development and Cooperative Use Agreement for a portion of Lake Wilderness Park currently used for historical society purposes. King County and the City agree to assign the Joint Development and Cooperative Use Agreement to the City by means of an ASSIGNMENT OF INTERLOCAL AGREEMENT AND CONSENT TO ASSIGNMENT document which shall be completed and attached to this agreement within 90 days of the execution of this interlocal agreement.

## **2 Responsibility for Operations, Maintenance, Repairs and Improvements, and Recreation Services**

- A. As further consideration to the County, upon conveyance, the City agrees to accept the facilities and properties listed in Section 1.A. above in as is condition, and to assume full and complete responsibility for all operations, maintenance, repairs, improvements of, and recreation services at said facilities and properties.

## **3 Duration.**

- A. This Agreement shall be effective upon signature by both parties, and shall continue in force unless both parties mutually consent in writing to its termination.

## **4 Indemnification.**

- A. The County and City shall indemnify, defend, and hold the other harmless to the full extent of the indemnitor's negligence as permitted under Washington law.

## **5 Non-Discrimination.**

- A. The City is an Equal Opportunity Employer. The City shall comply with all applicable non-discrimination laws and requirements.

## **6 Audits and Inspections.**

- A. Until December 31, 2007, any records related to any matters covered by this Interlocal Agreement shall be subject to inspection, review, and/or audit by either party at the requesting party's sole expense. Such records shall be made available for inspection during regular business hours within a reasonable time of the request.

**7 Waiver and Amendments.**

A. Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition shall be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

**8 Entire Agreement and Modifications.**

A. This Interlocal Agreement and its Exhibits sets forth the entire agreement between the parties with respect to the subject matter hereof. It may be supplemented by addenda or amendments, which have been agreed upon by both parties in writing. Copies of such addenda and amendments shall be attached hereto and by this reference made part of this contract as though fully set forth herein.

**9 Administration of Agreement.**

A. The City and County shall each appoint a representative to review compliance with this Interlocal Agreement and to resolve any conflicts. The City and County shall notify the other in writing of its designated representative. The administrators of this Interlocal Agreement shall meet as needed. Either party is authorized to convene a meeting to discuss any such conflict by providing the other party with minimum advance notice of ten (10) working days. Such notice shall be referred respectively to the City Manager, and the Director of King County Parks. Both parties shall strive in good faith to resolve the conflict.

IN WITNESS WHEREOF, the parties have executed this Agreement.

King County

City of Maple Valley

\_\_\_\_\_  
King County Executive

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
King County  
Deputy Prosecuting Attorney

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**The westerly 370 feet of the southwest quarter, of the northeast quarter, of Section 21, Township 22 North, Range 6 East, W.M., King County, Washington, as measured at right angles to the westerly line of said northeast quarter, and lying southerly of the "Green to Cedar River Trail" right-of-way, formerly the Burlington Northern Railway right-of-way, (also formerly known as Columbia and Puget Sound Railroad; Pacific Coast Railroad; Chicago, Milwaukee, St. Paul and Pacific Railroad).**

**EXCEPT existing county roads.**

**This parcel contains 5.03 acres.**



**EXHIBIT "B"**  
**1998 King County Department of Community and Human Services**  
**Community Development Block Grant Agreement**

1998  
King County  
Department of Community and Human Services  
Community Development Block Grant

AGREEMENT

between

KING COUNTY, WASHINGTON

AND

MAPLE VALLEY COMMUNITY CENTER FACILITY IMPROVEMENTS

This Agreement is entered into by King County, State of Washington (hereinafter referred to as the "County") and Maple Valley Community Center Facility Improvements (hereinafter referred to as the "Agency").

RECITALS

- A. The County is an urban county applicant for Community Development Block Grant (CDBG) funds under the Housing and Community Development Act of 1974 (the Act), Pub. L. 93-383 as amended, and will receive CDBG funds for the purpose of carrying out eligible community development and housing activities under the Act and under regulations promulgated by the U.S. Department of Housing and Urban Development (HUD) at 24 CFR Part 570;
- B. An Urban County Consortium has been established by interlocal cooperation agreements between the County and certain municipal corporations within the County, the terms of which specify allocation of CDBG funds to those participating jurisdictions for use in accordance with the County Consolidated Plan accepted by participating jurisdictions and reviewed by HUD;
- C. The County desires to award certain funds to the Agency for use as described within this Agreement, and as authorized by King County ordinance for the purpose of implementing eligible activities under the Act and HUD regulations;
- D. It is appropriate and mutually desirable that the Agency be designated by the County to undertake the aforementioned eligible activities, so long as the requirements of the Act, HUD Regulations, state law and local law are adhered to, as provided for herein;
- E. The purpose of this Agreement is to provide for cooperation between the County and the Agency, as the parties in this Agreement, in implementing such eligible activities in the manner described above;
- F. The parties are authorized and empowered to enter into this Agreement by the Act and by RCW chap. 39.34, RCW 35.21.730 et seq., and by the Constitution and the enabling laws of the State of Washington; and

NOW, THEREFORE, for and in consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties mutually covenant and agree as provided for in this Agreement.

AGENCY

  
Signature

Lori Guilfoyle  
Name (Typed)

Executive Director  
Title

Date

7/13/98

KING COUNTY

  
Ron Sims for  
King County Executive

8-14-98  
Date

Approved as to form per  
Prosecuting Attorney Memo

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1. C97420 Maple Valley Community Center Facility Improvements \$18,792

## PART I - GENERAL CONDITIONS

### 1. SCOPE OF AGREEMENT

- A. The Agreement between the parties shall consist of the signature page; the general conditions; the federal, state and local program requirements; the evaluation and recordkeeping requirements; each and every project exhibit incorporated into the Agreement; all matters and laws incorporated by reference herein; and any written amendments made according to the general conditions. This Agreement supersedes any and all former agreements applicable to projects attached as exhibits to this Agreement.
- B. This Agreement shall govern two types of Community Development Block Grant (CDBG) assisted activities: (i) service projects (human service and/or planning) and (ii) capital projects (improvements and/or acquisition). The two types of activities may coexist in the Agreement as separate project exhibits. The lengths of term for compliance with this Agreement shall differ with each type of activity and shall be specified in each exhibit as explained below.
  - (i) Service projects included in this Agreement shall comply with the conditions delineated in this Agreement until the project termination date ("End Date") set forth in the applicable project exhibit, any amendment to that exhibit or any amendment to this Agreement. The End Date is the date after which the Agency may no longer incur costs and will no longer be reimbursed with CDBG funds.
  - (ii) Capital projects included in this Agreement shall comply with the conditions delineated in this Agreement beyond the applicable End Date for the period stated under the Special Conditions Section of the applicable exhibit. During the effective period of time stated in the exhibit, all conditions specified in this Agreement must be satisfactorily fulfilled.

### 2. SCOPE OF PROJECT

The Agency shall use funds only to perform the activities set forth in the exhibit(s) attached hereto. In the case of multiple projects, each project shall be memorialized by a separate exhibit. This Agreement may be amended from time to time, in accordance with the general conditions, for the purpose of adding new projects, amending the scope of work, the budget, or for any other lawful purpose.

### 3. AMENDMENTS

Either party may request modifications within the scope of permissible activities, terms, or conditions of this Agreement. Proposed modifications which are mutually agreed upon shall be incorporated by written amendment to this Agreement. A written amendment may affect a project or projects authorized by this Agreement or may be of general application.

### 4. COMMENCEMENT AND TERMINATION OF PROJECT FUNDS

- A. Upon release of project-related funds by HUD pursuant to 24 CFR Part 58, (Environmental Review) the County shall furnish the Agency with written notice to proceed. No work on a project shall occur prior to the issuance of the notice to proceed without prior written approval from the County. Start dates and End Dates for individual projects shall be specified in the appropriate exhibits. Costs incurred after the End Date will not be reimbursed.
- B. Upon termination of individual projects covered by this Agreement, the Agency shall transfer any CDBG funds on hand at the time of termination and any accounts receivable attributable to the use of CDBG funds to the County.

### 5. ADMINISTRATION

- A. The Agency shall appoint a contact person who shall be responsible for overall administration of CDBG funded project(s) and coordination with the County Housing and Community Development Program (H&CD) or its successor agency. The Agency shall also designate one or more representatives who shall be authorized to sign the voucher reimbursement requests and program accomplishments forms. The names of the contact persons and representatives shall be specified in the exhibit(s).
- B. For all Agencies which are presently parties to interlocal cooperation agreements with the County covering planning, distribution of funds, and program execution under the Act, the Agency remains subject to the provisions of such agreement, including those provisions dealing with the powers and duties of the Joint Recommendation Committee established by virtue of such interlocal cooperation agreements.

### 6. COMPENSATION AND METHOD OF PAYMENT

- A. The County shall reimburse the Agency only for activities specified in the exhibits. The reimbursement amount shall not exceed the amount specified on page 1 of the exhibit(s).

Reimbursement shall be based on a CDBG Voucher Reimbursement Request and Program Accomplishments Form submitted and signed by the Agency's authorized representative. Reimbursement is subject to the terms of Part I, Paragraph 14 of this Agreement.

- B. The Agency shall submit a properly executed Voucher Reimbursement Request including copies of substantiating documentation and a Program Accomplishments Form as frequently as desired, but at a minimum no later than fifteen (15) working days after the close of each calendar quarter throughout the term of the project. The County will make payment to the Agency not more than thirty (30) days after said Reimbursement Request is received and approved by H&CD. The County reserves the right to withhold all or any part of payment as specified in Part I, Paragraph 14A of this Agreement. The County will correct the voucher and send a copy of the corrected voucher to the Agency in the event that the Voucher Reimbursement Request is erroneous. Payment does not constitute absolute approval by the County.
- C. Any reimbursements made under this Agreement must comply with the requirements of 24 CFR Part 84 and 24 CFR Part 85. CDBG funds on hand should not exceed \$5,000 if retained beyond three (3) days and any reimbursement in excess of the amount required shall be promptly returned to the County.

7. BUDGET

The Agency shall apply the funds received from the County under this Agreement in accordance with the Budget Summary set forth in the exhibit(s). No line-item expense thereunder shall cause an excess expenditure of 10% of the budgeted line item amount over the life of the Agreement without the prior written consent of the County. Any request for a line-item expense which exceeds 10% of the budgeted amount shall be submitted in writing and shall specifically state the reasons for the requested increase and a justification for the corresponding decrease in other line-item(s). All budget revision requests will be reviewed and approved or denied by H&CD or successor agency staff.

8. PROGRAM INCOME, FUNDING ALTERNATIVES, AND FUTURE SUPPORT

- A. The Agency shall report all program income, as defined in 24 CFR Part 570.504(c) and in the HCD Plan, generated under this Agreement for the purposes specified herein or generated through the project(s) funded under this Agreement. Program income is to be returned to the CDBG fund unless the County specifies that it may be retained by the Agency. Program Income will return to the CDBG fund for distribution in accordance with the Interlocal Cooperation Agreement if the County determines that the program income will not be used to continue or benefit such projects authorized under this Agreement. If the County authorizes the Agency to retain the program income to continue or benefit a project(s), the Agency will comply with all provisions of this Agreement in expending the funds.
- B. The County makes no commitment to future support and assumes no obligation for future support of the activities contracted for herein, except as expressly set forth in this Agreement.
- C. Should anticipated CDBG funds become unavailable to the County, the County shall immediately notify the Agency in writing. The County will be released from all contracted liability for that portion of the Agreement covered by funds not yet received by the County.

9. ASSIGNMENT AND SUBCONTRACTING

- A. The Agency shall not assign or subcontract any portion of this Agreement or transfer or assign any claim arising pursuant to this Agreement without the written consent of the County. Consent must be sought by the Agency not less than fifteen (15) days prior to the date of any proposed assignment.
- B. Any work or services assigned or subcontracted hereunder shall be in writing and shall be subject to each provision of this Agreement. The Agency agrees that it is as fully responsible to the County for the acts and omissions of its subcontractors and their employees and agents, as it is for the acts and omissions of its own employees and agents, as defined in Part I, Paragraph 10B herein.
- C. "Subcontract" shall mean any agreement between the Agency and a Subcontractor or between subcontractors that is based on this contract, including procurement, consultant and construction contracts, provided that the term "subcontract" does not include the purchase of (i) support services not related to the subject matter of this contract, or (ii) supplies.

10. HOLD HARMLESS AND INDEMNIFICATION

- A. In providing services under this Agreement, the Agency is an independent contractor, and neither it nor its officers, employees or agents are employees of the County for any purpose. The Agency shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these

services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law.

The County assumes no responsibility for the payment of any compensation, wages, benefits, or taxes by, or on behalf of the Agency, its employees, and/or others by reason of this Contract. The Agency shall protect, indemnify, and save harmless the County, its officers, agents, and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from (1) the Agency's failure to pay any such compensation, wages, benefits, or taxes, and/or (2) the supplying to the Agency of work, services, materials, or supplies by Agency employees or other suppliers in connection with or support of the performance of this Contract.

- B. The Agency agrees that it is financially responsible and will repay the County all indicated amounts for any audit exception or other financial loss to King County which occurs due to the negligence, intentional acts and/or failure for any reason to comply by the Agency and/or its agents, employees, subcontractors or representatives with the terms of this Agreement. The duty to repay the County shall not be diminished or extinguished by the termination of this Agreement.
- C. The Agency shall defend, protect, indemnify, and save harmless the County, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from the negligent and/or willful acts or omissions of the Agency, its officers, employees, and/or agents. The Agency agrees that its obligation under this subparagraph extend to any claim, demand and/or cause of action brought by or on behalf of any of its employees or agents. For this purpose the Agency, by mutual negotiation, hereby waives, as respects the County only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event the County incurs any judgment, award and/or cost arising therefrom including attorney's fees to enforce the provisions of this article, all cash fees, expenses, and cost shall be recoverable from the Agency.

11. INSURANCE REQUIREMENTS

- A. By the date of execution of this Agreement, the Agency shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of work hereunder by the Agency, its agents, representatives, employees, and/or subcontractors. The costs of such insurance shall be paid by the Agency or subcontractor. The Agency may furnish separate certificates of insurance and policy endorsements for each subcontractor as evidence of compliance with the insurance requirements of this Agreement.

For All Coverages: Each insurance policy shall be written on an "occurrence" form; except that insurance on a "claims made" form may be acceptable with prior County approval.

If coverage is approved and purchased on a "claims made" basis, the Agency warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of Agreement termination, and/or conversion from a "claims made" form to an "occurrence" coverage form.

By requiring such minimum insurance, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Agency under this Agreement. The Agency shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

12. MINIMUM SCOPE AND LIMITS OF INSURANCE

- A. Coverage shall be at least as broad as:

- (1) General Liability:

Insurance Services Office form number (CG 00 01 Ed. 11-88) covering COMMERCIAL GENERAL LIABILITY.

- (2) Professional Liability:

Professional Liability, Errors, and Omissions coverage. In the event that services delivered pursuant to this Agreement either directly or indirectly involve or require professional services, Professional Liability, Errors, and Omissions coverage shall be provided. "Professional Services", for the purpose of this Agreement section, shall mean any services provided by a licensed professional.

(3) Automobile Liability:

In the event that services delivered pursuant to this Agreement involve the transportation of clients by Agency personnel in Agency-owned vehicles or non-owned vehicles, the Agency shall provide evidence of the appropriate automobile coverage.

Insurance Services Office form number (CA 00 01 Ed. 12-90) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the appropriate coverage provided by symbols 2, 7, 8, or 9.

(4) Workers' Compensation:

Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable federal or "Other States" state law.

(5) Fire Insurance:

Insurance Services Office form number (DP-3 Ed. 1-77) covering SPECIAL FORM DWELLING PROPERTY INSURANCE (or project appropriate equivalent).

B. Minimum Limits of Insurance

The Agency shall maintain limits no less than, for:

- (1) General Liability: \$1 Million combined single limit per occurrence by bodily injury, personal injury, and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit.
- (2) Professional Liability, Errors, and Omissions: \$1,000,000.
- (3) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- (4) Workers' Compensation: Statutory requirements of the state of residency.
- (5) Fire Insurance: 100% replacement value.

C. Insurance During Building Construction Period

Prior to commencement of building construction and until construction is complete and approved by the Agency, the Agency shall cause the construction contractor to procure and maintain insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the activities related to this Agreement. The Agency shall be a named or an additional insured on all policies. The cost of such insurance shall be paid by the Agency and/or any of the Agency's subcontractors.

For All Coverages: Each insurance policy shall be written on an "Occurrence" form.

(1) Minimum Scope Of Insurance.

Coverage Shall Be At Least As Broad As:

- a) General Liability: Insurance Services Office form number (CG 00 01 Ed. 11-88) covering COMMERCIAL GENERAL LIABILITY:
- b) Products and Completed Operations: The General Liability Policy required in this section shall include Products and Completed Operations coverage for the protection against bodily injury and property damage claims arising from this hazard, at a limit acceptable to the County.
- c) Automobile Liability: Insurance Services Office form number (CA 00 01 ed. 12-90) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9.
- d) Professional Liability, Errors and Omissions Coverage: In the event that services delivered pursuant to this Agreement either directly or indirectly involve or require professional services, Professional Liability, Errors and Omissions coverage shall be provided. "Professional Services" for the purposes of this section shall mean any services provided by a licensed professional.

- e) **Builder's Risk Insurance:** The Agency will obtain, or cause to be obtained, a builder's risk policy (Insurance Services Offices form number (CP-00 02 Ed. 10-90) BUILDER'S RISK COVERAGE FORM) covering 100% of the replacement value of the building/structures.
- f) **Worker's Compensation:** Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington.
- g) **Stop Gap, Employers Contingent Liability**

(2) **Minimum Limits Of Insurance.**

The Agency shall maintain limits no less than, for:

- a) **General Liability:** \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
- b) **Products and Completed Operations:** \$1,000,000.
- c) **Automobile Liability:** \$1,000,000 combined single limit per accident for bodily injury and property damage.
- d) **Professional Liability, Errors & Omissions:** \$1,000,000.
- e) **Builder's Risk Insurance:** 100% replacement cost value.
- f) **Workers Compensation:** Statutory requirements of the State of residency.
- g) **Stop Gap or Employers Liability Coverage:** \$1,000,000.

D. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not apply to the Agency's liability to the County and shall be the sole responsibility of the Agency.

E. Other Insurance Provisions

The insurance policies required in this Agreement are to contain, or be endorsed to contain, the following provisions:

(1) General Liability Policies

- a) The County, its officers, officials, employees, and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Agency in connection with this Agreement.
- b) To the extent of the Agency's negligence, the Agency's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by the County, its officers, officials, employees, or agents shall not contribute with the Agency's insurance or benefit the Agency in any way.
- c) The Agency's insurance shall apply separately to each insured against whom claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(2) **All Policies**

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days prior written notice has been given to the County.

F. Acceptability of Insurers

Unless otherwise approved by the County,

Insurance is to be placed with insurers with a Bests' rating of no less than A:VIII, or, if not rated with Bests, with minimum surpluses the equivalent of Bests' surplus size VIII.

Professional Liability, Errors, and Omissions Insurance may be placed with insurers with a Bests' rating of B+VII. Any exception must be approved by King County.



If, at any time, the foregoing policies shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the Agency shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with appropriate certificates and endorsements, for approval.

G. Verification of Coverage

The Agency shall furnish the County with certificates of insurance and endorsements required by this Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on forms approved by the County prior to the commencement of activities associated with the Agreement. The County reserves the right to require complete, certified copies of all required insurance policies at any time.

H. Subcontractors

The Agency shall include all subcontractors as insureds under its policies or shall furnish separate certificates of insurance and policy endorsements for each subcontractor. Insurance coverages provided by subcontractors as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.

I. Municipal or State Agency Provisions

If the Agency is a Municipal Corporation or an Agency of the State of Washington and is self-insured for any of the above insurance requirements, a certification of self-insurance shall be attached hereto and be incorporated by reference and shall constitute compliance with this section.

13. CONFLICT OF INTEREST

A. Interest of Employees, Agents, Consultants, Officers, Elected and Appointed Officials - No employee, agent, consultant, officer, elected official, or appointed officer of the County or of any subrecipient who exercises any functions or responsibilities in connection with any King County CDBG assisted activity, or any other person who exercises any functions or responsibilities in connection with the County Housing and Community Development Program, shall have any financial interest, direct or indirect, or have any interest in this Agreement or any subcontract related thereto, or the proceeds hereunder for themselves or those with whom they have business or immediate family ties with the Agency or for one year thereafter. The Agency shall take appropriate steps to assure compliance with this provision.

B. Interest of Subcontractor and Their Employees - The Agency agrees that it will incorporate into every subcontract required to be in writing and made pursuant to this Agreement, including procurement, consultant and construction contracts, the following provisions:

The Contractor covenants that no person who presently exercises any functions or responsibilities in connection with the King County Community Development Block Grant Program, has any personal financial interest, direct or indirect, in this Contract. The Contractor further covenants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract no person having any conflicting interest shall be employed. Any such interest on the part of the Contractor or its employees must be disclosed to the Agency and the County.

Where applicable, the conditions prescribed by HUD for the use of CDBG funds by religious organizations shall be included in the subcontract.

C. Violation of this section shall constitute a breach of this Agreement and grounds for termination pursuant to Paragraph 14 below, as well as any other right or remedy provided by this Agreement or by law. Further, if the Agency violates the provisions of Paragraph 13A above or fails to disclose other interests required to be disclosed pursuant to King County Code Chapter 3.04, (excluding municipal jurisdictions) the County shall not be liable for payment for services rendered pursuant to this Agreement.

14. SUSPENSION AND TERMINATION

A. Suspension for Failure to Perform - In the event of a failure 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 County reserves the right to withhold all or any part of a payment, suspend all or part of the Agreement, or prohibit the Agency from incurring additional obligations of funds until the County is satisfied that corrective action has been taken. The option to withhold funds is in addition to, and not in lieu of, the County's right to terminate as provided below.

8. This Agreement is subject to termination upon 30 days written notice by the County should:
- (1) The Agency mismanage or make improper or unlawful use of CDBG funds;
  - (2) The Agency fail to comply with the terms and conditions expressed herein or the applicable regulations and directives of the federal government, state, or County;
  - (3) The Agency fail to submit reports or submit incomplete or inaccurate reports in any material respect;
  - (4) The Agency fail to carry out activities expressed by this Agreement; or
  - (5) CDBG funds no longer become available from the federal government or through the County.

If the Agreement is terminated by the County pursuant to Paragraph 14B (1) - (4) above, the Agency will be liable for damages, including any additional costs of procurement of similar services from another source.

If the termination results from acts or omissions of the Agency, including but not limited to misappropriation, nonperformance of required services or fiscal mismanagement, the Agency shall return to the County immediately any misappropriated or unexpended funds, which have been paid to the Agency by the County.

- C. This Agreement is subject to termination upon 30 days written notice by the Agency should:
- (1) The County fail in its commitment under this Agreement to provide funding for services rendered, as herein provided; or
  - (2) CDBG funds no longer become available from the federal government or through the County.
- D. The County may terminate this Agreement in whole or in part if expected or actual funding is withdrawn, reduced or limited in any way prior to the End Date set forth in Part I, Paragraph 4A of this Agreement.
- If this Agreement is terminated as provided in this Paragraph 14D (1) the County shall be liable only for payment in accordance with the terms of this Agreement for services rendered, prior to the effective date of termination; and (2) the Agency shall be released from any obligation to provide such further services pursuant to this Agreement as are affected by the termination, upon written notification by the County to the Agency.
- E. This Agreement is subject to termination in whole or in part upon the mutual agreement by the County and the Agency.
- F. This Agreement is subject to termination without cause, in whole or in part, by the County. The County shall provide written notification of its termination to the Agency by certified letter. Upon receipt of the County's termination notice, the Agency shall immediately take action to comply by ceasing operations pursuant to this Agreement. All actions covered by the notice are to be fully terminated no more than 5 days following receipt of such notification.
- G. Upon termination of this Agreement, any unexpended balance of Agreement funds shall remain in the King County CDBG fund.
- H. In the event that termination occurs under Paragraph 14B (1) above, the Agency shall reimburse to the County all funds which were expended in violation of the terms of this Agreement.
- I. Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Agreement or law that either party may have in the event that the obligations, terms and conditions set forth in this Contract are breached by the other party.

15. CORRECTIVE ACTION

If the County determines that a breach of this Agreement has occurred; that the Agency has failed to comply with any terms or conditions of this Agreement or has failed to provide in any manner the work or services agreed to herein, and if the County deems said breach to warrant corrective action, the following sequential procedure will apply:

- A. The County will notify the Agency in writing of the nature of the breach;
- B. The Agency shall respond in writing within three (3) days of its receipt of such notification, which response shall indicate the steps being taken to correct the specified deficiencies.

- C. The County will review the response and notify the Agency in writing within three (3) days of such response as to the sufficiency of the Agency's corrective action plan. If the County finds the Agency's response sufficient, the actions necessary to bring the contract into compliance must be completed within ten (10) days of the date of the County's notification. If the County determines the Agency's corrective action plan to be insufficient, the Agency will be provided a second opportunity to respond, the terms of which will be specified by the County. The determination of the sufficiency of the Agency's corrective action plan shall be at the sole discretion of the County.
- D. In the event that the Agency does not respond within the appropriate time with a corrective action plan, or the Agency's corrective action plan is determined by the County to be insufficient, the County may commence termination of this Contract in whole or in part pursuant to Part I, Paragraph 14B.
- E. In addition, the County may withhold any payment owed the Agency or prohibit the Agency from incurring additional obligations of funds until the County is satisfied that corrective action has been taken or completed; and
- F. Nothing herein shall be deemed to affect or waive any rights the parties may have pursuant to Part I, Paragraph 14.

16. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

17. ENTIRE CONTRACT/WAIVER OF DEFAULT

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Both parties recognize that time is of the essence in the performance of the provisions of this Agreement. Waiver of any default, condition or requirement shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the agreement unless stated to be such through written approval by the County, which shall be attached to the original contract.

18. COMMUNITY SERVICES DIVISION STRATEGIC PLAN

The Agency shall cooperate with County staff in the development of the implementation framework for the Community Services Division Strategic Plan. Such cooperation shall include participation in focus groups, compilation of data and assistance in scheduling client and public input sessions.

19. MEASURABLE OUTCOMES

The Agency will cooperate with the County in the development of measurable outcomes for program services including participating in training funded by the County, if requested.

PART II - FEDERAL AND LOCAL PROGRAM REQUIREMENTS

1. NONSUBSTITUTION FOR LOCAL FUNDING

For municipalities organized under the laws of the State of Washington the following paragraph on nonsubstitution for local funding shall apply:

The CDBG funding made available under this Agreement shall not be utilized by the Agency to reduce or replace the local financial support currently being provided to public (human) service programs.

2. CONSTITUTIONAL PROHIBITION

In accordance with First Amendment separation of church and state principles, as a general rule, CDBG assistance may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities. The following restrictions and limitations therefore apply to the use of CDBG funds:

CDBG funds may not be used for the acquisition of property or the construction or rehabilitation of structures to be used for religious purposes or which will otherwise promote religious interests, as set forth in 24 CFR Part 570.200(j)(1). This also means that facilities acquired or rehabilitated with CDBG funds may not subsequently be used for religious

purposes, until such time as the restriction on change of use is lifted (see Part II, Paragraph 11).

3. ENVIRONMENTAL REVIEW

A. National Environmental Policy Act - The County retains environmental review responsibility for purposes of fulfilling requirements of the National Environmental Policy Act as implemented by HUD Environmental Review Procedures (24 CFR Part 58) and the Federal Laws and Authorities identified therein. The County may require the Agency to furnish data, information and assistance for the County's review and assessment in determining whether an Environmental Impact Statement must be prepared for the project.

B. Other Federal Laws:

Historic Preservation - Activities affecting property listed in or found to be eligible for inclusion in the National Register of Historic Places will be subject to requirements set forth in HUD Environmental Review Procedures at 24 CFR Part 58. The Agency shall meet the historic preservation requirements of Public Law 89-665 and the Archeological and Historic Preservation Act of 1974 (Pub. L. 93-291) and Executive Order 11593, including the procedures prescribed by the Advisory Council on Historic Preservation in the Regulations at 36 CFR Part 800.

Architectural Barriers - Any facility constructed pursuant to this Agreement shall comply with design requirements of the Architectural Barriers Act of 1968 (42 USC section 4151).

When applicable, certain multifamily housing units designed and constructed for first occupancy after March 13, 1991, with assistance provided under this agreement must comply with the Fair Housing Accessibility Guidelines, 24 CFR Part 100 as amended.

National Flood Insurance - When applicable, the use of CDBG funds for acquisition or construction purposes in identified special flood hazard areas shall be subject to Agency mandatory purchase of flood insurance as required by Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub L. 93-237).

Lead-Based Paint Poisoning - The Agency shall comply with the HUD Lead-Based Paint Regulations (24 CFR Part 35) issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 USC sections 4831 et. seq.) requiring prohibition of the use of lead-based paint (whenever funds under this Agreement are used directly or indirectly for construction, rehabilitation, or modernization of residential structures); elimination of immediate lead-based paint hazards in residential structures; and notification of the hazards of lead-based paint poisoning to purchasers and tenants of residential structures constructed prior to 1978.

C. State Environmental Policy Act - State agencies which are governed by the provisions of RCW 43.21C.030 retain responsibility for fulfilling the requirements of the State Environmental Policy Act, RCW chap. 43.21C, and regulations and ordinances adopted thereunder. If the Agency is not governed by RCW 43.21C.030, the County may require the Agency to furnish data, information and assistance as necessary to enable the County to comply with the State Environmental Policy Act.

D. Satisfaction of Environmental Requirements - Project execution under this Agreement by either the County or the Agency shall not proceed until satisfaction of all applicable requirements of the National and State Environmental Policy Acts. A written notice to proceed will not be issued by the County until all such requirements are met.

4. NONDISCRIMINATION

A. General

(1) The Agency shall comply with all applicable federal, state and local laws prohibiting discrimination on the basis of age, sex, marital status, familial status, religion, race, creed, color, sexual orientation, nationality, or the presence of any sensory, mental or physical disability. These requirements are specified in King County Code Chapter 12; RCW chapter 49.60; Section 109 of the Housing and Community Development Act of 1974; Civil Rights Act of 1964, Title VI; Civil Rights Act of 1968, Title VIII; Executive Order 11063; Executive Order 11246; and Section 3 of the Housing and Urban Development Act of 1968; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, the Fair Housing Act of 1988 and the Americans with Disabilities Act of 1990. Specifically, the Agency is prohibited from taking any discriminatory actions defined in the HUD Regulations at 24 CFR Part 570.602 (b) (1) through (3) and at 24 CFR Part 570.614 (b), and shall take such affirmative and corrective actions as are required by the Regulations at 24 CFR Part 570.602 (b) (4), 24 CFR Part 570.614 (b), and at 24 CFR Part 8.4.

- (2) The Agency will consult and cooperate fully with King County, the Washington State Human Rights Commission, the Equal Employment Opportunity Commission and other appropriate federal, state and local agencies in ensuring its full compliance with the laws against discrimination. The Agency will consult the King County Office of Civil Rights Enforcement for information and technical assistance and/or for referral to other agencies for assistance.
- (3) The Agency is required to conduct self-evaluation as cited at 24 CFR Part 8.51 to determine the Agency's ability to provide reasonable accommodation in programs and services to persons with disabilities. As a prior condition to the Agency receiving Authorization to Proceed, the Agency must complete a Certification of Compliance, a Disability Self-Evaluation Questionnaire and, if necessary, a Corrective Action Plan. The Disability Self-Evaluation Questionnaire and Corrective Action Plan shall be maintained by the Agency and are subject to review by County and Federal staff. The Agency shall return a notarized Disability Assurance of Compliance form and, if applicable, the Corrective Action Plan to the County with this Agreement. Agencies receiving CDBG funds from a Pass-through City must provide these documents to the Pass-through City.
- (4) In the event of noncompliance by the Agency with any of the nondiscrimination provisions of this Agreement, the County shall have the right, at its option, to cancel the Contract in whole or in part in accordance with the terms of Part 1, Paragraph 14.

B. Specific Discriminatory Actions Prohibited

- (1) The Agency may not, under any program or activity to which this Agreement may apply, directly or through contractual or other arrangements, discriminate on the grounds of age, sex, marital status, familial status, religion, race, creed, color, sexual orientation, nationality, or the presence of any sensory, mental or physical disability. Discriminatory actions include but are not limited to the following:
  - a. Denying any person access to facilities, services, financial aid or other benefits provided under the program or activity.
  - b. Providing any person with facilities, services, financial aid or other benefits which are different, or are provided in a different form from that provided to others under the program or activity.
  - c. Subjecting any person to segregated or separate treatment in any facility or in any matter or process related to receipt of any service or benefit under the program or activity.
  - d. Restricting in any way access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.
  - e. Treating any person differently from others in determining whether the person satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any facilities, services or other benefit provided under the program or activity.
  - f. Denying any person any opportunity to participate in a program or activity as an employee.
  - g. Failing to design and construct facilities for first occupancy after January 26, 1993 that are readily accessible to and usable by individuals with disabilities and failure to remove architectural and communication barriers that are structural in nature in existing facilities, where such removal can be accomplished without difficulty and expense.
- (2) The Agency shall not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, familial status, religion, sexual orientation, nationality, sensory, mental or physical disability, age or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular age, sex, marital status, familial status, religion, race, creed, color, sexual orientation, nationality, or the presence of any sensory, mental or physical disability.
- (3) The Agency, in determining the site or location of housing or facilities provided in whole or in part with funds under this Agreement, may not make selections of such site or location which have the effect of excluding individuals, denying them benefits, or subjecting them to discrimination on the grounds of age, sex, marital status, familial status, religion, race, creed, color, sexual orientation, nationality, or the presence of any sensory, mental or physical disability; or which have the purpose or effect of

defeating or substantially impairing the accomplishment of the objectives of the Act or of the HUD Regulations.

- C. Fair Housing - The Agency shall take necessary and appropriate actions to prevent discrimination in federally assisted housing and lending practices related to loans insured or guaranteed by the federal government. (Civil Rights Act of 1968, Title VIII; Executive Order 11063 and the Fair Housing Act of 1988). In addition, except for incorporated jurisdictions, the Agency, in implementing any housing-related project under this Agreement, shall comply with the provisions of the King County Ordinance No. 5280, as amended, which prohibits practices of housing discrimination against any person on the basis of race, color, religion, national origin, age, sex, marital status, parental status, sexual orientation, the presence of any sensory, mental or physical disability, age or the use of a trained guide dog by a blind or deaf person.
- D. Architectural Barriers - Any buildings or other facilities designed, constructed, or altered pursuant to this Agreement are subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 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 Parts 101-19 and subpart 101-19.6 for general type building).
- E. Employment
- (1) In all solicitations under this Agreement, the Agency shall state that all qualified applicants will be considered for employment. The words "equal opportunity employer" in advertisements shall constitute compliance with this section.
  - (2) The Agency shall not discriminate against any employee or applicant for employment in connection with this Agreement because of age, sex, marital status, race, creed, color, sexual orientation, nationality, age or the presence of any sensory, mental, or physical disability, except when there is a bona fide occupational limitation. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training. (King County Code Chapter 12.18; RCW chap. 49.46; Executive Order 11246 as amended).
  - (3) Unless the recipient award does not meet the thresholds specified in 24 CFR Part 135.3(a)(3) the Agency shall provide training and employment opportunities for lower income residents within the area served by CDBG assisted projects (Section 3, Housing and Urban Development Act of 1968, as amended).
  - (4) The Agency will comply with all applicable federal, state and local laws and regulations regarding nondiscrimination in employment and will develop and implement such affirmative action plans and reporting procedures as may be required by such laws or regulations.
- F. Contractors and Suppliers
- (1) No contractor, subcontractor, union or vendor engaged in any activity under this Agreement shall discriminate in the sale of materials, equipment or labor on the basis of age, sex, marital status, race, creed, color, sexual orientation, nationality, or the presence of any sensory, mental, or physical disability. Such practices include upgrading, demotion, recruiting, transfer, layoff, termination, pay rate, and advertisement for employment. (King County Code chap. 12.16; RCW chap. 49.60; Executive Order 11246 as amended).
  - (2) If applicable to the Agency and project(s), the Agency shall give preference to Section 3 businesses as defined in 24 CFR Part 135.5.
  - (3) CDBG funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.
  - (4) The Agency shall not make any award at any tier to any party which is debarred, suspended or excluded from participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension."
- G. Notice - The Agency shall include the provisions of A, B, C, D, and E of this Paragraph 4, as applicable, in every contract or purchase order for goods and services under this Agreement and shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the said labor union or worker's representative of the commitments made in accordance with these provisions.

5. PROCUREMENT STANDARDS

A. Affirmative Action and Minority and Women's Business Enterprise Requirements

- (1) All Agencies shall comply with Federal Executive Orders 11625, 12432, and 12138, and 24 CFR Part 84.40 (nonprofit organizations) or 24 CFR Part 85.36(e) (incorporated jurisdictions only). Unless waived, all Agencies (excluding CDBG Consortium Cities and non-county public agencies) shall comply with the provisions of King County Minority and Women's Business Enterprises (MWBE), King County Code Chapter 4.18 as it relates to any contracts or purchase orders for goods or services which include the subject matter of this Agreement. Failure by the Agency to comply with any requirements set forth within these regulations shall constitute a breach of contract.
- (2) All firms and organizations awarded contracts in excess of \$25,000 under this Agreement by the Agency (excluding CDBG Consortium Cities and public agencies) shall be required to complete a Personal Inventory Report and the Affidavit of Compliance with King County Code Chapter 12.16.
- (3) In advertising for employees, goods or services for the activities under this Agreement, incorporated jurisdictions shall comply with 24 CFR Part 85.36(e) as amended, and private nonprofits shall comply with 24 CFR Part 84.44(b)(1)-(5). Agencies shall be considered to be in compliance with this provision if at least one of the following steps is taken: (a) advertise in minority publications in addition to publication of general circulation; (b) utilize a minority contractors bidding center; (c) utilize the Washington State Certified Minority and Women's Business Enterprise Directory available from the State of Washington Office of Minority and Women's Business Enterprise; 406 S. Water, Olympia, WA 98504-4611. Telephone (360) 753-9693.

B. Bid Standards and Conditions, and Contract Requirements

- (1) In awarding contracts pursuant to this Agreement, the Agency shall comply with all applicable requirements of local and state law for awarding contracts, including but not limited to procedures for competitive bidding, contractor's bonds, and retained percentages (RCW 60.28.010). In addition, incorporated jurisdictions shall comply with the requirements of 24 CFR Part 85.36(h) Bonding Requirements. Private nonprofit organizations shall comply with 24 CFR Part 84.48(c), relating to bonding for facility construction contracts exceeding \$100,000, which requires (a) a bid guarantee from each bidder equivalent to five percent of the bid price, (b) a performance bond on the part of their contractor for 100 percent of the contract price, and (c) a payment bond on the part of the contractor for 100 percent of the contract price. The Agency may, at its discretion, require any of these bonding requirements on facility construction contracts of less than \$100,000. The Agency shall also comply with Executive Order 11246 and 41 CFR Part 60 regarding nondiscrimination in bid conditions for projects over \$10,000.
- (2) The federal standard for competitive publicly advertised bidding is \$100,000 for private nonprofit organizations. All such organizations shall comply with 24 CFR Parts 84.40-48 and Appendix A Procurement Standards.
- (3) The federal standard for competitive publicly advertised bidding is \$100,000 for incorporated jurisdictions. Where this federal standard differs from local or state standards, the stricter standards shall apply. The federal standard of \$100,000 for competitive bidding shall apply only if the applicable state or local standard for competitive bidding is greater than \$100,000. All jurisdictions shall comply with the standards set forth in 24 CFR Part 85.36.
- (4) Unless the recipient and contract awards do not meet the threshold specified in 24 CFR Part 135.3(a)(3), the contract is a Section 3 covered contract and shall include the following language pursuant to 24 CFR Part 135.38(A) through (F):
  - a. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
  - b. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual



or other impediment that would prevent them from complying with the 24 CFR Part 135 regulations.

- c. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clauses, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number of job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
  - d. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice of knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
  - e. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
  - f. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- (5) Nonprofit corporations purchasing through state contracts as described in RCW ch. 39.34 must comply with the requirements of RCW 39.34.030 through 39.34.050 in lieu of Part II, Paragraph 5B(1) and (2) of this Agreement and meet the definition in RCW 24.03.005.

(6) Minority/Women's Business

Unless waived, the Agency (excluding CDBG Consortium Cities and non-county public agencies) shall require that project architects, engineers and their subcontractors, and project construction contractors and their subcontractors fully comply with the provisions of King County Code Chapter 4.18. Failure by the Agency to ensure compliance with any requirements of this Paragraph shall constitute a breach of contract.

During the term of this Agreement, the Agency shall ensure that all contractors utilized under this Agreement:

- (a) Comply, as to tasks and proportionate dollar amount throughout the term of the contract, with minority/women's business utilization requirements specified by the County's MWBE Contract Compliance Division. If the Contract is awarded to a firm or individual certified by the State of Washington Office of Minority and Women's Business Enterprise and recognized by King County as a minority or women's business, the minority/women's business setaside provisions shall not apply provided that the certified firm shall perform at least 25% of the work of this contract itself.
- (b) Request approval for any proposed substitution of MWBEs. The King County MWBE Contract Compliance Division may approve the substitution of a certified MWBE when:
  - The MWBE cannot perform the necessary tasks; or
  - The MWBE is unwilling to perform the necessary tasks.
- (c) Comply with those provisions of the King County Code which applied to the original contract regarding the percentage use of minority business enterprises and/or women's business enterprises whenever contract supplements, amendments or change orders are made which affect the total dollar value of this contract.



- (d) Not engage in agreements between a responding party and a minority business enterprise and/or women's business enterprise in which said minority and/or women's business enterprise promises to not provide subcontracting quotations to other responding or potential responding parties.
- (e) Contained within King County Code Chapter 4.18 is a provision calling for the establishment of Countywide goals for contracting with minority/women's business enterprises. Goals for the contract are to be determined by the MWBE Contract Compliance Division based on the MWBE Availability Analysis Worksheet which the Agency will provide.
- (f) The Agency and its contractors shall maintain relevant records and information necessary to document compliance with King County Code Chapter 4.18 and the contractor's utilization of minority and women's businesses in its overall public and private business activities, and shall include the right of the County to inspect such records.
- (g) The purpose of King County's minority/women's business legislation is to provide a prompt remedy for the effects of past discrimination. The County in general, and the MWBE program in particular, are damaged when a contract, or portion of a contract, to be performed by a minority/women's business is not actually performed by a minority/women's business enterprise in compliance with King County Code Chapter 4.18. Because the actual amount of such damage is not reasonably calculable, any contractors utilized under this Agreement shall agree and stipulate that liquidated damages equal to the dollar value of the MWBE utilization lost to the County due to the violation, not to exceed 10 percent of the total dollar value of their contract, shall be the amount required to compensate the County for resulting delays in carrying out the purpose of the program, the costs of meeting utilization goals through additional contracts, the administrative costs of investigation and enforcement and other damages and costs caused by the violation. Any contractors utilized under this Agreement shall be liable to the County for such liquidated damages in the event the contractor fails to perform a commercially useful function and/or operates as a broker, front, conduit or pass-through, as defined in King County Code Chapter 4.18.

6. LABOR STANDARDS

The Agency shall require that project construction contractors and subcontractors pay their laborers and mechanics at wage rates in accordance with the Davis-Bacon Act, as amended (40 USC sections 276(a)-276(a)(5)), and that they comply with the Copeland "Anti-Kickback" Act, as amended (40 U.S.C. 276(c)) and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) as further prescribed at 29 CFR Parts 1, 3, 5, 6 and 7; provided that this section shall not apply to rehabilitation of residential property designed for residential use by less than eight units, or to rehabilitation of rental property consisting of less than twelve units.

A copy of the current Davis-Bacon wages must be included in all construction bid specs and/or contracts over \$2,000.

7. ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES

- A. All governmental and public agencies shall comply with the policies, guidelines, and requirements of OMB Circular Nos. A-87, "Principles For Determining Costs Applicable to Grants and Contracts and state, local and federally recognized Indian Tribal Governments" and 24 CFR Part 85 "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments" identified at 24 CFR Part 570.502(a) Applicability of Uniform Administrative Requirements and OMB Circular A-128.
- B. All nonprofit agencies shall comply with the policies, guidelines and requirements of OMB Circular Nos. A-122 "Cost Principles for Non-Profit Organizations," A-133 "Audits of Institutions of Higher Education and Other Nonprofit Institutions" and 24 CFR Part 84, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations identified at 24 CFR 570.502 (b), Applicability of Uniform Administrative Requirements.
- C. Unless the recipient award does not meet the threshold specified in 24 CFR Part 135.3(a)(3). The recipient has the responsibility to comply with section 3 in its own operations, and ensure compliance in the operations of its contractors and subcontractors. This responsibility includes but may not be necessarily limited to:
  - (1) Implementing procedures designed to notify section 3 residents about training and employment opportunities generated by section 3 covered assistance and section 3 business concerns about contracting opportunities generated by section 3 covered assistance;

- (2) Notifying potential contractors for section 3 covered projects of the requirements of this part, and incorporating the section 3 clause set forth in 24 CFR Part 135.38 in all solicitations and contracts.
- (3) Facilitating the training and employment of section 3 residents and the award of contracts to section 3 business concerns by undertaking activities such as described in the Appendix to this part, as appropriate, to reach the goals set forth in 24 CFR Part 135.30. Recipients, at their own discretion, may establish reasonable numerical goals for the training and employment of section 3 residents and contract award to section 3 business concerns that exceed those specified in 24 CFR Part 135.30;
- (4) Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR Part 135.
- (5) Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

8. EQUIPMENT PURCHASE, MAINTENANCE AND OWNERSHIP

- A. The Agency agrees that any equipment purchased in whole or in part with CDBG funds at a cost of \$5,000 or more, or \$1,000 or more when Agency is a private nonprofit, is upon its purchase or receipt the property of the County and/or federal government.
- B. The Agency shall be responsible for all such property, including the proper care and maintenance of the equipment.
- C. The Agency will ensure that all such equipment will be returned to the County or federal government upon termination of this Contract unless otherwise agreed upon by the parties.
- D. The Agency will admit the County's Property Management Officer or representative to the Agency's premises for the purpose of marking such property with County property tags.
- E. The Agency shall establish and maintain inventory records and transaction documents (purchase requisitions, packing slips, invoices, receipts) of equipment purchased with contract funds.

9. PUBLIC OWNERSHIP

For Agencies which are not municipal corporations organized under the laws of the State of Washington, it may become necessary to grant the County a property interest (promissory note and deed of trust) where the subject project calls for the acquisition, construction, reconstruction, rehabilitation, or installation of publicly-owned facilities and improvements. The extent of the County's property interest is described in the HCD Plan. Such arrangements may be necessary to meet federal requirements regarding ownership of property, fees, and use by the general public. The Agency shall comply with current County policy regarding transfer of a property interest sufficient to meet any public ownership requirement imposed by law.

10. REVERSION OF ASSETS

If the Agency ceases to use any asset acquired or improved with CDBG funds for the purpose described in the agreement or wishes to dispose of the asset, final ownership and disposition of real property shall be determined under the provisions 24 CFR Part 84.32 Real Property Standards, for private nonprofits; and for municipal jurisdictions, at 24 CFR Part 570.503(b)(8) Reversion of Assets and 24 CFR Part 85.32(e) Disposition, except regarding program income. These regulations require the Agency either to pay to the County the fair market value of the asset or to transfer control of the asset to the County. The extent of the reversion of assets is described in the HCD Plan.

11. RESTRICTIONS ON CHANGE OF USE

The Agency may not change the use of any property acquired or improved with CDBG funds from that for which the acquisition or improvement was made, unless:

- A. The County first provides citizens with reasonable notice of, and opportunity to comment on, any such proposed change; and
- B. Either:
  - (1) The new use of such property meets all applicable requirements set forth in 24 CFR Part 570.208, including national objectives, is permissible under state and local law and is approved by the County; or

- (2) The Agency disposes of the property in accordance with Part II, Paragraph 12 of this Agreement and reimburses the County for its share of the fair market value of the property, or for the total amount of the CDBG funds expended for acquisition on improvements, whichever is greater.

12. DISPOSITION

A. Real Property

The disposition of real property acquired or improved in whole or in part with CDBG funds shall be at no less than its current appraised fair market value (or for a lease, at the current market value), except that such property may be disposed of for a lesser value, including by donation, if the disposition at the lesser value is for a use which qualifies under one of the criteria set forth in 24 CFR Part 570.208 for meeting the national objectives and is permissible under state and local law. Where the disposition is for a lesser value, the recipient shall maintain documentation that the use meets one of the national objectives pursuant to 24 CFR Part 570.208.

B. Equipment

Any Agency which must dispose of equipment purchased in whole or in part with CDBG funds must comply with the provisions in 24 CFR Part 84.34 Equipment OMB Circular A-110 for private nonprofit organizations or with 24 CFR Part 85.32(e) Disposition for incorporated jurisdictions. Any Agency considering disposition must contact King County for specific disposition instructions.

13. ACQUISITION AND RELOCATION

- A. Any acquisition of real property by a "state agency" for any activity assisted under this Agreement shall comply with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 amended as Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (hereinafter referred to as the Uniform Relocation Act) (42 USC 4601 et seq.) and the Regulations at 49 CFR Part 24.
- B. Implementation of any project provided for in this Agreement will be undertaken so as to minimize involuntary displacement of persons, businesses, nonprofit organizations, or farms to the greatest extent feasible.
- C. Any displacement of persons, businesses, nonprofit organizations, or farms occurring as the result of acquisition of real property assisted under this Agreement shall comply with the Uniform Relocation Act, the Regulations at 49 CFR Part 24 as amended, and King County's Residential Antidisplacement and Relocation Assistance Plan required by federal CDBG regulations at 24 CFR Part 570.606(c), and adopted by the King County Council as part of the County's HCD Plan. The Agency shall comply with the Regulations pertaining to costs of relocation and written policies, as specified by the King County Residential Antidisplacement and Relocation Assistance Plan.
- D. When any low/moderate income housing units that are demolished or converted to another use in connection with an activity assisted under this Agreement, the Agency must comply with the one-for-one replacement of housing requirements of Section 104(d) of the Act and the implementing regulations at 24 CFR Part 570.606.

14. PUBLIC INFORMATION

- A. In all news releases and other public notices related to projects funded under this Agreement, the Agency shall include information identifying the source of funds as the King County Community Development Block Grant Program.
- B. For all construction projects the Agency shall erect a sign to County specifications at the construction site, identifying the source of funds, except that this requirement may be waived for construction projects of \$25,000 or less. In instances where it is not practical, feasible, or appropriate to affix a construction sign to the site, the agency may request to substitute a community information process for the construction sign requirements.
- C. The Agency will plan for and hold an event to publicize the CDBG program and its role in assisting community facility projects under this Agreement where the CDBG share of the project exceeds \$50,000 and the project results in a new or expanded facility. The event should be held within one year of project completion.
- D. The Agency acknowledges that this Agreement and any other information provided by it to the County and/or relevant to the project(s) described in the exhibit(s) are subject to the Washington State Public Disclosure Act, RCW chap. 42.17.

- E. The Agency shall provide the public with reasonable access to records regarding the past use of CDBG funds, consistent with state and local laws regarding privacy and obligations of confidentiality.

15. CERTIFICATION REGARDING LOBBYING

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC 1352. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

16. KING COUNTY RECYCLED PRODUCT PROCUREMENT POLICY

The Agency shall, pursuant to King County Code Chapter 10.16, use recycled paper for the production of all printed and photocopied documents related to the fulfillment of this agreement and shall ensure that, whenever possible the cover page of each document printed on recycled paper bears an imprint identifying it as recycled paper. If the cost of recycled paper is fifteen percent higher than the cost of non-recycled paper, the Agency shall request the County for a waiver of the recycled paper requirement. The Agency shall use both sides of paper sheets for copying and printing, and use recycled/recyclable products whenever practical.

17. OTHER FEDERAL REQUIREMENTS

The absence of mention in this Agreement of any other federal requirements which apply to the award and expenditure of the federal funds made available by this Agreement is not intended to indicate that those federal requirements are not applicable to Agency activities. The Agency shall comply with all other federal requirements relating to the expenditure of federal funds, including but not limited to: the Hatch Act (5 U.S.C. Chapter 15) regarding political activities.

PART III - EVALUATION AND RECORDKEEPING

1. EVALUATION

The Agency agrees to participate with the County in any evaluation project or performance report, as designed by the County or the appropriate federal agency, and to make available all information required by any such evaluation process.

2. AUDITS AND INSPECTIONS

The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit by the County, federal or state officials so authorized by law during the performance of this Agreement and during the period of retention specified in this Part III.

The financial management system used by the Agency shall provide for audits in accordance with 24 CFR Part 44, Non-Federal Governmental Audit Requirements as provided in the Single Audit Act of 1984. The Catalog of Federal Domestic Assistance (CFDA) program number for the CDBG program is 14.218.

3. RECORDS

The Agency shall compile and maintain as applicable the following records:

- A. Financial Management - Such records shall identify adequately the source and application of funds for activities within this Agreement, in accordance with the provisions of 24 CFR Part 85, Subpart C Financial Administration and the U. S. Office of Management and Budget Circular A-128 for governmental agencies, and OMB Circulars A-110 and A-133 for nonprofit agencies. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
- B. Citizen Participation - For Municipal Corporations receiving a "pass-through" of CDBG funds the following citizen participation requirements shall be documented:  

Narrative and other documentation describing the process used to inform citizens concerning the amount of funds available, the ranges of project activities undertaken, and opportunities to participate in and to comment on the identification of community development needs and activities, and if applicable any substantial changes in the attached exhibits. Citizen input, including complaints, must be kept on file.
- C. Relocation - Agency recordkeeping must comply with the Uniform Act Implementing regulations at 24 CFR Part 42. Indication of the overall status of the relocation workload and a separate relocation record for each person, business, organization, and farm operation displaced or in the relocation workload must be kept.
- D. Property Acquisition - For municipalities organized under the laws of the State of Washington with the power of eminent domain, the following property acquisition requirement shall apply:  

Agency files must contain a separate acquisition file for each acquisition process documenting compliance with the implementing regulations for the Uniform Relocation Act at 24 CFR Part 42. Major requirements include: (a) invitation to owner to accompany appraiser during inspection, (b) at least one property appraisal, (c) statement of basis for determination of just compensation, (d) written offer of just compensation, (e) copies of all documents involving conveyance, (f) settlement cost reporting statement, and (g) notice to surrender possession of premises.
- E. Equal Opportunity - The Agency shall maintain racial, ethnic, persons with disabilities, and gender data showing the extent to which these categories of persons have participated in, or benefited from, the activities carried out under this Agreement. The Agency shall also maintain data which records its affirmative action in equal opportunity employment. Unless the agency does not meet the recipient thresholds at 24 CFR Part 135(a)(3)(A), (B), or (C), the agency must comply with the recordkeeping necessary for documenting actions taken to comply with the requirements of Section 3, the results of actions taken and impediments, if any as stipulated in 24 CFR Part 135.32(e).
- F. Labor Standards - Records shall be maintained regarding compliance of all contractors performing construction work under this Agreement with the labor standards made applicable by 24 CFR Part 570.603.
- G. Miscellaneous Records - The Agency shall maintain such other records as may be required by HUD or the County.

4. RETENTION OF RECORDS

- A. Records required in connection with this Agreement shall be retained for a period of four (4) years from the date of submission of the Consolidated Annual Performance and Evaluation Report in which the activities covered under this agreement are reported for the final time. The time period will commence on January 1 of the year following the year in which the project was closed out. Exceptions are as follows: (1) Records that are the subject of audit findings shall be retained until such findings have been resolved. (2) Records for real property and equipment shall be retained for three (3) years after its final disposition. The retention period for real property and equipment records starts from the date of the disposition, replacement or transfer at the direction of the County. Equipment is defined in 24 CFR Part 85.32 for incorporated jurisdictions and in 24 CFR Part 84.2 for non-profit organizations and real property is defined in 24 CFR Part 570.505.

5. REPORTS

The Agency shall submit such reports as required by the County at such times as required by the County. Notwithstanding any other provision of this Agreement to the contrary, the reports required by the County shall be submitted by the Agency no less than on an annual basis. Such reports shall also be submitted prior to project completion.

# 1998 CDBG Contract

King County  
Housing and Community  
Development Program  
Community Services Division  
Key Tower Building  
700 Fifth Avenue, Suite 3700  
Seattle, WA 98104-5037  
(206) 296-7540

Contract No. D23389D  
Exhibit No. 1  
Revision No. \_\_\_\_\_  
Project Manager Dwight Van Vleet

<u>Authorized</u>	<u>Environmental</u>	<u>End</u>
<u>Start</u>	<u>Clearance/Status</u>	<u>Date</u>
6/1/98	Exempt	12/31/98

1. Project Number and Title  
C97420 Maple Valley Community Center Facility Improvements
2. Project Location (street address) 22010 SE 248<sup>th</sup> Street, Maple Valley, WA 98038  
City of Maple Valley  
County Council District(s) 9 and 12

3. Project Summary

The Maple Valley Community Center will use 1997 CDBG County and Small Cities funds to remodel the community center's front entrance area and front walk way as funds allow. The improvements will enable the community center's front entrance to meet the requirements of the Americans with Disabilities Act.

4. National Objective

A. Type of Project and Citation

L/M (c) P/B #570.208(a)(2)(ii) Ltd. clientele, removal of architect'l barriers

B. Explanation

This project will remove architectural barriers to an existing facility that serves the public. Handicapped or disabled persons are also presumed to be low- and moderate- income by HUD's definition.


5. Eligible Activity

- 03 Public Facilities and Improvement 570.201(c):  
03E Neighborhood Facilities  
03A Senior Centers

6. Funds Awarded	1997
County/Small Cities	<u>\$18,792</u>
Pass-through Cities	_____
<b>TOTAL ALL FUNDS AWARDED</b>	<u><b>\$18,792</b></u>

7. Recipient

Implementing Agency (if other than applicant)

Maple Valley Community Center  
*Jurisdiction or Agency*  
22010 - SE 248<sup>th</sup> Street  
*Address for Official Correspondence*  
Maple Valley, WA 98038-6067  
*City - State - Zip - Phone*  
Lori Guilfoyle, Executive Director  
*Responsible Official Name and Title*  
  
*Responsible Official Signature*

\_\_\_\_\_  
*Jurisdiction or Agency*  
\_\_\_\_\_  
*Address for Official Correspondence*  
\_\_\_\_\_  
*City - State - Zip - Phone*  
\_\_\_\_\_  
*Responsible Official Name and Title*  
\_\_\_\_\_  
*Contact Person - Phone*

*Additional Authorized Signatures for Vouchers, if any*  
Lori Guilfoyle, Executive Director - 425-432-1272  
*Contact Person - Phone*

8. Other Sources of Funds for Proposed Project

	Amount
Federal ( )	\$ _____
State ( )	\$ _____
Other King Co. ( )	\$ _____
Other CDBG ( )	\$ _____
Other Public ( )	\$ _____
United Way	\$ _____
In-Kind	\$ _____
Other	\$ _____
<b>Total Other Funds</b>	<b>\$ _____</b>

9. CDBG Budget Summary by Line Item

1. Personnel Services ( <u>provide detail below</u> )	\$ _____
2. Office or Operating Supplies	_____
3. Consultant or Purchased Services (architect)	2,500
4. Construction Contracts	16,292
5. Real Property Acquisition	_____
6. Communications	_____
7. Travel and Training	_____
8. Intra-agency Support (Cities or County Departments only)	_____
9. Capital Outlay - Equipment (Specify: _____ )	_____
10. Other ( <u>detail below</u> )	_____
<b>10. Total CDBG Funds</b>	<b>\$ 18,792</b>
<b>11. Total Project Cost</b>	<b>\$ 18,792</b>

12. CDBG Budget Details

Personnel Services

Position Title	Annual Salary	Funds Requested
	\$ _____	\$ _____
<b>TOTALS</b>	<b>\$ _____</b>	<b>\$ _____</b>

List each position separately, even if more than one position with the same title. Mark all administrative positions with an asterisk (\*)

Please identify the number of hours per week equivalent to a full-time (FTE) position for this agency: \_\_\_\_\_

Other Budget Detail (Specify)

	Item Total
_____	_____
_____	_____
<b>Total</b>	<b>\$ _____</b>

**Accomplishments/Schedule:  
(Construction Only)**

Services below meet the following strategy(ies):

**Strategy #2**

Prioritize funding of capital facilities, services and infrastructure within the UGA.

**Activity 5:**

The County and Small Cities Fund will assist acquisition and rehabilitation of community facilities that predominantly serve unincorporated county and small cities' low- and moderate-income residents. Priority will be given to facilities which: can demonstrate need; can establish a legally-binding public interest in the facility; have adequate operating funds; are located and operated in the UGA, which includes the rural cities and their PAAs; and have other funds committed. Community facilities which serve low- and moderate-income residents of other entitlement cities (Seattle, Auburn or Bellevue) or in the Pass-through Cities will be considered if funds from those cities are also being requested.

	<u>Milestones (For main repairs (roof, etc.))</u>	<u>Projected Completion Date</u>
1.	Design Begun	6/98
2.	Design Complete	7/98
3.	Bid Specs Submitted to HCD for approval	7/98
4.	Bid Opening	8/98
5.	Notice of Award	8/98
6.	Preconstruction Conference with HCD	8/98
7.	Notice to Proceed	8/98
8.	Construction 50% Complete (for projects over \$50,000)	9/98
9.	Construction Complete	9/98
10.	Final Acceptance	10/98
11.	Release Retainage	11/98

**Construction Cost Estimates**

<u>Task</u>	<u>CDBG Funds</u>	<u>Other Funds</u>
Combined total for entry way and front walk way improvements. Actual construction cost break-out will be provided to H & CD after architect prepares plans.	\$ 16,292	\$ _____
<b>Total CDBG (not including architect @ \$2,500)</b>	<b>\$ 16,292</b>	<b>\$ _____</b>
<b>Total Other</b>	<b>\$ 0</b>	<b>\$ _____</b>
<b>Total Project Cost</b>	<b>\$ 16,292</b>	<b>\$ _____</b>

**Special Conditions**

**A. Small Purchase Procurement Procedures**

Small purchase procurement procedures as outlined in 24 CFR Part 84.44 apply to this project. These procedures require that, at a minimum, the Agency obtain bids from at least three qualified vendors for each purchase of goods or services below \$100,000. The lowest responsive bid proposing the greatest level of participation by State Certified Minority/Women's Business Enterprises (M/WBEs) which is within five percent of the low bid with no State Certified Minority/Women's Business Enterprise (M/WBE) participation shall be awarded the contract. Each vendor must be requested to bid for precisely the same



items. It is the responsibility of the Agency to maintain documentation of the bids obtained from each vendor in the project file.

B. Construction Requirements

1. All construction items in the scope of work are to be bid competitively. An Invitation to Bid (ITB) or Request for Proposals (RFP) containing specifications for the work must be reviewed and approved by HCD before the project is bid. The ITB or RFP must include King County Minority/Women's Business Enterprise (M/WBE) and federal requirements provided by HCD.

As determined in consultation with HCD, a pre-bid conference may be scheduled to explain Section 3 goals and requirements. For all projects, except for those involving a single discipline, the Agency (or architect/engineer) shall complete a M/WBE Availability Analysis Work Sheet which is the basis for designating the Percentage Preference Method or Set-Aside Method as determined by the King County M/WBE and Contract Compliance Division.

The Agency and HCD staff will determine which solicitation method will be most advantageous for the project prior to finalizing the ITB or RFP. Either of the processes outlined in 2a or 2b can be used as deemed most suitable to the project.

- 2a. Bid Solicitation for Construction Contractors Selected by Small Purchase Procedures: The ITB or RFP shall be used to solicit three to five written bids, at least one of which shall be from a State-Certified M/WBE. Only bids which include completed bidders forms will be considered responsive. Documentation of all responses must be kept in the project file.

- 2b. Bid Solicitation for Construction Contractors Selected by Sealed Bids (Formal Advertising): Advertise the availability of the ITB or RFP in a publication of general circulation. Any of the following steps may facilitate M/WBE participation. Contact HCD for assistance prior to advertising the solicitation.

- a. Advertise in a publication serving the M/WBE community.
- b. Send the ITB or RFP to a plans checking center serving the M/WBE community.
- c. Send the ITB or RFP directly to M/WBEs listed in the current edition of the Washington State Directory of Certified Minority, Women and Disadvantaged Business Enterprises.

- 3a. M/WBE Requirements: If the Percentage Preference Method is used, the lowest responsive bid proposing participation by State Certified M/WBEs which is within five percent of the low bid with no M/WBE utilization or a lower ranking bid, shall be awarded the contract. All bids shall be ranked as follows:

- a. Bidder is a minority and/or women's business which will perform the entire contract unassisted or a M/WBE that will exclusively use certified M/WBEs as subcontractors or suppliers.
- b. Bidder is a M/WBE which alone or as part of a joint venture, serves as the prime contractor where prime contractor M/WBE participation is at least 25 percent of the dollar value of the contract.
- c. Bidder is a non-M/WBE which used M/WBEs as subcontractors or suppliers in an amount equal to 25 percent or more of the contract amount.
- d. Bidder is a non-M/WBE which will not use M/WBEs subcontractors or suppliers to the extent set forth in c above.

- 3b. M/WBE Requirements: If the Set-Aside Method is used, nonprofit agencies must submit to HCD bid tabulations or other analysis of ranking identifying the bidders as well as the following completed documents:

- Proposer's Declaration of Minority/Women Business (M/WB) Participation,
- The Bid Response form itself

4. A firm fixed price contract (lump sum or unit price) shall be awarded. The company to be awarded the construction contract must be approved by HCD before the award is made.

5. A preconstruction conference must be held prior to the start of work with a representative from HCD, the Agency, and the prime contractor in attendance. The requirements for complying with

Davis-Bacon and Related Acts and with Section 3 of the Housing and Urban Development Act of 1968 as amended, if applicable, will be presented at that time.

C. Procurement of Professional Services

The Agency shall follow the process outlined below for the selection of architects, engineers and other professional consultants to perform work pursuant to this exhibit:

1. If the professional services required involve multiple disciplines or the value of the services is expected to exceed \$25,000, the Agency shall complete a Minority/Women's Business Enterprise (M/WBE) Availability Analysis Work Sheet, which is the basis for designating the Percentage Preference Method or Set-Aside Method as determined by the King County M/WBE and Contract Compliance Division.
2. Prepare a Request for Qualifications (RFQ) containing a description of the required services and criteria that will be used to evaluate the response. The RFQ shall identify King County's M/WBE participation requirements. HCD staff can provide technical assistance in developing the RFQ.
3. Solicit qualifications from three to five firms, at least one of which must be a State Certified M/WBE.
4. The Agency shall evaluate and score each response.
5. The highest scoring respondent will be ranked 1st, the second highest scoring respondent will be ranked 2nd, and so forth. If interviews are conducted, those scores shall be added to the initial scores, and then the respondents will be ranked.
6. If the Set-Aside Method is used, the respondents must indicate that their projected utilization of M/WBE sub-consultants will comply with the Set-Aside designated by King County. Responses which do not indicate compliance with the Set-Aside designated by King County shall be considered non-responsive.
7. If the Percentage Preference Method is applied, the respondents shall be further categorized in the following order:
  - a. Respondent is a minority and/or women's business which will perform the entire contract unassisted or a M/WBE that will exclusively use certified M/WBEs as subcontractors or suppliers.
  - b. Respondent is a M/WBE which alone or as part of a joint venture, serves as the prime contractor where prime contractor M/WBE participation is at least 25 percent of the estimated dollar value of the contract.
  - c. Respondent is a non-M/WBE which used M/WBEs as subcontractors or suppliers in an amount equal to 25 percent or more of the estimated contract amount.
  - d. Respondent is a non-M/WBE which will not use M/WBEs subcontractors or suppliers to the extent set forth in c above.
8. All responding parties within each particular ranking shall be grouped according to the evaluation score of their proposal, with higher scoring proposals receiving the highest priority. The highest scoring proposal within the highest ranking category a - c shall have 5% of the top overall respondents score as determined in step 7 added to their score. If this results in a respondent in categories a - c now with the highest score that respondent shall be deemed the top respondent and negotiated with for award of the contract.
9. Keep documentation of the selection process in your central program file.
10. Award a fixed-price or cost-reimbursable type contract.

D. Insurance Coverage for Private Nonprofit Agencies

Agencies must demonstrate adequate insurance coverage consistent with this Agreement. A certificate of insurance naming King County as an additional insured and a copy of the policy endorsement naming King County as an additional insured and loss payee must be on file with HCD prior to or accompanying the first Voucher Reimbursement Request.

E: Recordkeeping/Documentation

The Agency shall maintain a current file for this project containing all items in these categories:

1. Notice of Grant Award.
2. Authorizations, Motions, Resolutions, or Council minutes.
3. Contract exhibit and any amendments with corresponding Authorization to Proceed.
4. Budget revisions.
5. Copies of voucher reimbursement requests and program accomplishment forms.
6. Bills for payment.
7. Copies of approved vouchers and warrants.

F. Reimbursement Procedures

1. CDBG funds can be requested and paid to the Agency/City only after the costs have been incurred. To receive reimbursement, the Agency/City must file accurate and complete Voucher Reimbursement Requests with supporting documentation such as bills which have been paid, receipts or invoices that are due and payable. DO NOT SEND HCD THE ORIGINALS; KEEP ORIGINALS IN YOUR PROJECT FINANCE FILE AND SEND COPIES. In addition, a detailed Program Accomplishments form must accompany the Voucher Reimbursement Request form, and other reports as indicated in the Recordkeeping/Documentation section, or the voucher will not be paid. The Agency/City will receive reimbursement from HCD within 10-15 working days after HCD receives the request. The Agency/City must pay the invoice within three (3) days after receipt of CDBG funds.
2. A Program Accomplishments form must be submitted at the end of each calendar quarter, whether or not there is a need to request reimbursement. This quarterly submittal is due at HCD by the 15th of the month following the end of the quarter. Reports are due April 15, for the Jan-March quarter; July 15, for the April-June quarter, and so forth.

G. Promissory Note, Mortgage Security Instrument

1. When CDBG funds in an amount greater than \$10,000 are used to acquire an interest in real property and/or improve real property, the Agency shall execute a promissory note and a mortgage attached to the real property to secure King County's interest.
2. The promissory note will be forgiven and the mortgage will be satisfied after seven years, contingent upon satisfactory project performance by the Agency.

H. Effective Period

The effective period of time for compliance with the conditions contained in this Agreement between King County and the Agency, including any amendments of which this exhibit is a part, shall be for seven years. The effective period shall begin in the month that the project is completed.

I. Audit Requirements of Private Nonprofit Organizations

Agencies expending \$300,000 or more in Federal funds annually must conduct an annual audit by an independent auditor. The audit must be completed in accordance with OMB Circular A-133 "Audits of Institutions of Higher Education, and Other Nonprofit Organizations." The audit report must be forwarded to HCD Community Development Section. Any audit findings must be resolved within six months of the date of the audit report.

J. Restrictions on Change of Use

The Agency may not change the use of the property acquired or improved with CDBG assistance from that for which the acquisition or improvement was made as cited on page 1, item 4, National Objective and item 5, Eligible Activity, unless:

1. The Agency provides King County with reasonable notice of the proposed change of use; and
2. Either,
  - a. the proposed new use of such property meets all applicable requirements set forth in 24 CFR Part 570.208 for meeting the national objectives, is permissible under state and local law, and is approved by King County; or
  - b. the Agency reimburses the CDBG fund for its share of the fair market value of the property.
3. This restriction on change of use is in effect for a period of seven years, beginning from the month the project is completed.