

***SUBRECIPIENT Agreement #PPR\_Emergency Solutions Grant-CV***

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between Pacific County, hereinafter referred to as "COUNTY," and **Peninsula Poverty Response**, hereinafter referred to as "SUBRECIPIENT," a nonprofit corporation with federal 501(c) (3) nonprofit status. The COUNTY and the SUBRECIPIENT are together referenced as the "Parties." For and in consideration of the mutual benefit derived, the Parties hereby agree to fulfill the following respective duties diligently and to perform the following respective services by all of the conditions, terms, requirements, and regulations of the Agreement.

The purpose of this agreement is to provide emergency shelter through the use of the Washington State Department of Commerce Emergency Solutions-CV Grant. All services provided under this agreement must be in full compliance with all funder requirements, including Exhibit A - Emergency Solutions Grant - CV Amendment F, Exhibit B - Emergency Solutions Grant - CV Guidelines and Exhibit C - Statement of Work. Funding for these services is outlined in Exhibit D - Budget.

The SUBRECIPIENT is hereby notified that funds are federal pass-through funds to Department of Commerce to Pacific County from the U.S. Department of Housing and Urban Development (HUD), CFDA #14.231, funded through the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) and provided for supplemental appropriation of Homeless Assistance Grants under the Emergency Solutions Grant (ESG).

The SUBRECIPIENT is informed that they are a sub-recipient of contract 20-4613C-119 between the Washington State Department of Commerce and Pacific County and agrees to comply with all requirements set forth in: 24 CFR §576, the HUD ESG Interim Rule (ESG Program and Consolidated Plan Conforming Amendment of 24 CFR Parts 91 and 576, Docket No. FR-5474-I-01, RIN 2506-AC29) and the ESG-CV Notice issued September 1, 2020 and the ESG-CV Notice: CPD-21-05 issued on April 14, 2021.

The SUBRECIPIENT is notified that the total amount awarded from Washington State Department of Commerce to the recipient (Pacific County) is: \$403,579, and of that, \$17,600 is committed and obligated as a sub award to SUBRECIPIENT and that the federal award date is February 1st, 2023, not R&D and that indirect cost rate cannot be charged to this sub award.

1. **AGREEMENT REPRESENTATIVES:** Each party to this Agreement shall have a representative. Each party may change its representative upon providing written notice to the other party. The parties' representatives are as follows:

A. For the SUBRECIPIENT:	B. For the COUNTY:
Nancy McAllister	Darian Johnson
President	Housing Programs Manager
PO Box 665 Ocean Park, WA 98640	1216 West Robert Bush Drive South Bend, WA 98586
Subrecipient UEI #:	
Subrecipient Tax ID #: 46-4210167	

The COUNTY will monitor the SUBRECIPIENT's programmatic obligations under this Agreement and report any substantial non-compliance with this Agreement to the SUBRECIPIENT.

2. ACCESS TO DATA: In compliance with RCW 39.26.180, the SUBRECIPIENT shall provide access to data generated under this agreement to HUD, the COUNTY, the Department of Commerce, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional costs. This includes access to all information that supports the findings, conclusions, and recommendations for the SUBRECIPIENT's reports, including computer models and the methodology for those models.
3. ALL WRITINGS CONTAINED HEREIN: This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.
4. AMENDMENTS: This Agreement may be amended by mutual agreement of the parties. Such amendments shall only be binding if they are in writing and signed by personnel authorized to bind each party.
5. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336: The SUBRECIPIENT must comply with the ADA, also referred to as "ADA" 28 CFR Part 35, which provides comprehensive civil rights protection to individuals with disabilities in employment, public accommodations, state and local government services, and telecommunications.
6. APPROVAL: This Agreement shall be subject to the written approval of the COUNTY's Authorized Representative and shall not be binding until approved. The Agreement may be altered, amended, or waived only by a written amendment executed by both parties.
7. ASSIGNMENT: Neither this Agreement nor any claim arising under this Agreement shall be transferred or assigned by the SUBRECIPIENT without the prior written consent of the COUNTY.
8. AUDIT
  - A. General Requirements: The SUBRECIPIENT is to procure audit services based on the following guidelines:
    - i. The SUBRECIPIENT shall maintain its records and accounts to facilitate the audit requirement and ensure auditable records.
    - ii. The SUBRECIPIENT is responsible for any audit exceptions incurred by its organization. The COUNTY reserves the right to recover from the SUBRECIPIENT all disallowed costs resulting from the audit.
    - iii. As applicable, the SUBRECIPIENT required to have an audit must ensure all audits are performed by Generally Accepted Auditing Standards (GAAS), including, but not limited to, the Government Auditing Standards (the Revised Yellow Book) developed by the Comptroller General.
    - iv. Responses to any unresolved management findings and disallowed or questioned costs shall be included in the audit report. The SUBRECIPIENT must respond to COUNTY requests for information or corrective action concerning audit issues within thirty (30) days of the date of request
  - B. State Fund Requirements: SUBRECIPIENTS expending \$100,000 or more in total state funds in a fiscal year must have a financial audit as defined by Government Auditing Standards (The Revised Yellow Book) and according to Generally Accepted Auditing Standards (GAAS). The Schedule of State Financial Assistance must be included. The schedule consists of the following:
    - i. SUBRECIPIENT name

- ii. State program name
- iii. BARS account number
- iv. COUNTY
- v. COUNTY Agreement number
- vi. Agreement award amount, including amendments (total Agreement award)
- vii. Current year expenditures

- C. Audits of non-profit organizations are to be conducted by a certified public accountant selected by the SUBRECIPIENT.
- D. In all cases, the SUBRECIPIENT's financial records must be available for review by COUNTY.

9. **BILLING PROCEDURES AND PAYMENT:** The COUNTY will pay SUBRECIPIENT upon acceptance of services provided and receipt of adequately completed COUNTY invoices, which shall be submitted to the Representative for the COUNTY not more often than monthly, or as outlined in Exhibit C- Statement of Work and Exhibit D- Budget.

In its sole discretion, the COUNTY may terminate the Agreement or withhold payments claimed by the SUBRECIPIENT for services rendered if the SUBRECIPIENT fails to comply with any term or condition of this Agreement satisfactorily.

The COUNTY shall make no payments in advance or in anticipation of services or supplies to be provided under this Agreement.

A. Duplication of Billed Costs

The SUBRECIPIENT shall not bill the COUNTY for services performed under the Agreement, and the COUNTY shall not pay the SUBRECIPIENT if the SUBRECIPIENT is entitled to payment or has been or will be paid by any other source, including grants, for that service.

B. Disallowed Costs

The SUBRECIPIENT is responsible for any audit exceptions or disallowed costs incurred by its organization.

10. **BOARD OF DIRECTORS:** The SUBRECIPIENT shall provide the COUNTY with a current roster of its Board of Directors, including the names, addresses, and telephone numbers of the board chairperson or president and each member. The SUBRECIPIENT shall apprise the COUNTY of any changes to this roster as they occur.
11. **COMPENSATION:** The COUNTY shall pay an amount to be, at most, the amount shown in Exhibit D- Budget. Where Exhibit D-Budget requires payments by Pacific County, payment shall be made on a reimbursement basis, supported unless otherwise provided in Exhibit D. Activity reports shall be filed along with the billing for payment. The SUBRECIPIENT shall submit billing by the 10<sup>th</sup> of each month following the month of service. For the month of September, invoices need to be submitted to the COUNTY no later than the 5th of October for when expenses were incurred.

This Agreement allows actual expenditures according to an approved budget up to the maximum amount stated in Exhibit D-Budget. The SUBRECIPIENT shall use federal cost principles specified in OMB Circular A-110, "Cost Principles Applicable to Grants, Agreements and other Agreements," with non-profit organizations as applicable. The SUBRECIPIENT shall include this last paragraph in any sub-agreements.

The SUBRECIPIENT certifies that the work to be performed under this Agreement does not duplicate any work to be charged against any other agreement, sub-agreement, or another source.

The COUNTY may withhold reimbursement payment if the SUBRECIPIENT fails to submit required billings and supportive documentation to the COUNTY. The SUBRECIPIENT's failure to submit billings as specified is grounds for the COUNTY to terminate the Agreement as provided herein.

12. COMPLIANCE WITH LAWS: The SUBRECIPIENT, in performance of this agreement, agrees to comply with all applicable federal, state, and local laws, administrative codes or ordinances, including standards for licensing, certification, and operation of facilities, programs, and accreditation, and permitting of individuals and any other means or criteria as described in this Agreement to assure the quality of service.

13. CONFLICT OF INTEREST: The COUNTY may, by written notice to the SUBRECIPIENT:

- A. Terminate the right of the SUBRECIPIENT to proceed under this agreement for actions, policies, practices, or omissions to act which constitute a conflict of interest within the meaning of RCW chapter 42.18. This includes, but is not limited to, prohibitions against offering COUNTY employees, directly or indirectly, anything of economic value from a SUBRECIPIENT or a potential SUBRECIPIENT (and from sub-recipients of the preceding) in exchange for any official act or forbearance to act.
- B. In the event this agreement is terminated as provided in (A.) above, the COUNTY shall be entitled to pursue the same remedies against the SUBRECIPIENT as it could pursue in the event of a breach of the agreement by the SUBRECIPIENT. The rights and remedies of the COUNTY provided for in this section are in addition to any other rights and remedies provided by law

14. SUBRECIPIENT SERVICES: The SUBRECIPIENT shall perform such services and accomplish such tasks, including furnishing all necessary personnel, materials, and equipment required for or incidental to the performance of the work identified as SUBRECIPIENT responsibilities throughout this Agreement, in Exhibit C- Statement of Work.

15. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION:

- A. "Confidential Information" as used in this section includes:
  - i. All material provided to the SUBRECIPIENT by the COUNTY that is designated as "confidential" by the COUNTY;
  - ii. All material produced by the SUBRECIPIENT that is designated as "confidential" by the COUNTY; and
  - iii. All personal information in possession of the SUBRECIPIENT that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number, and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- B. The SUBRECIPIENT shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The SUBRECIPIENT shall use Confidential Information solely for this Agreement and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of the COUNTY or as may be required by law. The SUBRECIPIENT shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale, or disclosure of Confidential Information or violation of any state or federal laws related to it,

including and in accordance with 42 CFR 431.300 through 431.307, and Revised Code of Washington Chapters 70.02, 71.05, the Homeless Management Information System (HMIS), and 71.34. Upon request, the SUBRECIPIENT shall provide the COUNTY with its policies and procedures on confidentiality. The COUNTY may require changes to such policies and procedures as they apply to this Agreement whenever the SUBRECIPIENT reasonably determines that changes are necessary to prevent unauthorized disclosures. The SUBRECIPIENT shall make the changes within the period specified by the COUNTY. Upon request, the SUBRECIPIENT shall immediately return to the COUNTY any Confidential Information that the COUNTY reasonably determines has not been adequately protected by the SUBRECIPIENT against unauthorized disclosure.

- C. **Unauthorized Use or Disclosure:** The SUBRECIPIENT shall notify the COUNTY within five (5) working days of any unauthorized use or disclosure of confidential information and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

- 16. **CONFORMANCE:** Suppose any provision of this Agreement violates any statute or the rule of law of the state of Washington. In that case, it is considered modified to conform to that statute or regulation of law.
- 17. **COPYRIGHT/ PATENT INFRINGEMENT:** Any written commitment from the SUBRECIPIENT concerning this Agreement shall be binding upon the SUBRECIPIENT unless otherwise expressly provided concerning this paragraph. Failure of the SUBRECIPIENT to fulfill such a commitment shall render the SUBRECIPIENT liable for damages to the COUNTY. A burden includes, but is not limited to, any representation made before the execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to the performance of services or equipment, prices, or options for future acquisition to remain in effect for a fixed period, or warranties.
- 18. **CRIMINAL BACKGROUND HISTORY CHECK:** A background criminal history clearance is required every three years for all employees and volunteers who may have unsupervised access to children or vulnerable adults by RCW 43.43.830-845, RCW 74.15.030, and chapter 388.06 WAC. If the SUBRECIPIENT elects to hire or retain an individual after receiving notice that the employee has a conviction for an offense that would disqualify the applicant from having unsupervised access to children or vulnerable adults as defined in Chapter 74.34 RCW. In that case, the COUNTY shall deny payment for subsequent services rendered by the SUBRECIPIENT.
- 19. **DEBARMENT CERTIFICATION:** The SUBRECIPIENT now declares that it is not suspended or debarred from securing federal and state funds and shall remain so during this Agreement/Agreement. Suspension and debarment of the SUBRECIPIENT from securing federal or state funds shall be cause for immediate termination of this Agreement/Agreement by the COUNTY.
- 20. **DISPUTES:**
  - A. **General**

Differences between the SUBRECIPIENT and the COUNTY, arising under and by the Agreement documents, shall be brought to the attention of the COUNTY at the earliest possible time so such matters may be settled or appropriate action promptly taken. Except for such objections as are made of record in the manner from now on specified and within the time limits stated, the forms, orders, rulings, instructions, and decisions of the Officer, shall be final and conclusive.

B. Notice of Potential Claims

The SUBRECIPIENT shall not be entitled to additional compensation, which otherwise may be payable, or to the extension of time for (1) any act or failure to act by the Officer or the COUNTY, or (2) the happening of any event or occurrence, unless the SUBRECIPIENT has given the COUNTY a written Notice of Potential Claim within ten days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the COUNTY. The written Notice of Potential Claim shall set forth the reasons for which the SUBRECIPIENT believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. SUBRECIPIENT shall keep daily records of the work performed, labor and material used, and all costs and additional time claimed to be other.

C. Detailed Claim

The SUBRECIPIENT is not entitled to claim any such additional compensation or extension of time unless within 30 days of the accomplishment of the portion of the work from which the claim arose. Before final payment by the COUNTY, the SUBRECIPIENT has given the COUNTY a detailed written statement of each element of cost or other compensation requested and of all additional time required. Copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

21. DOCUMENTS ON FILE: Documents consistent with federal and state regulations, as applicable, shall be kept on file in the office of the SUBRECIPIENT and available for review. Such documents shall include, but not be limited to:

- Personnel Policies;
- Program guidelines;
- Job Description(s);
- Organizational Chart;
- Travel Policies;
- Fiscal Management;
- Articles of Incorporation/Tribal Charter;
- Bylaws;
- IRS Nonprofit Status Certification;
- Latest SUBRECIPIENT Audit;
- Insurance policies required by SUBRECIPIENT;
- Indirect cost agreement, when applicable; and

The SUBRECIPIENT shall include these requirements in all approved cost reimbursement sub-agreements.

22. DUPLICATE PAYMENT: The SUBRECIPIENT certifies that the work performed under this Agreement does not duplicate any work to be charged against any other Agreement, sub-agreement, or another source.

23. EVALUATION AND MONITORING: The SUBRECIPIENT shall cooperate with and freely participate in any monitoring or evaluation activities conducted by the COUNTY or its funders that are pertinent to the intent of this Agreement. The COUNTY and its funders shall have full access to and the right to examine all of the SUBRECIPIENT's records concerning all matters covered in this Agreement during regular business hours and as often as necessary. Such representatives shall be permitted to audit, examine, and make excerpts or transcripts from such documents and to audit all agreements, invoices, materials, payroll, and records of

matters covered by this Agreement. Such rights extend for six years from the date the final payment is made hereunder.

24. FINANCIAL MANAGEMENT SYSTEMS: SUBRECIPIENT's financial systems shall contain the following:
- Accurate, current and complete disclosure of the financial results of each agreement;
  - Records that identify the source and application of funds;
  - Control over and accountability for all funds, property, and other assets;
  - Comparison of actual outlays with a budgeted amount for each agreement;
  - Procedures that minimize the time elapsing between the transfer of funds from the COUNTY and their disbursement by the SUBRECIPIENT;
  - Procedures for determining reasonableness and allocability of costs;
  - Accounting records that are supported by source documentation;
  - Procedures for timely and appropriate resolution of audit findings and recommendations.

The SUBRECIPIENT shall include these requirements in any sub-agreements.

25. INDEPENDENT CAPACITY OF THE SUBRECIPIENT: The parties intend that this Agreement will create an Independent SUBRECIPIENT relationship. The SUBRECIPIENT and its employees or agents performing under this Agreement are not employees or agents of the COUNTY. The SUBRECIPIENT will not hold itself out as or claim to be an officer or employee of the COUNTY by reason hereof, nor will the SUBRECIPIENT make any claim of right, privilege, or benefit which would accrue to such officer or employee under the law. Conduct and control of the work will be sole with the SUBRECIPIENT. The SUBRECIPIENT acknowledges that the total compensation for this Agreement is specified in Exhibit D- Budget and the SUBRECIPIENT is not entitled to any COUNTY benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to COUNTY employees.

26. OWNERSHIP: Any and all data, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the SUBRECIPIENT or the SUBRECIPIENT's subSUBRECIPIENTS or consultants for delivery to the COUNTY under this Agreement shall be the sole and absolute property of the COUNTY. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the COUNTY at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the SUBRECIPIENT uses to perform this Agreement but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the COUNTY is owned by the SUBRECIPIENT and is not "work made for hire" within the terms of this Agreement.

27. INDEMNIFICATION/HOLD HARMLESS:

- A. Indemnification by SUBRECIPIENT. To the fullest extent permitted by law, the SUBRECIPIENT agrees to indemnify, defend and hold the COUNTY and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property, including the loss of use resulting therefrom. The indemnity includes but is not limited to: 1) liability arising in whole or in part by any action or omission, negligent or otherwise, of the SUBRECIPIENT, its employees, agents or

volunteers or SUBRECIPIENT's subSUBRECIPIENTS and their employees, agents or volunteers; or 2) liability directly or indirectly arising out of, resulting from, or in connection with performance of this Contract; or 3) liability based upon the SUBRECIPIENT'S or its subSUBRECIPIENTS' use of, presence upon or proximity to the property of the COUNTY. This indemnification obligation of the SUBRECIPIENT shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the COUNTY. This indemnification obligation of the SUBRECIPIENT shall not be limited in any way by the Washington State Industrial Insurance Action RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the SUBRECIPIENT hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the SUBRECIPIENT are a material inducement to COUNTY to enter into the Contract, are reflected in the SUBRECIPIENT's compensation, and have been mutually negotiated by the parties.

- B. Participation County – No Waiver. The COUNTY reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of SUBRECIPIENT's indemnity obligations under the Contract.
- C. Survival of SUBRECIPIENT's Indemnity Obligations. The SUBRECIPIENT agrees all SUBRECIPIENT's indemnity obligations shall survive the completion, expiration or termination of this Contract.

28. ATTORNEY'S FEES/COST OF SUIT AND VENUE: If either party files suit to enforce this Contract, parties agree that the prevailing party in any such action shall be entitled to collection costs, reasonable attorney's fees, and costs of suit.

- A. Disputes. Differences between the SUBRECIPIENT and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due SUBRECIPIENT shall be decided by the COUNTY'S Contract representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S contract representative shall be final and conclusive, subject to their right to seek judicial relief pursuant to Choice of Law, Jurisdiction and Venue.
- B. Choice of Law, Jurisdiction and Venue. This Contract has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Pacific County, Washington.

- C. Severability. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.



If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

Should the COUNTY determine that the severed portions substantially alter this Contract so that the original intent and purpose of the Contract no longer exists, the COUNTY may, in its sole discretion, terminate this Contract.

**29. INSURANCE:**

Without limiting the SUBRECIPIENT Indemnification of the COUNTY, and before the commencement of this Agreement, the SUBRECIPIENT shall obtain, provide and maintain policies or insurance of the type and amounts during this Agreement described below and, in a form satisfactory to the COUNTY.

- A. General Liability Insurance. SUBRECIPIENT shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability.
- B. Professional Liability (Errors & Omissions) Insurance. SUBRECIPIENT shall maintain professional liability insurance that covers the services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement, and the sub-recipient agrees to maintain continuous coverage for no less than three years after completing the services required by this Agreement.
- C. Workers' Compensation Insurance. SUBRECIPIENT shall, at its own expense, maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).
- D. SUBRECIPIENT shall submit to COUNTY, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of COUNTY, its officers, agents, employees, and volunteers.
- E. Waiver of Subrogation. All insurance coverage maintained or procured under this Agreement shall be endorsed to waive subrogation against COUNTY, its elected or appointed officers, agents, officials, employees, and volunteers or shall specifically allow SUBRECIPIENT or others providing insurance evidence in compliance with these specifications to waive their right of recovery before a loss. SUBRECIPIENT hereby waives its right of recovery against COUNTY and shall require similar written express waivers and insurance clauses from each of its SUBRECIPIENTS.
- F. Automobile Liability Insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.
- G. The SUBRECIPIENT shall provide the COUNTY with a properly executed certificate of insurance and provide a policy endorsement naming the COUNTY as an additional Insured. SUBRECIPIENT agrees that its liability insurance shall be primary and noncontributory to the COUNTY's and that SUBRECIPIENT's liability insurance policy shall so state.

H. Industrial Insurance Provisions. The SUBRECIPIENT shall comply with all Title 51 RCW Industrial Insurance provisions. If the SUBRECIPIENT fails to provide industrial insurance coverage or pay premiums or penalties on behalf of its employees as may be required by law. In that case, the COUNTY may collect from the SUBRECIPIENT the total amount payable to the Industrial Insurance Accident Fund. The COUNTY may deduct the amount owed by the SUBRECIPIENT to the accident fund from the amount payable to the SUBRECIPIENT by the COUNTY under this Agreement and transmit the deducted amount to the Department of Labor and Industries (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the SUBRECIPIENT.

30. LAWS: The SUBRECIPIENT shall comply with all applicable laws, ordinances, codes, regulations, and policies of local and state, and federal governments, as now or hereafter amended, including, but not limited to:

Washington State Laws and Regulations

- A. Affirmative action, RCW 41.06.020 (11).
- B. Boards of directors or officers of non-profit corporations – Liability - Limitations, RCW 4.24.264.
- C. Disclosure-campaign finances-lobbying, Chapter 42.17 RCW.
- D. Discrimination-human rights commission, Chapter 49.60 RCW.
- E. Ethics in public service, Chapter 42.52 RCW.
- F. Office of minority and women's business enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC.
- G. Open public meetings act, Chapter 42.30 RCW.
- H. Public records act, Chapter 42.56 RCW.
- I. State budgeting, accounting, and reporting system, Chapter 43.88 RCW.

Federal Laws and Regulations

- A. Title IV of the McKinney-Vento Homeless Assistance Act 42 U.S.C 11301 et seq. (the "Act") and the Continuum of Care Program Rule (the "Rule").
- B. Federal Hatch Act, 5 USC 1501-1508

31. LIMITATION OF AUTHORITY: By writing, only the Authorized Representative or Authorized Representative designee shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement.

32. MODIFICATIONS Either party may request changes in the Agreement. Any modifications shall be in writing and signed by each of the parties.

33. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS: During the performance of this Agreement, the SUBRECIPIENT shall comply with all federal, state, and local nondiscrimination laws, regulations, and policies. In the event of the SUBRECIPIENT's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Agreement may be rescinded, canceled, or terminated in whole or in part, and the SUBRECIPIENT may be declared ineligible for further Agreements with the state.

34. PAY EQUITY: The Subgrantee agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- A. Employees are “similarly employed” if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- B. Grantee may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
  - i. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
  - ii. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
  - iii. A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Grant may be terminated by the Department, if the Department or the Department of Enterprise services determines that the Grantee is not in compliance with this provision

- 35. POLITICAL ACTIVITIES: None of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used for any partisan political activity to further the election or defeat of any candidate for public office by the SUBRECIPIENT’s employees and officers, as limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17 RCW and the Federal Hatch Act, 5 USC 1501-1508.
- 36. PROHIBITIONS: The SUBRECIPIENT does not require eligible clients to participate in a religious service as a condition of receiving program assistance.
- 37. PUBLIC RECORDS ACT: This Agreement and all public records associated with this Agreement shall be available from the COUNTY for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the “Act”). To the extent that public records then in the custody of the SUBRECIPIENT are needed for the COUNTY to respond to a request under the Act, as determined by the COUNTY, the SUBRECIPIENT agrees to make them promptly available to the COUNTY. If the sub-recipient considers any portion of any record provided to the COUNTY under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the SUBRECIPIENT shall identify any specific information that it claims to be confidential or proprietary. If the COUNTY receives a request under the Act to inspect or copy the information so identified by the sub-recipient and the COUNTY determines that release of the information is required by the Act or otherwise appropriate, the COUNTY’s sole obligations shall be to notify the SUBRECIPIENT (a) of the request and (b) of the date that such information will be released to the requester unless the SUBRECIPIENT obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the SUBRECIPIENT fails to obtain a court order enjoining a timely disclosure, the COUNTY will release the requested information on the specified date.

The COUNTY has, and by this section assumes, no obligation on behalf of the SUBRECIPIENT to claim any exemption from disclosure under the Act. The COUNTY shall not be liable to the SUBRECIPIENT for releasing records not clearly identified by the SUBRECIPIENT as confidential or proprietary. The COUNTY shall not be responsible to the SUBRECIPIENT for any records that the COUNTY releases in compliance with this section or compliance with an order of a court of competent jurisdiction.

SUBRECIPIENT agrees to Indemnify and, to the greatest extent legally possible, to hold harmless the COUNTY in any action by a third party due to the negligence, recklessness, or intentional acts by the SUBRECIPIENT relating to its performance of this agreement. This includes any lawsuit filed by a third party for the COUNTY's allegedly improper release of confidential or proprietary information under a public records request.

38. RECAPTURE: If the SUBRECIPIENT fails to perform this Agreement and abide by laws, federal laws, and/or provisions of this Agreement, the COUNTY reserves the right to recapture funds in an amount to compensate the COUNTY for the noncompliance in addition to any other remedies available at law or in equity. Repayment by the SUBRECIPIENT of funds under this recapture provision shall occur within the period specified by COUNTY. In the alternative, the COUNTY may recapture such funds from payments due under this Agreement.
39. REPORT ABUSE AND NEGLECT: The SUBRECIPIENT and its SUBRECIPIENTS are mandated reporters under RCW 74.34.020(1) and must comply with reporting requirements described in RCW 74.34.035 and 040 RCW and 26.44 RCW to the extent required by law. If the SUBRECIPIENT is notified by the COUNTY or DSHS that they or a subSUBRECIPIENT is cited or on the registry for a substantiated finding, then the associated SUBRECIPIENT will be prohibited from providing services under this agreement.

The SUBRECIPIENT will promptly report to the COUNTY if:

- A. They have reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a child or vulnerable adult has occurred.
- B. If they have reason to suspect that sexual or physical assault of such a person has occurred, they shall also immediately report to the appropriate law enforcement SUBRECIPIENT.

40. SAVINGS: In the event funding from the state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and before normal completion, the COUNTY may terminate the Agreement under the "Termination for Convenience" clause, without the ten-business day notice requirement. Instead of termination, the Agreement may be amended to reflect the new funding limitations and conditions.
41. SUBCONTRACTING: The SUBRECIPIENT may enter into a sub-agreement if the SUBRECIPIENT submits a written request to the COUNTY for approval and receives written COUNTY approval 30 days before the proposed start date of the sub-agreement. No sub-agreement shall be entered into until the Pacific County Prosecuting Attorney has reviewed the agreement and the SUBRECIPIENT receives written approval for the sub-agreement from the COUNTY.
42. SURVIVAL: The terms, conditions, and warranties in this Agreement that, by their sense and context, are intended to survive the completion of the performance, cancellation, or termination of this Agreement shall so survive.
43. TAXES: The SUBRECIPIENT acknowledges that the COUNTY will not withhold Federal or State income taxes. Where required by State or Federal law, the SUBRECIPIENT authorizes the COUNTY to make withholding for any taxes other than income taxes (i.e., Medicare). All compensation received by the SUBRECIPIENT will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the SUBRECIPIENT to make the necessary estimated tax payments throughout the year if any, and the SUBRECIPIENT is solely liable for any tax obligation arising from the SUBRECIPIENT's performance of this Agreement. The SUBRECIPIENT hereby agrees to indemnify the

COUNTY against any demand to pay taxes arising from the SUBRECIPIENT's failure to pay taxes on compensation earned pursuant to this Agreement.

The COUNTY will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The SUBRECIPIENT must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the SUBRECIPIENT's gross or net income, or personal property to which the COUNTY does not hold title. The COUNTY is exempt from Federal Excise Tax.

44. TERMINATION FOR CAUSE/SUSPENSION: If the COUNTY determines that the SUBRECIPIENT failed to comply with any term or condition of this Agreement, the COUNTY may terminate the Agreement in whole or in part upon written notice to the SUBRECIPIENT. Such termination shall be deemed "for cause." Termination shall take effect on the date specified in the notice.

Alternatively, upon written notice, the COUNTY may allow the SUBRECIPIENT a specific period to correct the non-compliance. During the corrective action period, the COUNTY may suspend further payment to the SUBRECIPIENT in whole or in part or may restrict the SUBRECIPIENT's right to perform duties under this Agreement. Failure by the SUBRECIPIENT to take timely corrective action shall allow the COUNTY to terminate the Agreement upon written notice to the SUBRECIPIENT.

"Termination for Cause" shall be deemed a "Termination for Convenience" when the COUNTY determines that the SUBRECIPIENT did not fail to comply with the terms of the Agreement or when the COUNTY determines the failure was not caused by the SUBRECIPIENT's actions or negligence.

If the Agreement is terminated for cause, the SUBRECIPIENT shall be liable for damages as authorized by law, including, but not limited to, any cost difference between the original Agreement and the replacement Agreement, as well as all costs associated with entering into the replacement Agreement (i.e., competitive bidding, mailing, advertising, and staff time).

45. TERMINATION FOR CONVENIENCE: The COUNTY may terminate this Agreement for Convenience, in whole or in part, upon ten (10) business days' written notice, the calculation of such period beginning on the second day after mailing. If this Agreement is terminated for convenience, the COUNTY shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective termination date.

46. TERMINATION PROCEDURES: After receipt of a notice of termination, except as otherwise directed by the COUNTY, the SUBRECIPIENT shall:
- A. Stop work under the Agreement on the date and to the extent specified in the notice;
  - B. Place no further orders or sub-agreements for materials, services, or facilities related to the Agreement;
  - C. Assign to the COUNTY all of the rights, title, and interest of the SUBRECIPIENT under the orders and sub-agreements so terminated, in which case the COUNTY has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and sub-agreements. Any attempt by the SUBRECIPIENT to settle such claims must have the prior written approval of the COUNTY; and
  - D. Preserve and transfer any materials, Agreement deliverables, and/or COUNTY property in the SUBRECIPIENT's possession as directed by the COUNTY.
- Upon termination of the Agreement, the COUNTY shall pay the SUBRECIPIENT for any services rendered or goods delivered by the SUBRECIPIENT prior to the effective date of termination. The

COUNTY may withhold any amount due as the COUNTY reasonably determines is necessary to protect the COUNTY against potential loss or liability resulting from the termination. The COUNTY shall pay any withheld amount to the SUBRECIPIENT if the COUNTY later determines that loss or liability will not occur.

The rights and remedies of the COUNTY under this section are in addition to any other rights and remedies provided under this Agreement or otherwise provided under the law.

47. TREATMENT OF ASSETS: The SUBRECIPIENT shall take the following actions to secure the financial interest of the COUNTY in items purchased with funds awarded under this Agreement. The SUBRECIPIENT shall name the COUNTY as the lienholder on certificates of title for motor vehicles. (RCW 46.12.095). A non-expendable personal property inventory report shall also be submitted to the COUNTY as required. The COUNTY's interest in the property purchased under this agreement and prior agreements from the same funding source is automatically transferred to the following agreement year at the close of this agreement period. The SUBRECIPIENT shall maintain records, perform inventories and maintain control systems to prevent loss, damage, or theft of equipment, materials, and supplies. A SUBRECIPIENT, which is a nonprofit organization, shall keep property records in accordance with OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Nonprofit Agencies, for all purchases funded by this agreement. In the event of loss, destruction, or damage to any property purchased under this agreement, the SUBRECIPIENT shall notify the COUNTY and shall take all reasonable steps to protect that property from further damage. Unless otherwise directed by the COUNTY, the SUBRECIPIENT shall surrender to the COUNTY all property purchased under this agreement prior to settlement upon completion, termination, or cancellation of this agreement.

The SUBRECIPIENT shall include these requirements in any sub-agreements.

48. CONTRACT PROVISIONS: Payments due to the Provider/SUBRECIPIENT under this Agreement are expressly conditioned upon the Provider's/SUBRECIPIENT's strict compliance with all insurance requirements under this Agreement. Payment to the Provider/SUBRECIPIENT shall be suspended in the event of non-compliance. Upon receipt of evidence of full compliance, payments not otherwise subject to withholding or set-off will be released to the Provider/SUBRECIPIENT.
49. WAIVER: Waiver of any breach or condition of this agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this agreement shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

This Agreement, consisting of ~~87~~ pages, including Exhibits A, B, C, and D which are incorporated herein by reference, is executed by the persons signing below who warrant that they have the authority to execute this Agreement.

PENINSULA POVERTY RESPONSE

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Lisa Olsen, Chair

\_\_\_\_\_  
Jerry Doyle, Commissioner

\_\_\_\_\_  
David Tobin, Commissioner

ATTEST:

\_\_\_\_\_  
Amanda Bennett, Clerk of the Board

DATED ON THIS DATE BY CLERK OF THE BOARD:

\_\_\_\_\_  
Date