

AGENCY SERVICE AGREEMENT
Between the City of Bremerton and City of Bremerton Department of Public Works
Contract # 631825

COMMUNITY DEVELOPMENT BLOCK GRANT
Catalog of Federal Domestic Assistance # 14.218
HUD Grant # B-18-MC-53-0011

AN AGREEMENT, by and between City of Bremerton hereinafter referred to as "City" and, **City of Bremerton Department of Public Works**, hereinafter referred to as "Agency" by which the Agency agrees to carry out specific activities under City of Bremerton's Community Development Block Grant Program and establishing certain other terms and conditions of operation.

IT IS MUTUALLY AGREED AS FOLLOWS:

ARTICLE I. PROJECT

SECTION 1. SCOPE OF SERVICES

The City, as recipient of a Community Development Block Grant (CDBG) from the United States Department of Housing and Urban Development (HUD), hereby designates the Agency to undertake, in a satisfactory and proper manner, as determined by the City, and the Agency hereby agrees to undertake, the tasks necessary to conduct the program/project outlined in **Exhibit "A"**.

SECTION 2. PROJECT SUMMARY

Project Details

Project Name:	Quincy Square-Engineering and Design
Funded Amount:	\$300,000
Action Plan Year:	2018
Type of Project	Engineering/Design Public Infrastructure
Service Area:	NRSA/Census Tract 805
Project Location	200 Block of 4 th Street

Eligibility

National Objective:	570.208(d)(5)(i): Low/Mod Area NRSA
Basic Eligible Activity Citation:	570.201(c): Public Facilities and Improvements
Matrix Code:	03K

Performance Measures

Object of Activity:	Creating Suitable Living Environments
Outcome:	Sustainability

SECTION 3. TERM OF AGREEMENT

The term of this Agreement is **January 1, 2018** through **December 31, 2019**, but may be extended pursuant to an amendment to this Agreement as authorized in Article IV, Section 9 (Amendments to Agreement). Should additional time for auditing this project be required, in accordance with law, this Agreement shall be deemed automatically extended until such time as the said audit shall be completed. In any event, the term of this

Agreement shall cover the period that the Agency has control over Community Development Block Grant funds, including program income.

SECTION 4. PROGRAM REPORTING

The Agency shall submit the Performance Report and the Demographic Report quarterly, as applicable, due 10 days after the end of each quarter, as required by the City to meet its local obligations and its obligation to the U.S. Department of Housing and Urban Development. The required report format is provided in **EXHIBIT "B"** of this Agreement.

- (A) Quarterly reports which shall include the progress made to date, or justification for lack of progress, in providing the services specified in Article I, Section 1 Scope of Services, of this Agreement according to the schedule for completion in Article 1 Section 3 Schedule for Completion of this Agreement.
- (B) Quarterly reports on demographic, neighborhood residence, and income information regarding persons assisted by the Agency through this Agreement.
- (C) Semi-Annual budget reconciliation which will compare your approved budget with actuals for year-to-date.
- (D) Close out reports including a final performance report, inventory of all property acquired or improved with CDBG funds, and final financial report, upon termination or completion of the award.

ARTICLE II. FINANCIAL CONDITIONS

SECTION 1. BUDGET AND COMPENSATION

The City shall reimburse the Agency using HUD funding for allowable costs, as determined by the City, in an amount not to exceed **Three Hundred Thousand Dollars and no cents** for the services described in **EXHIBIT "A"**.

The City shall reimburse the Agency for the performance of this Agreement upon completion or partial completion of the work tasks as accepted and approved by the City pursuant to the submittal of monthly progress and demographic reports. Payments shall be made upon receipt of a proper invoice in the format provided in **EXHIBIT "C"** of this Agreement.

Such reimbursement shall constitute full and complete payment by the City under this Agreement. Allowable costs shall mean those necessary and proper costs identified in **EXHIBIT "D"** and approved by the City unless any or all such costs are disallowed by the State of Washington or the United States.

Any reimbursements made under this Agreement must comply with the applicable requirements of 2CFR Part 200, Subpart D. The Agency may not request disbursement of funds under this Agreement until the funds are needed for eligible costs. The amount of each request must be limited to the amount needed.

Project Budget:

See EXHIBIT "D", Project Budget

Time of Payment: Payment shall be made upon receipt of reimbursement request voucher mailed to:
CDBG Office, City of Bremerton Department of Community Development, 345 6th Street Suite 100, Bremerton, WA 98337-1869.

Where Payments Are Made: Payments shall be made to: 100 Oyster Bay Ave, Bremerton WA 98312; **Via Interfund Transfer**

The Agency shall apply the funds received from the City under this Agreement in accordance with the Budget Summary outlined in Exhibit D. Any request for a line-item expense change 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 and/or amendment requests will be reviewed and approved or denied by the City.

SECTION 2. DOCUMENTATION OF COSTS AND OTHER FINANCIAL REPORTING

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

- (A) Maintain an effective system of internal fiscal control and accountability for all CDBG funds and property acquired or improved with CDBG funds, and make sure the same are used solely for authorized purposes.
- (B) Keep a continuing record of all disbursements by date, check number, amount, vendor, description of items purchased and line item from which money was expended, as reflected in the Agency's accounting records. The line item notations must be substantiated by a receipt, invoice marked "Paid," or payroll record.
- (C) Maintain payroll and financial records for a period of six (6) years after receipt of final payment under this Agreement provided that this program has been monitored by HUD and the annual State audit (which included the CDBG Program), has been completed.
- (D) Permit inspection and audit of its records with respect to all matters authorized by this Agreement by representatives of the City the State Auditor or the United States at any time during normal business hours and as often as necessary.
- (E) Inform the City concerning any funds allocated to the Agency, that the Agency anticipates will not be expended during the Agreement period, and permit reassignment of the same by the City to other agencies.
- (F) Repay to the City any funds in its possession at the time of termination of this Agreement that may be due to the City or the United States.
- (G) Maintain complete records concerning the receipt and use of all program income. Program income shall be reported on a monthly basis on forms provided by the City.

SECTION 3. REIMBURSEMENT

The City shall reimburse the Agency only for actual incurred costs upon presentation of a properly executed invoice in a form approved by the City. Only those allowable costs directly related to the Agency's application, approved by the City shall be paid consistent with Article II Section 2 Documentation of Costs and Other Financial Reporting. The Amount of each request must be limited to the amount needed for payment of eligible costs.

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

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

- (A) The Agency agrees that funds determined by the City to be surplus upon completion of the Agreement will be subject to cancellation by the City.

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

SECTION 4. PROGRAM INCOME

This project shall not generate any program income

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

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

ARTICLE III. FEDERAL CONDITIONS

SECTION 1. BENEFIT TO LOW INCOME PEOPLE

This project will provide an Area-wide benefit to low/moderate income persons. The benefit activity will benefit residents in the area, where at least 51 percent of the residents are LMI persons. The City has an approved Neighborhood Revitalization Strategy Area which certifies that the LMI area benefit meets the criteria laid out by the US Department of Housing and Urban Development.

SECTION 2. UNIFORM ADMINISTRATIVE REQUIREMENTS

- (A) Agencies which are governmental entities (including public agencies), shall comply with the requirements and standards of 2 CFR part 200 *Uniform Administrative Requirements, Cost Principles and Audit Requirements*.
- (B) All agencies are to procure audit services based on 2 CFR Part 200, Subpart F; and
 - (1) The Agency shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that all contractors (performing all or part of the services under this Agreement under a separate contract with the Agency) also maintain auditable records.
 - (2) The Agency is responsible for any audit exceptions incurred by its own organization or that of its Contractors.
 - (3) The City of Bremerton reserves the right to recover from the Agency all disallowed costs resulting from the audit.
 - (4) Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Agency must respond to the City of Bremerton requests for information or corrective action concerning audit issues within (30) days of the date of request.
- (C) Agency will use the Competitive procurement method. The agency will publish a Request for Qualifications (RFQ) where information will be required on the offerer's expertise/experience and not on cost, subject to a negotiation of reasonable compensation. When Competitive Proposals are utilized, the following requirements apply:

- (1) Publication Period: Proposals must be solicited from an adequate number of qualified sources and an advertisement must be published. RFQ will be published in a sufficient timeframe before they are due.
- (2) Clear Definition: The RFQ must identify the general scope of work and all significant factors of evaluation, including price where appropriate, and their relative importance.
- (3) Technical Evaluation: A written method for technical evaluation of the proposals received, determinations of responsible offerer and the selection for contract award should be established.
- (4) Award must be made to the responsible offerer whose proposal will be the most advantageous to the procuring party, price and other factors considered. Unsuccessful offerers should be notified promptly. The contract can either be a fixed price or cost reimbursement type.

SECTION 3. NON-DISCRIMINATION IN EMPLOYMENT AND PURCHASING

The Agency shall comply with Executive Order 11246 as amended by Executive Order 12086 and the regulations issued pursuant thereto (41 CFR Chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. The Agency shall take affirmative action to ensure fair treatment in employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship. The Agency shall ensure compliance with 24 CFR 570.601. **Specifically, the Agency shall ensure that provisions as follows are included in all construction contracts awarded in excess of \$10,000 and monitor compliance:**

- (A) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (B) The Contractor will send to each labor union or representative of workers with which he had a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (C) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and order of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (D) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (E) The Contractor will include the provisions of this Section (Article III (4)) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

SECTION 4. LOCAL EMPLOYMENT AND PURCHASING

Funding under this agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u. The Agency agrees to comply with provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department of Housing and Urban Development issued there under. The Agency agrees that they are under no contractual or other disability which would prevent them from complying with these requirements.

Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and agreements for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in, the area of the project. Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance and community development assistance that is used for the following projects: 1. Housing rehabilitation (including reduction and abatement of lead based paint hazards, but excluding routine maintenance repair and replacement); 2. Housing construction; and 3. other public construction.

SECTION 5. CONFLICT OF INTEREST

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

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

SECTION 6. DISPLACEMENT, RELOCATION, ACQUISITION AND REPLACEMENT OF HOUSING

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

SECTION 7. DAVIS BACON AND RELATED ACTS

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

SECTION 8. DISCRIMINATION PROHIBITED

- (A) The Agency shall not, on the grounds of race, color, sex, religion, national origin, creed, marital status, or age:
 - (1) Deny a qualified individual any facilities, financial aid, services or other benefits provided under this Agreement;

- (2) Provide any facilities, services, financial aid, or other benefits which are different, or are provided in a different manner, from those provided to others under this Agreement;
 - (3) Subject an individual to segregated or separate treatment in any facility in, or in any matter if process related to receipt of any service or benefit under this Agreement;
 - (4) Restrict an individual in any way in access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with any service or benefit under this agreement;
 - (5) Treat anyone differently from others in determining if they satisfy any admission, enrollment, eligibility, membership or other requirement or condition which the individual must meet to be provided a service or benefit under this Agreement;
 - (6) Deny anyone an opportunity to participate in any program or activity as an employee which is different from that afforded others under this Agreement.
- (B) The Agency shall abide by all applicable provisions of Section 504 of the HEW Rehabilitation Act of 1973 as amended (implemented in 24 CFR part 8) prohibiting discrimination against handicapped individuals, and the Age Discrimination Act of 1975 (implemented in 24 CFR part 146) prohibiting discrimination on the basis of age, either through purpose or intent.
- (C) If assignment and/or subcontracting has been authorized in writing, said assignment or subcontract shall include appropriate safeguards against discrimination in client services binding up on each contractor or subcontractor. The Agency shall take such action as may be required to ensure full compliance with the provisions of this section, including sanctions for noncompliance.

SECTION 9. ARCHITECTURAL BARRIERS ACT/AMERICANS WITH DISABILITIES ACT

The Agency shall meet the requirements, where applicable, of the Architectural Barriers Act and the Americans with Disabilities Act, as set forth in 24 CFR 570.614. A building or facility designed, constructed, or altered with funds allocated or reallocated under the CDBG program after December 11, 1995 and that meets the definition of "residential structure" as defined in 24 CFR part 40.2 or the definition of "building" as defined in 41 CFR part 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 USC 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (Appendix A to 24 CFR part 40 for residential structures, and Appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings). The Americans with Disabilities Act ("ADA") (42 USC 12131; 47 USC 155, 210, 218 and 255) requires that the design and construction of facilities for first occupancy after January 26, 1993 must include measures to make them readily accessible and usable by individuals with disabilities. The ADA further requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable -- that is, easily accomplishable and able to be carried out without much difficulty or expense.

SECTION 10. FLOOD DISASTER PROTECTION

The Agency agrees to comply with section 202(a) of the Flood Disaster Protection Act of 1973 (43 U.S.C. 4106) and the regulations in 44 CFR parts 59 through 79.

SECTION 11. OTHER PROGRAM REQUIREMENTS

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

- (A) The Agency does not assume the City's environmental responsibilities described in Section 570.604; and
- (B) The Agency does not assume the City's responsibility for initiating the review process under Executive Order 12372.

- (C) For Agreements in excess of \$150,000, the Agency agrees to comply with the Clean Air Act, 42 U.S.C. 7401-7671q, and the Federal Water Pollution Control Act, 22 U.S.C. 1251-1387.
- (D) The Agency agrees to comply with the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1353, where applicable.
- (E) If the Agreement involves the acquisition or improvement of real property or equipment, the Agency agrees to comply with the provisions of 2CFR 200.310 – 200.316.

ARTICLE IV: GENERAL CONDITIONS

SECTION 1. COMPLIANCE WITH LAWS

The Agency, in performance of this Agreement, agrees to comply with all applicable Federal, State and Local Laws and ordinances, and the rules and regulations promulgated by the U.S. Department of Housing and Urban Development, including but not limited to Federal Community Development Block Grant Regulations, Washington Law Against Discrimination, and other policies and guidelines established for the City of Bremerton CDBG Program by the Bremerton City Council. Agency agrees to comply with all provisions of the Americans With Disabilities Act and all regulations interpreting or enforcing such act. Agency agrees to comply with the National Environmental Policy Act (NEPA) through the entire course of the project. The Agency agrees to certify that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department of agency in accordance with Executive Orders 12549 and 12689, 24 C.F.R. Pt. 24. Additionally the Agency will certify to anti-lobbying as required by 31 U.S.C. 1352.

In addition, where applicable the following requirements must be met: (1) Compliance with the Copeland "Anti-Kickback" Act for any contract or subcontract in excess of \$2000 for construction or repair (18 U.S.C. 874 and 40 U.S.C. 276c as supplemented by 29 C.F.R. part 5); (3) Contracts or agreements for the performance of experimental, developmental, or research work include the rights of the Federal Government and recipient in any resulting invention in accordance with 37 C.F.R. part 401; (4) for contracts in excess of \$100,000, the agency must comply with all applicable standards, orders or regulations issues pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*); (5) all agencies must comply with the Drug-Free Workplace Act of 1988 (42 U.S.C. 701); and (6) for construction projects, all agencies must comply with, including subcontractors, the Federal Labor Standards Provisions, as issued by the U.S. Department of Housing and Urban Development.

SECTION 2. LICENSING AND PROGRAM STANDARDS

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

SECTION 3. NOTICES

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

City:
 CDBG Office
 City of Bremerton Community Development
 345 6th Street, Suite 100
 Bremerton, WA 98337-1869

Agency:
 Chal Martin
 City of Bremerton Public Works Department
 100 Oyster Bay
 Bremerton, WA 98312

City recognition: The Agency shall insure recognition of the role of the City in providing services through this agreement. All activities, facilities and items utilized pursuant to this agreement shall be prominently labeled as to funding source. In addition, the Agency will include a reference to the support provided herein in all publications made possible with funds made available under this agreement.

SECTION 4. CITIZEN PARTICIPATION

The Agency will implement the provisions of this Agreement in such a manner as not impede the attainment of widespread citizen participation in planning and carrying out the project. Citizen Participation must occur in the planning and design process of this project. Agency will be responsible for ensuring that appropriate citizen outreach and participation takes place throughout the project timeframe. Agency will submit documentation regarding citizen participation in the Quarterly Report following each event where citizens are invited to take place.

Additional emphasis will be made to ensure that low and moderate income persons, particularly those living in blighted areas, residents of predominately low-and moderate-income neighborhoods, minorities and persons with disabilities, and non-english speaking members of the community are invited to participate. Agency will be responsible to reach out to organizations who work with these members of the community to ensure proper participation.

SECTION 5. ASSIGNMENT AND SUBCONTRACTING

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

a. Monitoring: The Agency will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of non-compliance

b. Content: The Agency shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this agreement.

c. Selection process: the Agency shall undertake to insure that all subcontracts let in the performance of this agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

SECTION 6. RESERVATION OF RIGHTS

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

SECTION 7. AMENDMENTS TO AGREEMENT

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

SECTION 8. FAILURE TO PERFORM

In the event of a failure by the Agency to comply, with any terms or conditions of this Agreement or to provide in any manner the activities or other performance as agreed to herein, the City reserves the right to temporarily withhold all or any part of payment pending correction of the deficiency, suspend all or part of the Agreement, prohibit the Agency from incurring additional obligations of funds until the City is satisfied that corrective action has been taken or completed, or recapture funds already disbursed to Agency. The option to

withhold or recapture funds is in addition to, and not in lieu of, the City's right to terminate as provided in Article IV Section 11 of the General Conditions of this Agreement. The City may consider performance under this Agreement when considering future awards.

SECTION 9. TERMINATION

If the Agency fails to comply with the terms and conditions of this Agreement, the City may pursue such remedies as are available in accordance with 24 CFR 570.910 including but not limited to, the termination of this Agreement in the manner specified herein.

- (A) Termination for Cause – If the Agency fails to comply with the terms and conditions of this Agreement and any of the following conditions exist:
- (1) The lack of compliance with the provisions of this Agreement are of such scope and nature that the City deems continuation of this Agreement to be substantially non-beneficial to the public interest;
 - (2) The Agency has failed to take satisfactory corrective action as directed by the City or its authorized representative within the time specified by same;
 - (3) The Agency has failed within the time specified by the City or its authorized representative to satisfactorily substantiate its compliance with the terms and conditions of this Agreement.

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

- (B) Termination for Convenience

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

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

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

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

SECTION 10. CLOSE-OUT

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

- (A) Upon written request by the Agency, the City shall make or arrange for payment to the Agency of allowable reimbursable costs not covered by previous payments;
- (B) The Agency shall submit within thirty (30) days after the date of expiration of this Agreement, all financial, performance and other reports required by this Agreement, and in addition, will cooperate in a program audit by City of Bremerton or its designee,

(C) Closeout of funds will not occur unless all requirements of 24 CFR 92.507 and all outstanding issues with the general contractor and or subcontractor have been resolved to the satisfaction of the City.

SECTION 11. VENUE AND CHOICE OF LAW

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

SECTION 12. SEVERABILITY CLAUSE

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

SECTION 13. INTEGRATED DOCUMENT


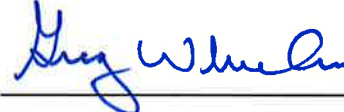
This Agreement with any attachments constitutes the entire agreement between the parties and both parties acknowledge that there are no other agreements, written or oral, that have not been fully set forth in the text of this Agreement.

AGENCY:

CITY OF BREMERTON, WASHINGTON



Sarah Achaoui, CDBG/HOME Administrator

By:  

Chal Martin, City of Bremerton, Public Works Department

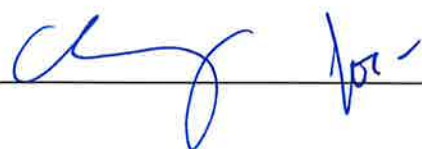
Greg Wheeler, Mayor

Date: 6 Jun 2018

Date: 7/2/2018

APPROVED AS TO FORM:

BREMERTON CITY ATTORNEY

BY 

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4. Program Income

Article III. Federal Conditions

1. Benefit to Low Income People
2. Uniform Administrative Requirements
3. Separation of Church and State
4. Non-Discrimination in Employment and Purchasing
5. Local Employment and Purchasing
6. Conflict of Interest
7. Displacement, Relocation, Acquisition and Replacement of Housing
8. Davis Bacon and Related Act
9. Lead Based Paint
10. Discrimination Prohibited
11. Architectural Barriers Act/Americans with Disabilities Act
12. Other Program Requirements

Article IV. General Conditions

1. Compliance with Laws
2. Licensing and Program Standards
3. Notices
4. Citizen Participation
5. Assignment and Subcontracting
6. Reservation of Rights
7. Amendments to Agreement
8. Failure to Perform
9. Termination
10. Close-Out
11. Venue and Choice of Law
12. Severability Clause
13. Integrated Document

EXHIBITS

- A. Scope of Services
- B. Reporting
- C. Voucher Request for Reimbursement
- D. Project Budget