



**State of Oregon**

**Housing and Community Services Department**

**Request for Proposal #01071**

***Neighborhood Stabilization Program***

RFP Issued Date: **May 14, 2009**

RFP Due Date: **June 5, 2009**

Due Time: **4:00 PM PST**

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## 1.0 PURPOSE

Under Housing and Economic Recovery Act (HERA) of 2008, the U.S. Department of Housing and Urban Development (HUD) has awarded \$19.6 million in grant funds to the State of Oregon. It has been determined that Oregon Housing and Community Services (Agency) will receive the allocated grant funds, commonly referred to as the Neighborhood Stabilization Program (NSP), and administer it according to the guidelines outlined by HERA. The funds are intended to return foreclosed, abandoned or blighted property to the market in order to stabilize neighborhoods.

Agency is seeking proposals from qualified organizations to apply for one, several or all of the eligible activities as outlined in HERA with the funds allocated from HUD for NSP. All firms submitting proposals are referred to as Proposers in this document; after negotiations, the awarded Proposer(s) will be designated as Subgrantee.

### 1.1 Scope of Work

There are five separate eligible activities outlined in this proposal. Proposer submitting a response to this proposal may apply for one, several, or all of the activities. Proposer must meet the minimum qualifications outlined for each activity. Proposals that do not meet these qualifications will be deemed non-responsive and will not be considered.

Specific eligible monitoring mortgage loan activity qualifications are:

#### **Eligible Activity 1 – Financing Mechanisms:**

1. Subgrantee is not permitted to obtain a subprime mortgage for homebuyer.
2. All properties purchased must be purchased at a minimum discount of 15% below current market

- appraised value unless a lesser discount is pre-approved by OHCS.
3. Appraisals can be no more than 60 days old.
  4. NSP resources must be provided in the form of a 0% loan due upon refinance or transfer of title.
  5. Homebuyers have received eight (8) hours of housing counseling assistance or education class and have presented a certificate of such at or prior to closing which must be maintained in the borrowers loan file. Housing counseling or education classes must meet the standards noted at <http://www.hud.gov/offices/hsg/sfh/hcc/final.pdf>.
  6. Priority to purchase Federal Housing Administration foreclosed properties is encouraged.
  7. Permanent displacement of individuals and properties located in the 100-year flood plain is discouraged. If property is located within the 100-year flood plain, an additional environmental review is required and flood insurance must be maintained on the property.
  8. Compliance with the Lender Underwriting Guidelines outlined in Attachment 1 of this Exhibit A.
  9. All loan repayments and/or program income must be returned to OHCS. OHCS may redistribute program income to finance other NSP activities.

### **Eligible Activity 2 – Purchase and Rehabilitate Homes:**

1. All NSP rental assisted units must meet the rent, income and affordability requirements for a period of 20 years. Affordable projects must meet at a minimum the Home Program Standards at 24 CFR 92.252 for renters and 24 CFR 92.254 for owners. A restrictive covenant must be recorded against the property to assure compliance with this requirement.
2. All properties purchased must be purchased at a minimum discount of 15% below current market appraised value unless a lesser discount is pre-approved by OHCS.
3. Appraisals can be no more than 60 days old.
4. Homebuyers have received eight (8) hours of housing counseling assistance or education class and have presented a certificate of such at or prior to closing which must be maintained in the borrowers loan file. Housing counseling or education classes must meet the standards noted at <http://www.hud.gov/offices/hsg/sfh/hcc/final.pdf>.
5. NSP resources must be provided in the form of a 0% loan due upon sale or transfer of title.
6. Priority to purchase Federal Housing Administration foreclosed properties is encouraged.
7. Permanent displacement of individuals and properties located in the 100-year flood plain is discouraged. If property is located within the 100-year flood plain, an additional environmental review is required and flood insurance must be maintained on the property.
8. Any sale of property shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such property.
9. All revenue and/or program income must be returned to OHCS. OHCS will redistribute program income to finance other NSP activities.
10. Compliance with the Lender Underwriting Guidelines outlined in Attachment 1 of this Exhibit A.
11. All loan documents, riders, covenants, deed restriction and other legal documents deemed by OHCS to be necessary to accomplish NSP activities and comply with NSP regulations and guidelines must be used.

### **Eligible Activity 3 – Establish Land Banks: NOTE: Due to a conflict in the HERA Notice and the Federal Guidelines, HUD has provided clarification on Land Banking as follows:**

*“ . . . The HERA law says landbanking is only for “foreclosed upon homes”. The Notice includes vacant land and properties. We are going to issue a revision to the NSP Notice to correct this. But what this means is that, despite what the Notice said (incorrectly), vacant land and nonresidential land cannot be purchased under Eligible Use C.”*

1. Land banks may only be established through the purchase of foreclosed upon homes.
2. All properties purchased must be purchased at a minimum discount of 15% below current market appraised value unless a lesser discount is pre-approved by OHCS.
3. Appraisals can be no more than 60 days old.
4. NSP resources must be provided in the form of a 0% loan due on sale. Deed restrictions must require a future redevelopment within 10-years. The future redevelopment must meet NSP requirements.
5. Subgrantee shall submit a plan to OHCS to maintain the property until time of redevelopment and submit a plan outlining future development which will meet the requirements of NSP.
6. NSP funds cannot be used to maintain the property (i.e. lawn care, trash removal, etc.).
7. Permanent displacement of individuals and properties located in the 100-year flood plain is discouraged. If property is located within the 100-year flood plain, an additional environmental review is required and flood insurance must be maintained on the property.

25% of Grant funds used must be targeted to households at or below 50% of area median income. Land banking, in and of itself, cannot be used to meet this requirement since land banked properties, by definition, are sitting idle with no planned reuse purpose in the foreseeable future. However, all land banking proposals, must submit a plan outlining future development. If the proposed redevelopment will be completed prior to 2013, then 25% of the Grant funds targeted at households at or below 50% requirement must be taken into consideration.

#### **Eligible Activity 4 – Demolish Blighted Structures**

1. NSP resources must be provided in the form of a 0% loan due on sale or transfer of title.
2. Subgrantee must submit a plan to OHCS to maintain the property until time of redevelopment and a plan outlining future development which meets the requirements of NSP.
3. NSP funds cannot be used to maintain the property (i.e. lawn care, trash removal, etc.).
4. Properties located in the 100-year flood plain are discouraged. If property is located within the 100-year flood plain, an additional environmental review is required and flood insurance must be maintained on the property.

#### **Eligible Activity 5 – Redevelop Demolished or Vacant Properties**

1. NSP funds must be provided in the form of a 0% loan due on sale or transfer of title.
2. Properties located in the 100-year flood plain are discouraged. If property is located within the 100-year flood plain, an additional environmental review is required and flood insurance must be maintained on the property.

## **2.0 PROPOSAL REQUIREMENTS**

### **2.1 Proposal Requirements**

DUE DATE:  
**June 5, 2009, by 4:00 P.M. PDT**

DELIVERY ADDRESS:  
**Oregon Housing and Community Services  
Attn: Camber Schlag  
725 Summer Street NE, Suite B, Salem, OR 97301**

Proposal must be delivered in a sealed envelope, which clearly identifies the RFP number, the project name, the contact person name, agency name and address, and the proposal closing time and date. Electronic (e-mail) and facsimile proposal's will not be accepted. Mis-deliveries and late submittals will not be accepted or considered.

One original signed proposal by an authorized signer, three copies, and one electronic compact disc of complete proposal must be submitted for each activity. The proposal must not exceed ten double-sided pages; 12 pt font; 1" margins, **excluding** Cover Sheet.

All costs associated with Proposer's submission of the project concept and/or proposals are the sole responsibility of the proposer and shall not be borne by the State of Oregon.

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

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

## 2.2 Mandatory Minimum Proposal Requirements/Qualifications

Proposer shall provide a narrative for each eligible activity applying for. Each eligible activity narrative must include explanation of the following:

- a. **Project Need Statement:** Briefly describe your anticipated project(s) and how you will target areas of greatest need or entitlement areas. See [http://www.ohcs.oregon.gov/OHCS/DO\\_NSP\\_Amendment.shtml](http://www.ohcs.oregon.gov/OHCS/DO_NSP_Amendment.shtml) Oregon Target Blockgroups. Describe your ability to demonstrate 25% of the properties developed will be used to house individuals or families whose income is at 50% area medium income or below.
- b. **Project Budget and Sustainability:** Provide a project budget with a clear explanation of how funds will be spent. Identify any matching funds, including in-kind resources and indicate how they will supplement the grant funds. Demonstrate capacity to administer funds, and describe how this project will become self-sustaining and leverage private investment.
- c. **Project Framework, Activities and Timelines:** Briefly describe your ability to complete the project within federally specified timeframe, long-term viability of the proposed project, affordable\* terms limits longer than 15 years. Include your project plan, deliverables and timeline. Provide a narrative description of the program proposed which meets Scope of Work description provided in 1.1 above. It should include the following:
  - How many units
  - Rental or Ownership units
  - Per unit cost
  - Total Request
  - Target Area
- d. **Project Team and Partnerships:** Identify project team members or activity participants and their related experience. Describe this project's collaborations and/or private-public partnerships.
- e. **Experience:** Briefly describe experience with acquisition, rehabilitation, marketing, and sale of low and

moderate ownership housing; management of affordable\* rental housing, rental regulation agreements and tenant certifications. Rental units must be occupied only by households whose incomes are less than or equal to 120% of area median income, adjust for family size.

\*Affordable projects must meet at a minimum the Home Program Standards at 24 CFR 92.252 for renters and 24 CFR 92.254 for owners.

## **2.3 RFP Questions**

All inquiries relating to the RFP process, administration, deadline or award, or to the substantive technical portions of the RFP, should be directed to the individual listed below.

All questions regarding the Work must be submitted in writing (mail, fax, or e-mail). When appropriate, revisions, substitutions, or clarifications shall be issued as addenda to this RFP. Changes/modifications to the RFP requirements shall **ONLY** be recognized if in the form of written addenda issued by Agency. The Agency shall provide copies of any addenda to all known RFP recipients as well post such on Agency website at [http://www.oregon.gov/OHCS/CO\\_Contracts\\_RFPs\\_State\\_Solicitations.shtml](http://www.oregon.gov/OHCS/CO_Contracts_RFPs_State_Solicitations.shtml).

Questions regarding this RFP will be accepted until 12:00 p.m. PST on **May 27, 2009**. Questions from and answers to any one proposer will be posted on Agency website (as soon as resolved and before the submission deadline), if such questions will clarify any part of this RFP.

Questions concerning this RFP and requests for additional information should be sent to:

Camber Schlag CPPB, OPBC  
Procurement & Contract Specialist  
Oregon Housing and Community Services  
725 Summer Street NE, Suite B  
Salem, OR 97301-1266  
Telephone: 503-986-2072  
FAX: 503-986-6705  
camber.schlag@state.or.us

## **3.0 PROPOSAL EVALUATIONS**

Not all proposals can be approved or acted upon immediately. Some proposals may be deferred in ways that the committee believes will produce greater statewide impact given limited funding resources.

Submission of a Proposal does not imply automatic award of grant funds. Agency reserves the right to award proposals which qualifies under the requirements of this RFP, that best meet the objectives of HERA the purpose of the NSP fund, and will have the greatest economic benefit for the state.

Proposals submitted will be reviewed and scored by an evaluation committee to determine qualifications and proposal requirements. Proposers will be notified in writing whether approved or denied an award within those eligible activities proposed.

## **4.0 GENERAL SOLICITATION TERMS**

4.1 Agency reserves the sole right and option to amend the Agreement, which results from this RFP. Agreement amendments may include increase in time, consideration, changes within the Scope of Work, or program

changes as required by HUD, and shall occur only upon mutual consent and signature by all parties to the Agreement.

- 4.2 By submitting a proposal to this RFP, Proposer shall accept all terms and conditions of this RFP, federal requirements, the Neighborhood Stabilization Program, and sample NSP Grant Agreement.
- 4.3 ORS 60.701 requires that foreign corporations be registered by the State of Oregon, Office of the Secretary of State, before conducting business in the state. A foreign corporation (ORS 60.001) means a corporation-for-profit incorporated under a law other than the law of the State of Oregon. If a firm is selected for the Agreement as a result of this solicitation they must register to do business in Oregon.
- 4.4 Agency reserves the right, at its sole discretion: (1) to amend the RFP prior to the closing date (2) to amend the deadline for submitting proposals; (3) to determine whether a proposal does or does not substantially comply with the requirements of this RFP; (4) to waive any minor irregularity, informality, or nonconformance with this RFP; (5) to obtain from and/or provide to other public agencies, upon request, references, regarding the Proposer's contract performance; (6) at any time prior to Agreement execution (including after announcement of the apparent awardee): (a) to reject any proposal that fails to substantially comply with all prescribed RFP procedures and requirements; and (b) to reject all proposals received and cancel this RFP upon a finding by Agency that there is good cause and that such cancellation would be in the best interests of the State; (7) seek clarification on any or all proposals; and (8) negotiate the Scope of Work.
- 4.5 This RFP and one copy of each original response received, together with copies of all documents pertaining to the award of an Agreement, shall be kept by Agency and made a part of a file or records, which shall be open to public inspection. If a proposal contains any information that is considered a trade secret under ORS 192.501 (2), each sheet of such information must be marked with the following legend:

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

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

## ATTACHMENT 1

**COVER SHEET**

*Neighborhood Stabilization Program*

**Part I. General Information**

Legal Proposer name used to pay taxes: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Business Designation (check one):

- Corporation     Professional Corporation     Partnership     Limited Partnership
- Limited Liability Company     Limited Liability Partnership     Sole Proprietorship
- Other \_\_\_\_\_

Citizenship, (if applicable): Non-resident alien  Yes  No

Secretary of State, Corporations Division, Registration No.: \_\_\_\_\_

DUNS # (if applicable): \_\_\_\_\_

Contact Person \_\_\_\_\_ Title \_\_\_\_\_  
 Telephone # \_\_\_\_\_ Fax# \_\_\_\_\_  
 Email address \_\_\_\_\_

**Affirmative Action Program.** The State of Oregon is an equal employment opportunity employer and values diversity in its work force. It also requires its recipients and Contractors to have an operating policy as an equal employment opportunity employer.

\_\_\_\_\_  
(insert proposer name)

- accepts all the terms and conditions contained in Request for Proposal # 01071 and Attachment B (sample Contract);
- certifies to having a formal statement of nondiscrimination in employment policy;
- is a legal entity and is authorized to enter into a Contract.
- is currently or will be authorized to do business in the State of Oregon at the time of Contract award;
- has authority to represent the firm and answer questions or provide clarification concerning the proposal.

\_\_\_\_\_  
Signature of authorized representative Date

\_\_\_\_\_  
Print name of authorized representative

\_\_\_\_\_  
Print name of person(s) authorized to negotiate Contract

\_\_\_\_\_  
Print name of person(s) authorized to sign Contract

\_\_\_\_\_  
Project Manager

Third Party Contract Information

Project Administrator or Grant Writer Name: \_\_\_\_\_  
CDBG Certified Administrator (not required):  Yes  No  
Company or Organization: \_\_\_\_\_  
Type:  Project Administrator  Grant Writer  
Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

**Part II. Project Information**

Joint Applicant Information (if applicable)

Co-Applicant's Authorizing Official Name: \_\_\_\_\_  
Authorizing Official's Title: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ County: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Applicant's Tax ID Number: \_\_\_\_\_

Joint Venture Agreement (if applicable): If the applicant is a Joint Venture, a Joint Venture agreement is required, clearly describing the roles and responsibilities of each partner, who is the leader, or if the responsibilities are approximately equally shared between the partners.

**Proposed Activities (Check all that apply)**

- Financing**—Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including grants and soft second mortgages for low- to moderate- income homebuyers
- Purchase/Rehabilitation**—Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon in order to sell, rent or redevelop such homes and properties
- Land Banking**—Establish land banks for homes that have been foreclosed upon.
- Demolition**—Demolish blighted structures.
- Redevelopment**—Redevelop demolished **or** vacant properties.

**Proposal Budget Overview**

<b>NSP Project Funds Requested (per activity)</b>	
A) Financing	\$
B) Purchase/Rehabilitation	\$
C) Land Banking	\$
D) Demolition	\$
E) Redevelopment	\$
<b><u>Total NSP Funds Requested</u></b>	\$
Other Funds:	\$
Other Funds:	\$
Other Funds:	\$
Other Funds:	\$
Other Funds:	\$
Value of All Donated or In-Kind Contributions	\$
<b><u>Total Project Costs</u></b>	\$

**References**

Provide 3 professional references relevant to this RFP. Agency reserves the right to contact these references:

<p><b><u>REFERENCE No. 1:</u></b>            Organization Name: _____            Their Contact Person: _____            Project Title: _____</p>	<p>Telephone: _____            Fax: _____            Email: _____</p>
<p><b><u>REFERENCE No. 2:</u></b>            Organization Name: _____            Their Contact Person: _____            Project Title: _____</p>	<p>Telephone: _____            Fax: _____            Email: _____</p>
<p><b><u>REFERENCE No. 3:</u></b>            Organization Name: _____            Their Contact Person: _____            Project Title: _____</p>	<p>Telephone: _____            Fax: _____            Email: _____</p>

**ATTACHMENT 2  
 SAMPLE NSP GRANT AGREEMENT**

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This NSP Grant Agreement (this “Agreement”) is entered into by and between the State of Oregon, acting by and through its Housing and Community Services Department, together with its successors and assigns hereinafter referred to collectively as "OHCS" and \_\_\_\_\_, together with its successors and assigns hereinafter referred to collectively as "Subgrantee".

## **Recitals**

WHEREAS, OHCS has received a federal grant award from the U.S. Department of Housing and Urban Development (“HUD”) pursuant to the authority of sections 2301 – 2304 of the Housing and Economic Recovery Act of 2008 (Public Law 110-289 (July 30, 2008)) (HERA). The program established pursuant to section 2301-2304 is known as the “Neighborhood Stabilization Program” or “NSP.”

WHEREAS, this federal grant is subject to the Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Redevelopment of Abandoned and Foreclosed Homes Under the Housing and Economic Recovery Act, 2008 published at 73 FR 58330 (October 6, 2008) (Notice); HERA; OHCS’s submission for NSP assistance; the HUD regulations at 24 CFR Part 570 (as modified by the Notice and as now in effect and as may be amended from time to time) (Regulations); and the Funding Approval, including any special conditions, constitute part of this Grant Agreement.

WHEREAS, the State has reviewed the Subgrantee’s application and determined the activities, as hereinafter defined, are feasible and merit funding;

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

### **1. Agreement Purpose**

The general purpose of this Grant Agreement is to establish the terms for providing grant funding as described herein (the “Agreement”) by OHCS to Subgrantee and to describe the purposes for and manner in which Subgrantee shall use the Grant to promote outreach, communication, advancement, and related community services with respect to OHCS programs.

Grant funds may derive from federal, state, and private sources, are subject to the terms under which they are received and shall be provided by OHCS only for reimbursement of allowable costs incurred by Subgrantee within the terms and conditions of this Agreement, specific program requirements (including OHCS directives), and applicable law.

### **2. Grant Programs and Compliance Requirements.**

Grant Programs and Compliance Requirements applicable to this Agreement are Department of Housing and Urban Development (HUD), [Neighborhood Stabilization Program](#) (NSP) [73 FR 58330](#).

### **3. Term of Agreement.**

Unless terminated or extended, this Agreement covers the period **XXXXXXX through XXXXXXXXXXXX**. This Agreement shall become effective on the date this Agreement has been signed by every party hereto and, when required, approved by the Oregon Department of Justice.

The expiration of the term of this Agreement, including if this Agreement is terminated prior to the end of the above-described term, shall not terminate remedies available to OHCS or to Subgrantee hereunder. Expiration of this Agreement shall not relieve Subgrantee of its responsibilities hereunder and Subgrantee shall maintain ongoing grant monitoring and compliance until such time that HUD closes the NSP grant program.

#### **4. Statement of Work.**

Subgrantee's required performance is contained in the Statement of Work (Exhibit A). Subgrantee shall perform all Work obligations in accordance with the terms and conditions of this Agreement, including any specific grant program requirements, directives from OHCS, and applicable law.

Changes to the Statement of Work by the Subgrantee or by one or more of its subrecipients shall require the prior written approval of OHCS. Requests for and justification of any change must be submitted in writing to OHCS and be approved in writing by OHCS prior to commencement of the requested change. OHCS may supplement or modify the Statement of Work as previously provided in this Agreement.

#### **5. Consideration.**

OHCS has agreed to make a conditional award of funds to the Subgrantee in the amount of **XXXXX HUNDRED XXXXX THOUSAND XXXXX HUNDRED XXXXXXXX DOLLARS (\$xxxxxxx)** which is made up of \$xxxxxx of Program funds and \$xxxxxx of Admin funds.

Distributions will be made upon approval of Subgrantee's Request for Funds (see Exhibit E) by OHCS.

**NSP Admin funds are available for reimbursement effective from XXXXXXXX. Program funds are available for reimbursement effective from XXXXXXXX.**

Any desired use of Grant funds by Subgrantee which differs from the approved Statement of Work must first be approved in writing by OHCS. Any interest earned by Subgrantee while the funds are being held by Subgrantee prior to disbursement to an eligible borrower will not be restricted in any way.

Unless exempt by OMB Circular A-133, the audit for the final fiscal year of the program shall be submitted to OHCS as soon as possible after it is received by the Subgrantee.

#### **6. Funding Appropriation.**

Grant funds specified in the Consideration section of this Agreement or otherwise may include Grant funds which have not yet been appropriated, but which OHCS anticipates receiving for use in funding this Agreement. All disbursements of Grant funds hereunder are contingent upon them being lawfully and fully appropriated, allocated, and available to OHCS.

#### **7. Requests for Funds.**

Subgrantee shall request Grant funds in such form and manner as is satisfactory to or required by OHCS (see Exhibit E, OHCS Invoice). Further, in accordance with U.S. Department of Treasury Regulations, 31 CFR Part 205, implementing the Cash Management Improvement Act, Subgrantee shall limit any request for funds to the minimum amount needed to accomplish its described purposes and to time the request in accordance with the actual, immediate requirements in carrying out grant programs to be funded through the request for funds.

## **8. Remedies Related to Requests for Funds.**

### **a. Withholding of Grant Funds from Request.**

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

### **b. Redistribution or Retention of Funds.**

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

## **9. Termination.**

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

source(s);

- 6) Funding, appropriations, limitations or expenditure authorization to expend funds is denied, suspended, reduced or eliminated;
  - 7) Any certification, license or certificate required by law to be held by Subgrantee or others to provide the services required by this Agreement is for any reason denied, revoked, suspended, limited or not renewed;
  - 8) Subgrantee (a) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) commences a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect), (e) is adjudicated as bankrupt or insolvent, or (f) fails to controvert in a timely or appropriate manner, or agrees in writing to, an involuntary petition for bankruptcy;
  - 9) Subgrantee is suspended, debarred, proposed for debarment, declared ineligible or voluntarily excluded from participating in agreements or contracts with any federal department or agency.
- c. Subgrantee may, upon 30 days written notice, terminate this Agreement in whole or in part, if;
- 1) OHCS unreasonably fails to provide timely funding hereunder and does not correct such failure within the 30-day notice period.
  - 1) OHCS provides one or more material directives which are contrary to federal or state laws, rules, regulations, guidelines, or original funding source requirements and does not correct such directives within the 30-day notice period.
- d. OHCS may terminate this Agreement in whole or in part immediately upon written notice to Subgrantee if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a competent court (in a final determination) in such a way that OHCS no longer has the authority to meet its obligations under this Agreement.
- e. Upon issuance of any notice to terminate this Agreement and prior to the effective date of the termination, OHCS may, in its sole and absolute discretion, require that Subgrantee obtain prior OHCS approval from it for any additional expenditures that would obligate OHCS to reimburse it from Agreement grant funds or otherwise.
- f. Notwithstanding the above, or any termination thereunder, neither Subgrantee nor OHCS shall be relieved of its liability to the other party for damages sustained by virtue of its breach of this Agreement. OHCS may withhold any reimbursement to Subgrantee in the amount of compensation for damages due OHCS from Subgrantee (as estimated by OHCS in its sole discretion) until such time as the exact amount of damages has been agreed upon or otherwise finally determined.
- g. In the event of termination of this Agreement by either party, all unexpended money, property, finished or unfinished documents, data, financial reports, audit reports, program reports, studies and reports purchased or prepared by Subgrantee under this Agreement shall be delivered to OHCS within sixty (60) days of the date of termination or upon such date as requested by OHCS.

- h. Termination of this Agreement shall not impair or invalidate any remedy available to OHCS or to Subgrantee hereunder, at law, or otherwise.

## **10. Compliance.**

Both parties shall, and Subgrantee shall require and cause subrecipients to, comply with this Agreement, including applicable federal, state, and local laws, rules, regulations, and guidelines as well as OHCS directives with respect to any of its obligations related to grant programs funded under this Agreement or for which requests for funding are made, whether or not any such requirement described herein is listed Section 2, Grant Programs and Compliance Requirements. Both parties shall, and Subgrantee shall require and cause its subrecipients to, comply with such requirements whether or not such requirements exist at the time this Agreement is executed, or arise subsequent to the execution of this Agreement. Performance by both parties of their respective obligations hereunder must be made efficiently, effectively and within applicable program timelines.

## **11. Agreement Documents in Order of Precedence.**

This Agreement consists of the following documents that are listed in descending order of precedence:

- This Agreement less all Exhibits;
- Exhibit A – Statement of Work;
  - Attachment 1 – Lender Underwriting Guidelines;
- Exhibit B – NSP Deed of Trust;
- Exhibit C – NSP Promissory Note;
- Exhibit D – Federal Assurances;
- Exhibit E – Request for Funds

All Exhibits and Attachments are hereby incorporated by reference.

## **12. Governing Law; Venue; Consent to Jurisdiction.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, “Claim”) involving OHCS that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon or, if necessary, the United States District Court for the District of Oregon. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.

## **13. Procurement.**

Except as specifically provided, OHCS upon awarding these federal funds to sponsor any program(s) ***does not*** provide a waiver of any grant requirements and/or procedures. For example, the OMB circulars require an entity’s procurement procedures must require that ***all procurement transactions*** shall be conducted, as practical, to provide open and free competition. If a proposal identifies a specific entity to provide the services, the OHCS award ***does not*** provide the justification or basis to sole-source the procurement, i.e., avoid competition.

Subgrantee shall comply with, and OHCS' performance hereunder is conditioned upon Subgrantee's compliance with, the terms of this Agreement, including without limitation the provisions of ORS 279B.220, 279C.505, 279C.515, 279B.235, and 279B.270, as amended.

#### **14. Insurance.**

Subgrantee shall, at a minimum, provide the equivalent insurance coverage for equipment or other property acquired in whole or in part with Grant funds provided under this Agreement as it provides for other equipment or equivalent property owned by Subgrantee - with OHCS named as an additional insured on the certificate of insurance and by endorsement as the loss payee.

#### **15. Confidentiality.**

Subgrantee shall, and shall require and cause its subrecipients to protect the confidentiality of all information concerning applicants for and recipients of services funded by this Agreement. It shall not release or disclose any such information except as necessary for the administration of the program(s), as authorized in writing by the applicant or recipient or as required by law. All records and files shall be appropriately secured to prevent access by unauthorized persons.

Subgrantee shall, and shall require and cause its subrecipients to ensure that all its officers, employees and agents are aware of and comply with this confidentiality requirement.

#### **16. Monitoring Required.**

##### **a. OHCS Authorized to Monitor Each Subgrantee.**

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

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

**b. Subgrantee Shall Fully Cooperate.**

Subgrantee shall fully and timely cooperate with OHCS in the performance of any and all monitoring and enforcement activities. Failure by Subgrantee or any of its subrecipients to comply with this requirement is sufficient cause for OHCS to require special conditions and may be deemed by OHCS as a failure by the Subgrantee to perform its obligations under this Agreement.

**c. Subgrantee Shall Monitor Its Subrecipients.**

Subgrantee shall perform onsite visits to monitor the activities of its subrecipients as specified by applicable grant program requirements or otherwise directed by OHCS, but in no case less than at least once during the term of this Agreement, and not later than the third quarter of the term of this Agreement (unless otherwise approved in writing by OHCS) to ensure that grant funds are used for authorized purposes in compliance with this Agreement, including but not limited to specific program requirements, and that performance goals are achieved as specified in the Scope of Work.

**17. Monitoring.**

- a. OHCS generally will advise the Subgrantee as to its observations and findings generated by any on-site visit; usually through an exit interview. Within 60 days after an on-site inspection, OHCS will endeavor to provide Subgrantee with a written report as to its findings from that inspection. OHCS may advise the Subgrantee of any corrective action that it deems appropriate based upon its monitoring activities or otherwise. Subgrantee shall timely satisfy such corrective actions required by OHCS.
- b. OHCS may review (including copying) from time to time any and all Subgrantee and subrecipient(s) files, records, and other information of every type arising from or related to performance under this Agreement. Within 60 days after a review, OHCS will endeavor to communicate in writing to the Subgrantee. OHCS may advise the Subgrantee of any corrective action that it deems appropriate based upon its monitoring activities or otherwise. Subgrantee shall timely satisfy such corrective actions as reasonably required by OHCS.

**18. Monitoring: Major Findings Resolution.**

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

**19. Remedies.**

- a. If OHCS determines, in its sole discretion, that Subgrantee has failed to comply timely with any material obligation under this Agreement, including but not limited to any OHCS directive or term of a corrective action plan, OHCS may, exercise any remedy available to it under this Agreement, applicable law, or otherwise. Such remedies may include, but are not limited to: (a) terminating any part or all of this Agreement; (b) withholding and/or reducing grant funds; (c) disallowing costs; (d) suspending and/or recouping payments; (e) appointing a receiver for the receipt and administration of grant funds under this Agreement; (f) requiring corrective action as it may determine to be

appropriate; (g) bringing suit or action in an appropriate forum for the enforcement of this Agreement and any remedy, as well as the recovery of damages, including by temporary restraining order, injunction, specific performance or otherwise; (h) debarring or otherwise limiting Subgrantee's eligibility for other funding from OHCS; (i) instituting criminal action for misstatements or fraud; and (j) requesting investigation, audit and/or sanction by other governmental bodies.

- b. The rights and remedies of OHCS provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided under this Agreement, by law, or otherwise. This Section does not limit Subgrantee's remedies provided under this Agreement, by law, or otherwise.

## **20. Return of Unexpended Grant Funds at Program Final Expenditure Period End.**

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

## **21. Expenditures Properly Supported.**

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

## **22. Unallowable Costs and Lobbying Activities.**

Subgrantee shall review and comply with the allowable costs and other provisions applicable to expenditures under the particular grant programs covered by this Agreement. Subgrantee shall, among other obligations, comply with the provisions prohibiting the expenditure of funds for lobbying and related activities, whether in OMB Circular A-122, A-87, or otherwise. If Subgrantee makes expenditures or incurs costs for purposes or an amount inconsistent with the allowable costs or any other provisions governing expenditures in an Agreement grant program, OHCS may exercise any and all remedies under this Agreement, at law or otherwise that it deems, in its sole discretion, to be necessary or appropriate.

## **23. Disallowance of Costs.**

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

If Subgrantee is a county, such disallowed costs may be recovered by OHCS only through repayment or withholding to the extent permitted by the Oregon Constitution, and particularly Article XI, Section 10. If

Subgrantee is other than a county, OHCS may recover such disallowed costs through repayment, withholding, offset or other means permitted under this Agreement, by law or otherwise.

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

#### **24. Records Maintenance.**

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

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

#### **25. Records Access.**

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

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

#### **26. Audits.**

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

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

#### **27. Subrecipient Agreements.**

Subgrantee shall not enter into any agreement or renewal with subrecipients without prior written approval of OHCS as outlined in Section 28. OHCS' approval of any subrecipient shall not relieve Subgrantee of any of its duties or obligations under this Agreement.

Subgrantee shall require and cause its subrecipients to comply with all applicable provisions of this Agreement between OHCS and Subgrantee, each of which must be specifically incorporated into the subrecipient

agreements in a manner satisfactory to OHCS. OHCS reserves the right to request that any subrecipient agreement be submitted to it for review and approval by OHCS within 10 business days from the date of written notification.

Subgrantee shall require and cause that all of its subrecipient agreements related to this Agreement must include language specifying that such agreements are subject to termination upon such a directive to Subgrantee by OHCS and that OHCS shall not be liable to any of the parties of that agreement or to other persons for directing that such agreement be terminated.

Subgrantee shall have a written agreement with each subrecipient that is listed in and consistent with the Subgrantee's Statement of Work that identifies:

- a. The services or benefits that the subrecipient must provide when delivering the program.
- b. The laws and regulations with which the subrecipient must comply under the terms of the agreement (including but not limited to program specific requirements such as eligibility criteria and matching obligations, public policy for protecting civil rights and the environment, written procedures for appeal by clients of subrecipient determinations, government-wide administrative mandates affecting the subrecipient's accounting and record keeping systems, and local laws imposed by Subgrantee).
- c. The Subgrantee's and OHCS' monitoring rights and responsibilities and the methods used by Subgrantee for monitoring.
- d. A provision to certify that the subrecipient is an independent contractor and not an agent of OHCS or of Subgrantee.

## **28. Subrecipient or Vendor Determination.**

A subrecipient for the purposes of this section is a state or local government, nonprofit organization, or for-profit organization that expends awards received by Subgrantee from OHCS under this Agreement to carry out a program.

The guidance in paragraphs (a) through (c) of this section will be considered and reasonably applied by Subgrantee in determining whether relevant payments made or to be made by it in furtherance of this Agreement constitute an award under a subgrant received by a subrecipient or a payment for goods and services under a procurement contract received by a vendor.

### **a. Award (Subrecipient).**

Characteristics indicative of an award received by a subrecipient are when the receiving organization:

- 1) Determines who is eligible to receive what financial assistance;
- 2) Has its performance measured against whether the objectives of the program are met;
- 3) Has responsibility for programmatic decision making;
- 4) Has responsibility for adherence to applicable program compliance requirements; and
- 5) Uses the funds to carry out a program of the receiving organization as compared to providing

goods or services for a program of the pass-through entity (Subgrantee).

**b. Payment for Goods and Services (Vendor).**

Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

- 1) Provides the goods and services within normal business operations;
- 2) Provides similar goods or services to many different purchasers;
- 3) Operates in a competitive environment;
- 4) Provides goods or services that are ancillary to the operation of the grant program; and
- 5) Is not subject to compliance requirements of the grant program.

**c. Use of Judgment in Making Determination.**

There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be uniformly present. Accordingly, prudent judgment shall be exercised by Subgrantee should be used in determining whether an entity with which it contracts to accomplish its performance under this Agreement is a subrecipient or vendor.

**d. Applicability to For-profit Subrecipients.**

Since Subsection (a) through (c) do not necessarily apply to for-profit subrecipients, Subgrantee (as the pass-through entity) shall establish reasonable requirements, as necessary, to ensure compliance by for-profit subrecipients. Consequently, Subgrantee should describe in any agreements with for-profit subrecipients the applicable compliance requirements and the for-profit subrecipients' compliance responsibilities. Methods to ensure compliance for federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract and post-award audits.

**e. Compliance Responsibility for Vendors.**

In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt and payment for goods and services comply with laws, regulations and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee shall be responsible for ensuring compliance for vendor transactions that are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance. Also, when these vendor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations and the provisions of contracts or grant agreements.

Regardless of whether goods or services are provided by a subrecipient or vendor, Subgrantee is still responsible for ensuring compliance with all grant requirements including but not limited to tracking and reporting requirements by the grant.

### **29. Fixed Assets.**

Subgrantee shall, and shall cause its subrecipients to, maintain policies and procedures for property management that comply with all requirements of the applicable OMB Circulars and specific requirements of the source of funds.

### **30. Workers Compensation.**

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

### **31. Dual Payment.**

Subgrantee shall not be compensated for work performed under this Agreement from any other department of the State of Oregon, nor from any other source, including the federal government, unless such funds are used solely to increase the total services provided under this Agreement. Any additional funds received through or for activities arising under this Agreement shall immediately be reported to OHCS.

### **32. No Third Party Beneficiaries.**

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

### **33. Notices.**

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

### **34. Subgrantee Status.**

- a. Subgrantee shall perform all work under this Agreement as an independent contractor. Subgrantee is not an officer, employee or agent of OHCS or the State, as those entities are respectively defined in ORS chapter 456 and in ORS 30.265, with respect to work performed under this Agreement.
- b. Subgrantee agrees that insurance coverage, whether purchased or by self-insurance, for Subgrantee's agents, employees, officers and/or subcontractors is the sole responsibility of Subgrantee.

- c. Subgrantee certifies that it is not employed by or contracting with the federal government for the work covered by this Agreement.
- d. Subgrantee certifies to the best of its knowledge and belief that neither the Subgrantee nor any of its principals, officers, directors or employees:
  - 1) Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
  - 2) Has within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract related to a public transaction; violation of federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
  - 3) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in subsection d.(2) above; and
  - 4) Has within a three-year period preceding this Agreement had one or more public transactions (federal, State or local) terminated for cause or default.

### **35. Subgrantee Representations.**

Subgrantee represents and warrants to OHCS that (1) Subgrantee has the power and authority to enter into and perform this Agreement, and (2) this Agreement, when executed and delivered, shall be a valid and binding obligation of Subgrantee enforceable in accordance with its terms.

### **36. Attorney Fees.**

In the event a lawsuit of any kind is instituted on behalf of OHCS or the Subgrantee with respect to this Agreement, or any right or claim related thereto, including but not limited to the collection of any payment due under this Agreement or to obtain performance of any kind under this Agreement, the prevailing party is, to the extent permitted by law, entitled to its reasonable attorney fees incurred before and during trial, on appeal, in arbitration, in bankruptcy, and in such other forum or proceeding appropriate thereto, together with such additional sums as the court or hearings officer may adjudge for reasonable costs and disbursements incurred therein.

### **37. Captions.**

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

### **38. Severability.**

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

### **39. Execution and Counterparts.**

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

**40. Grant Funds.**

Grant funds are used in conjunction with this Agreement, Subgrantee assumes sole liability for breach of the conditions of the grant by Subgrantee or any of its subrecipients, and shall, upon breach of grant conditions that requires the State to return funds to the grantor, whether such breach is by Subgrantee or by its subrecipient, hold harmless and indemnify the State for an amount equal to the grant funds received under this Agreement; or if there are legal limitations on the indemnification ability of the Subgrantee, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount of grant funds received under this Agreement.

**41. Indemnity.**

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

**42. Merger Clause.**

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

**43. Waiver.**

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

**44. Time of the Essence.**

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

**45. No Limitations on Actions in Exercise of Governmental Powers.**

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

**46. Amendments.**

OHCS reserves the right to amend this Agreement for time, consideration, changes within the Statement of Work, or program changes as required by HUD, or any combination foregoing. The parties may not waive, supplement or amend the terms of the Agreement, in any manner whatsoever, except by written amendment signed by all parties and for which all necessary State of Oregon approvals have been obtained.

**47. No Assignment by Subgrantee.**

Subgrantee shall not assign its rights or obligations under this Agreement without the express written consent of OHCS. OHCS may assign its rights and obligations under this Agreement, including to a successor entity.

**48. Subgrantee Data and Certification.**

Name (as on tax filing): \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_ Fax#: \_\_\_\_\_

Email: \_\_\_\_\_

Primary Contact Name: \_\_\_\_\_

Title of Primary Contact: \_\_\_\_\_

Phone # (if different than above): \_\_\_\_\_

Fiscal Contact Name: \_\_\_\_\_

Title of Fiscal Contact: \_\_\_\_\_

Phone #: \_\_\_\_\_

**Certification:** The individual signing on behalf of Subgrantee hereby certifies and swears under penalty of perjury as provided in ORS 305.385(6), that to the best of Subgrantee’s knowledge, Subgrantee is not in violation of any Oregon tax laws including, without limitation, the state inheritance tax, gift tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, the elderly rental assistance program and local taxes administered by the Department of Revenue (Lane Transit District Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan Transit District Self-Employment Tax).

**49. OHCS Data.**

Agreement Administrator: Dona Lanterman email: [dona.lanterman@hcs.state.or.us](mailto:dona.lanterman@hcs.state.or.us) phone: 503-986-2120

Program Manager: Becky Baxter email: [becky.baxter@hcs.state.or.us](mailto:becky.baxter@hcs.state.or.us) phone: 503-986-2074

Address: 725 Summer St NE, Suite B Salem OR 97301-1266

Fax number: 503-986-2002

<b>Subgrantee: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO NECESSARY OHCS APPROVALS.</b>
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**SUBGRANTEE, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT SUBGRANTEE HAS READ THIS AGREEMENT, UNDERSTANDS IT, HAS THE LEGAL AUTHORITY TO BIND, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

**SUBGRANTEE**

Authorized by: \_\_\_\_\_  
Signature Title Date  
\_\_\_\_\_  
Printed Name

Authorized by: \_\_\_\_\_  
Signature Title Date  
\_\_\_\_\_  
Printed Name

**OREGON HOUSING AND COMMUNITY SERVICES (OHCS)**

Authorized by: \_\_\_\_\_  
Victor Merced, Director or designee Date

\_\_\_\_\_  
Reviewed by Bob Gillespie, Housing Finance Division Administrator Date

\_\_\_\_\_  
Reviewed by Dona Lanterman, Single Family Program Manager Date

\_\_\_\_\_  
Reviewed by Becky Baxter, Grant Administrator Date

\_\_\_\_\_  
Reviewed by Connie Lelack, Contracts Officer Date

**DEPARTMENT OF JUSTICE**

Reviewed for Legal Sufficiency by: Dee Carlson, Senior Assistant Attorney General \_\_\_\_\_  
Date

**EXHIBIT A  
STATEMENT OF WORK**

**Part I. General Information.**

Oregon Housing and Community Services (OHCS) is the state's affordable housing finance agency. OHCS provides financial and program support to create and preserve quality, affordable housing for Oregonians. The department administers federal and state programs that support antipoverty, homeless, energy assistance, and community services. OHCS's Mission: "Provide leadership that enables Oregonians to gain housing, become self-sufficient, and achieve prosperity."

Under Housing and Economic Recovery Act (HERA) of 2008, the U.S. Department of Housing and Urban Development (HUD) has awarded \$19.6 million in Grant funds to the State of Oregon. It has been determined that OHCS will receive the allocated grant funds, commonly referred to as the Neighborhood Stabilization Program (NSP), and administer it according to the guidelines outlined by HERA. The funds are intended to return foreclosed, abandoned or blighted property to the market in order to stabilize neighborhoods.

## **Part II. Work; Acceptance Criteria; Deliverables and Delivery Schedule.**

Subgrantee shall, and shall cause and require its subrecipients to, obligate Grant funds by September 20, 2010. All Grant funds must be expended by March 16, 2013.

Subgrantee understands and agrees all purchases must be voluntary transactions.

Subgrantee understands and agrees properties located in a floodway are not allowed.

Subgrantee shall, and shall require and cause its subrecipients to, comply with, monitor, and track the allowable mortgage loan guidelines which meet the national objective of benefiting low, moderate and middle income persons, as defined in the NSP (i.e.  $\leq 120\%$  of area median income) applicable to their award.

Subgrantee shall, and shall require and cause its subrecipients to, ensure that the requirements of the approved eligible activity(s) are complied with as prescribed below:

### **Eligible Activity 1 – Financing Mechanisms:**

1. Subgrantee is not permitted to obtain a subprime mortgage for homebuyer.
2. All properties purchased must be purchased at a minimum discount of 15% below current market appraised value unless a lesser discount is pre-approved by OHCS.
3. Appraisals can be no more than 60 days old.
4. NSP resources must be provided in the form of a 0% loan due upon refinance or transfer of title.
5. Homebuyers have received eight (8) hours of housing counseling assistance or education class and have presented a certificate of such at or prior to closing which must be maintained in the borrowers loan file. Housing counseling or education classes must meet the standards noted at <http://www.hud.gov/offices/hsg/sfh/hcc/final.pdf>.
6. Priority to purchase Federal Housing Administration foreclosed properties is encouraged.
7. Permanent displacement of individuals and properties located in the 100-year flood plain is discouraged. If property is located within the 100-year flood plain, an additional environmental review is required and flood insurance must be maintained on the property.
8. Compliance with the Lender Underwriting Guidelines outlined in Attachment 1 of this Exhibit A.
9. All loan repayments and/or program income must be returned to OHCS. OHCS may redistribute program income to finance other NSP activities.

### **Eligible Activity 2 – Purchase and Rehabilitate Homes:**

1. All NSP rental assisted units must meet the rent, income and affordability requirements for a period of 20 years. Affordable projects must meet at a minimum the Home Program Standards at 24 CFR 92.252 for renters and 24 CFR 92.254 for owners. A restrictive covenant must be recorded against the property to assure compliance with this requirement.
2. All properties purchased must be purchased at a minimum discount of 15% below current market appraised value unless a lesser discount is pre-approved by OHCS.
3. Appraisals can be no more than 60 days old.
4. Homebuyers have received eight (8) hours of housing counseling assistance or education class and have presented a certificate of such at or prior to closing which must be maintained in the borrowers loan file. Housing counseling or education classes must meet the standards noted at <http://www.hud.gov/offices/hsg/sfh/hcc/final.pdf>.
5. NSP resources must be provided in the form of a 0% loan due upon sale or transfer of title.
6. Priority to purchase Federal Housing Administration foreclosed properties is encouraged.
7. Permanent displacement of individuals and properties located in the 100-year flood plain is discouraged. If property is located within the 100-year flood plain, an additional environmental review is required and flood insurance must be maintained on the property.
8. Any sale of property shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such property.
9. All revenue and/or program income must be returned to OHCS. OHCS will redistribute program income to finance other NSP activities.
10. Compliance with the Lender Underwriting Guidelines outlined in Attachment 1 of this Exhibit A.
11. All loan documents, riders, covenants, deed restriction and other legal documents deemed by OHCS to be necessary to accomplish NSP activities and comply with NSP regulations and guidelines must be used.

**Eligible Activity 3 – Establish Land Banks: NOTE: Due to a conflict in the HERA Notice and the Federal Guidelines, HUD has provided clarification on Land Banking as follows:**

*“ . . . The HERA law says landbanking is only for “foreclosed upon homes”. The Notice includes vacant land and properties. We are going to issue a revision to the NSP Notice to correct this. But what this means is that, despite what the Notice said (incorrectly), vacant land and nonresidential land cannot be purchased under Eligible Use C.”*

1. Land banks may only be established through the purchase of foreclosed upon homes.
2. All properties purchased must be purchased at a minimum discount of 15% below current market appraised value unless a lesser discount is pre-approved by OHCS.
3. Appraisals can be no more than 60 days old.
4. NSP resources must be provided in the form of a 0% loan due on sale. Deed restrictions must require a future redevelopment within 10-years. The future redevelopment must meet NSP requirements.
5. Subgrantee shall submit a plan to OHCS to maintain the property until time of redevelopment and submit a plan outlining future development which will meet the requirements of NSP.
6. NSP funds cannot be used to maintain the property (i.e. lawn care, trash removal, etc.).
7. Permanent displacement of individuals and properties located in the 100-year flood plain is discouraged. If property is located within the 100-year flood plain, an additional environmental review is required and flood insurance must be maintained on the property.

25% of Grant funds used must be targeted to households at or below 50% of area median income. Land banking, in and of itself, cannot be used to meet this requirement since land banked properties, by definition, are sitting idle with no planned reuse purpose in the foreseeable future. However, all

land banking proposals, must submit a plan outlining future development. If the proposed redevelopment will be completed prior to 2013, then 25% of the Grant funds targeted at households at or below 50% requirement must be taken into consideration.

#### **Eligible Activity 4 – Demolish Blighted Structures**

1. NSP resources must be provided in the form of a 0% loan due on sale or transfer of title.
2. Subgrantee must submit a plan to OHCS to maintain the property until time of redevelopment and a plan outlining future development which meets the requirements of NSP.
3. NSP funds cannot be used to maintain the property (i.e. lawn care, trash removal, etc.).
4. Properties located in the 100-year flood plain are discouraged. If property is located within the 100-year flood plain, an additional environmental review is required and flood insurance must be maintained on the property.

#### **Eligible Activity 5 – Redevelop Demolished or Vacant Properties**

1. NSP funds must be provided in the form of a 0% loan due on sale or transfer of title.
2. Properties located in the 100-year flood plain are discouraged. If property is located within the 100-year flood plain, an additional environmental review is required and flood insurance must be maintained on the property.

Subgrantee shall, and shall require and cause its subrecipients to, comply with OHCS's monitoring requirements as well as those outlined by HUD for the NSP Program:

<http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>

Subgrantee shall, and shall require and cause its subrecipients to, submit Financial Status Reports (FSR) to OHCS in a manner satisfactory to OHCS and on a quarterly basis by the 15<sup>th</sup> day following the end of each calendar quarter. Subgrantee shall submit the first FSR to OHCS by July 15<sup>th</sup> 2009.

Subgrantee shall use OHCS's loan documents (refer to Exhibits B and C), riders, restrictive covenants and any other legal documents deemed necessary to adhere to NSP guidelines, rules and regulations required by HUD as amended from time to time.

**EXHIBIT A  
ATTACHMENT 1  
LENDER UNDERWRITING GUIDELINES**

**Neighborhood Stabilization Program (NSP)  
Homeownership/Acquisition/Rehabilitation  
Assistance Program  
Oregon Housing & Community Services (OHCS)**

**Type of Loan:** Second Mortgage – no exceptions.

**Secured:** Yes, subordinated to the first mortgage.

**Rate:** 0%

**Term:** Due upon sale, transfer of title or refinance of first mortgage. Must be borrower's principal residence. On a case-by-case basis, OHCS may provide exceptions to repayment at time of transfer of title.

**Shared Appreciation:** Upon the sale of the property, the original loan amount is due along with a portion of any appreciation realized on the property. Method of calculation as follows:

- Before the first anniversary of closing 50% equity to OHCS
- On or after the first anniversary of closing but before the second anniversary of closing 40% equity to OHCS
- On or after the second anniversary of closing but before the third anniversary of closing 30% equity to OHCS
- On or after the third anniversary of closing but before the fourth anniversary of closing 20% equity to OHCS
- On or after the fourth anniversary of closing but before the fifth anniversary of closing 10% equity to OHCS
- On or after the fifth anniversary of closing 0% equity to OHCS

**Assistance:** Up to \$50,000 in assistance for down payment, closing costs, pre-pays and first mortgage reduction.

**Additional Assistance:** Down payment assistance programs and products and gifts are acceptable forms of assistance.

**Purchase Price Limits:** All properties must be purchased at a minimum discount of 15% below current appraised market value.

**Compliance Statement:** Mortgage loans must be obtained from a lender who agrees to comply with regulator's guidance for non-traditional mortgages as noted in the Statement on Subprime Mortgage Lending issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve Systems, Federal Deposit Insurance Corporation, Department of the Treasury and National Credit Union Administration at the following link: [www.fdic.gov/regulations/laws/rules/5000-5160.html](http://www.fdic.gov/regulations/laws/rules/5000-5160.html). A signed Certification Statement of Compliance with this requirement must be maintained in the borrower's loan file.

**Appraisals:** Must be done by a licensed appraiser and be consistent with the Uniform Standards of Professional Appraisal Practice. Must conform to the appraisal requirements of the Uniform Relocation Act (URA) at 49 CFR 24.103 and completed within 60 days prior to a final offer.

**Down Payment:** Borrower must make a minimum contribution of at least 50% of the down payment required by the first mortgage holder.

**Occupancy:** Owner occupied

**Lenders**

**First Mortgage:** Up to a 30-year term. Fixed interest rate only. Additional change consideration will be given for Habitat for Humanity and USDA rural loans.

**Ineligible loan types:** No refinances, ARM's, Interest-Only, or Hybrids. No Combo or Second (2<sup>nd</sup>) mortgages with variable interest rates and no sub-prime loans will be allowed.

**Ratios:** Maximum debt-to-income ratio cannot exceed 45%.

**Income:** Total household income must not exceed 120% of the HUD median income, adjusted for family size and location.

**Education:** Prior to closing, Borrower must receive and complete at least 8 hours of homebuyer counseling from a HUD-approved or OHCS approved agency; such as ABC's of Homebuying or Realizing the American Dream.

**Eligible Geographic Areas:** NSP targeted areas throughout the State of Oregon based on targeted block groups. See [Oregon NSP Target BlockGroups – Interactive Map](#)

**Credit:** Borrower(s) must comply with credit standards acceptable to first mortgage holder.

**Eligible Properties:** Foreclosed upon Single Family Residence (SFR), condominium (including townhomes), SFR's in a Planned Unit Development (PUD), and FHA approved manufactured homes. Manufactured homes must be de-titled and permanently affixed to real property.

Foreclosed upon refers to a property that under state or local law, the mortgage or tax foreclosure is complete; title for the property has been transferred from the former homeowner.

**Ineligible Properties:** Multi-family, investment and second homes

**Inspections:** Lead Based Paint (LBP) Visual Assessment (**pre 1978 houses only**); Housing Quality Standards (HQS); Pest and Dry Rot inspection(s), Environmental review including flood plain certification, and any inspections required by the first mortgage loan or as outlined in the EMA/Sales Agreement. These inspections and/or reports **must** be completed prior to loan closing.

**Environmental Review:** U.S. Housing and Urban Development (HUD) environmental review must be completed and proper documentation included in the file before **any** funds (including non-NSP funds associated with the activity) are released.

**Rehabilitation:** A foreclosed-upon home or residential property shall be rehabilitated to the extent necessary to assure safety, quality, and habitability. OHCS will require a thorough assessment of all properties. The assessment must examine the major building components and describe the work necessary to bring each building component to the level of maximum expected life span. HUD's Housing Quality Standards (HQS) outlined in 24 CFR 982.401, ([http://www.access.gpo.gov/nara/cfr/waisidx\\_00/24cfr982\\_00.html](http://www.access.gpo.gov/nara/cfr/waisidx_00/24cfr982_00.html)) will be the minimum standard for judging the actual physical condition of a property and determining the scope of work.

Rehabilitation of a residential property must be performed in compliance with applicable laws, codes, and other requirements relating to housing safety, quality, and habitability. If work requires building permits, all rehabilitation must be performed to current building code(s). A property inspection must be conducted by a disinterested third party to determine the scope of work needed prior to rehabilitation. The factors to be considered in the inspection include HQS, a pest and dry rot report, roof inspection if deemed appropriate, and a site specific review of environmental concerns including lead-based paint assessment if the property was built prior to 1978.

General property improvements, such as painting and replacement of cabinets and flooring may be

completed only after all code deficiencies, health and safety items and lead-based paint hazards (if needed) have been cured. General improvements must have durable fit and finish with reasonable cost expectations.

All NSP recipients are encouraged to use green building techniques and make all NSP assisted properties more energy efficient. Providing visitability features which promote aging in place may also be considered.

**Assumable:** No

**CLTV:** Maximum allowable by first mortgage lender.

**Impounds:** Not required.

**Mortgage Insurance:** Not required.

**Seller contributions:** Allowed

**Loan Fees:** Not allowed.

**Prepayment penalties:** None – see requirements under Term and Shared Appreciation

**Maintenance and Repair:** The property must be kept in good repair and maintained in good, safe condition, suitable for residential use. The condition of the property must meet the requirements of all the laws, ordinances, rules, and regulations of any government authority with the right to examine or inspect the property.

**Contact:** Oregon Housing and Community Services, Becky Baxter, 503-986-2074

(Rev. 3/9/09)

## **EXHIBIT B NSP DEED OF TRUST**

WHEN RECORDED MAIL TO:

Oregon Housing & Community Services Department

NSP RFP #01071

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725 Summer St NE, Suite B  
Salem, Oregon 97301  
Attn: NSP Program

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

## DEED OF TRUST

THIS DEED OF TRUST (herein "Deed of Trust") is made this \_\_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_, as grantor (herein "Borrower" or "Grantor"), to \_\_\_\_\_ as trustee (herein "Trustee"), for the benefit of the State of Oregon, acting by and through its:

Oregon Housing & Community Services Department  
725 Summer Street NE, Suite B  
Salem, OR 97301

as beneficiary (herein "Lender" or "Beneficiary").

BORROWER, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County of \_\_\_\_\_, State of Oregon which has the address of \_\_\_\_\_ (herein "Property Address"),

and whose legal description is:

[insert address~]  
[insert city, state, zip~]

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents (subject however to the rights and authorities given herein to Lender to collect and apply such rents), all of which shall be deemed to be and remain a part of the property covered by this Deed of Trust; and all of the foregoing, together with said property, are hereinafter referred to as the "Property";

TO SECURE to Lender the repayment of the indebtedness evidenced by Borrower's Promissory Note dated \_\_\_\_\_ in the principal sum of \_\_\_\_\_ Dollars (U.S. \$ \_\_\_\_\_) ("Loan") and extensions and renewals thereof (herein "Note"); the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Borrower herein contained. The terms of the Note are incorporated herein by reference and loan number \_\_\_\_\_.

**1. Payment of Indebtedness and Other Obligations.** Borrower shall promptly pay when due the indebtedness evidenced by the Note, and equity share according to the formula described under Section 8, together with other charges and fees, as provided herein and in the Note.

**2. Property.** Borrower covenants that Borrower holds good and merchantable title to the Property, is lawfully

seized of the estate hereby conveyed and has the right to grant and convey the Property, and that the Property is unencumbered, except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

**3. Representations, Warranties and Covenants.** As a condition to the Loan secured by this Trust Deed and evidenced by the Note, Borrower makes the following representations of fact and intent to the Beneficiary as of the date of the Note and this Deed of Trust and covenants as follows:

(A) Borrower's combined annualized household income (current monthly gross income of all persons residing at the Property multiplied by 12) is no greater than 120% of the area median income as defined by the Program and by the U.S. Department of Housing and Urban Development ("HUD"), adjusted by household size and county;

(B) Borrower will own and occupy the Property as her/his principal residence for the life of this Loan.

(C) Borrower agrees to not rent the Property, even on a temporary basis; and

(D) Borrower intends to or has used all the Loan proceeds for the purchase and/or rehabilitation of the Property.

(E) Borrower shall execute, acknowledge, and deliver, from time to time, such further instruments as Beneficiary or Trustee may require to accomplish the purposes of this Trust Deed.

(F) Borrower represents, warrants, and covenants that the Property is currently in material compliance with, and will at all times be maintained in material compliance with, all applicable laws, and all covenants, conditions, easements, and restrictions affecting the Property.

(G) Borrower shall act to ensure compliance with applicable Environmental Law.

(1) For the purposes of this subsection, "Environmental Law" means any federal, state, or local law or regulation now or hereafter at any time pertaining to Hazardous Substances or environmental conditions. For purposes of this section, "Hazardous Substance" includes, without limitation, any substance that is or becomes classified as hazardous, dangerous, or toxic under any federal, state, or local law or regulation.

(2) Borrower will not use, generate, store, release, discharge, or dispose of on, under, or about the Property or the groundwater thereof any Hazardous Substance and will not permit any other person to do so, except for storage and use of such Hazardous Substances (and in such quantities) as may commonly be used for household purposes, provided such substances are sorted and used in compliance with all Environmental Laws. Borrower will keep and maintain the Property in compliance with all Environmental Laws.

(3) Beneficiary shall have the right to participate in any legal proceeding initiated with respect to the Property in connection with any Environmental Laws and have its attorney fees paid by Borrower. If, at any time, Beneficiary has reason to believe that any violation of this subsection has occurred or is threatened, Beneficiary may require Borrower to obtain or may itself obtain, at Borrower's expense, an environmental assessment by a qualified environmental consultant. Borrower shall promptly provide to Beneficiary a complete copy of any environmental assessment obtained by Borrower.

(4) If any investigation, monitoring, containment, cleanup, or other remedial work of any kind is required on the Property under any applicable Environmental Law or by any governmental agency or person in connection with a release of a Hazardous Substance, Borrower shall promptly complete all such work at Borrower's expense.

(5) All representations, warranties, and covenants in this subsection shall survive the satisfaction of all obligations under this Deed of Trust, the reconveyance of the Property, or the foreclosure of this Deed of Trust.

(6) Borrower shall not permit the Property or any part thereof to be removed, demolished, or materially

altered without Beneficiary's prior written consent. Borrower shall maintain the Property, and every portion thereof, in good repair and condition, except for reasonable wear and tear, and shall at Beneficiary's election restore, replace, or rebuild the Property or any part thereof now or hereafter damaged or destroyed by any casualty (whether or not insured against or insurable) or affected by any condemnation. Borrower shall not commit or suffer any waste or strip of the Property.

(H) Borrower shall not initiate or consent to any rezoning of the Property or any change in any covenant or other public or private restrictions limiting or defining the uses that may be made of the Property without the prior written consent of Beneficiary.

**4. Application of Payments.** Unless applicable law provides otherwise, all payments of amounts payable to Lender pursuant to the Note and Section 1 hereof shall be applied by Lender first to interest and other charges payable on the Note, and then to the principal of the Note or in such other order as the Lender may decide at its own discretion.

**5. Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Deed of Trust.

**6. Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property reasonably insured against lost by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Subject to the rights of the First Mortgagee, each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this Deed of Trust, or (b) to the restoration or repair of the damaged Property.

#### **WARNING**

**UNLESS YOU (THE BORROWER) PROVIDE US (LENDER) WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY THIS AGREEMENT, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL (YOUR PROPERTY) BECOMES DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPERTY COVERAGE ELSEWHERE.**

**YOU ARE RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY US. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR LOAN BALANCE. IF THE COST IS ADDED TO YOUR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING LOAN WILL APPLY TO THIS ADDED AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF COVERAGE.**

**THE COVERAGE WE PURCHASE MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERED OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.**

**7. Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest. Any amounts disbursed by Lender pursuant to this

paragraph, together with interest thereon which shall accrue at the Note rate from the date of payment, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph shall require Lender to incur any expenses or take any action hereunder.

**8. Shared Appreciation.** Upon the sale of the property, the original loan amount is due along with a portion of any appreciation realized on the property.

Sale proceeds will be distributed as follows:

FIRST: Borrower first mortgage is paid off.

SECOND: Lender will be paid the amount it originally loaned under this second Deed of Trust.

THIRD: Borrower will pay back any other liens on the property (for example other down payment assistance loans).

FOURTH: Borrower will receive a credit for the direct costs incurred in selling the Property, which costs are limited to:

- (i) Real estate commissions paid by the Seller;
- (ii) Seller paid title and escrow fees;
- (iii) Seller paid portion of buyer's closing costs up to a total of one percent of the sale price; and
- (iv) Other costs, with written support justifying the costs, will be considered by Lender on a case-by-case basis.

FIFTH: Borrower will receive a credit for your original down payment. The amount of money remaining after the first mortgage, and Lender's original contribution has been repaid, is called "Net Proceeds".

SIXTH: Lender's portion of the Net Proceeds will be paid according to the following formula:

- |   |                      |
|---|----------------------|
| • Before the first anniversary of closing   | 50% equity to Lender |
| • On or after the first anniversary of closing but before the second anniversary of closing | 40% equity to Lender |
| • On or after the second anniversary of closing but before the third anniversary of closing | 30% equity to Lender |
| • On or after the third anniversary of closing but before the fourth anniversary of closing | 20% equity to Lender |
| • On or after the fourth anniversary of closing but before the fifth anniversary of closing | 10% equity to Lender |
| • On or after the fifth anniversary of closing  | 0% equity to Lender  |

SEVENTH: Borrower will be paid the remaining Net Proceeds.

**9. Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.

**10. Condemnation:** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part hereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement which has priority over this Deed of Trust.

**11. Borrower Not Released; Forbearance by Lender Not a Waiver.** Extension of the time for payment of the sums secured by this Deed of Trust granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of Borrower and Borrower's successors in interest. Lender shall not be required to commence

proceedings by this Deed of Trust by reason of any demand made by the Borrower and Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

**12. Rehabilitation Loan Agreement.** Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair, or other loan agreement which Borrower enters into with Lender. Lender, at Lender's option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

**13. Transfer of the Property.** If all or any part of the Property or any interest in it is sold, assigned, refinanced, transferred or otherwise conveyed without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Deed of Trust.

**14. Events of Default:** The following shall constitute Events of Default:

- (a) If Borrower defaults under the Note.
- (b) If Borrower causes or allows the unauthorized sale, transfer, assignment or refinancing, or attempts to sell, transfer, assign or refinance, any interest in the Property without prior written authorization from Lender.
- (c) If Borrower fails to occupy the Property as Borrower's principal residence as required herein,
- (d) If Borrower rents or leases the Property in its entirety even on a temporary basis.
- (e) If Borrower uses the Property, or allows anyone else to use the Property, in a way that is not permitted under this Deed of Trust.
- (f) If Borrower fails to maintain the Property as required in this Deed of Trust,
- (g) If the Property is taken by execution of a judgment or any other process of law, or if Borrower becomes unable, or admits in writing that it is unable, to pay debts as they mature, or if Borrower files or has filed against it a voluntary or involuntary petition in bankruptcy, or if Borrower makes a general assignment for the benefit of creditors, or if Borrower is adjudicated bankrupt or insolvent.
- (h) Any representation, warranty, or information furnished by or on behalf of Borrower to Lender in or in connection with the Loan or any audits thereof is deemed false, incomplete or misleading in any material respect thereof.
- (i) If Borrower is in default beyond the applicable grace period on any other obligation owed by Borrower to any third party, if such obligation is secured by all or any portion of the Property.
- (j) If Borrower fails to timely perform in any material way any provision of this Deed of Trust, other than those listed in subsections a through i above. In such case, except as provided above, Lender shall, prior to acceleration, give notice to Borrower as provided in this Deed of Trust specifying:
  - (1) The breach;
  - (2) The action required to cure such breach;
  - (3) A date, not less than 10 days from the date the notice is mailed to Borrower, by which such breach must be cured; and
  - (4) That failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. This notice shall further inform Borrower of

the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option, shall have the right to pursue any of the remedies listed in Section 15 below without further demand.

**15. Remedies on Default:** Lender has the right to exercise the following remedies upon any event of Default:

- (a) Declare all the amounts secured under this Deed of Trust immediately due and payable.
- (b) Assign its interest to the Trustee who shall have the right to foreclose by notice and sale, or foreclose by judicial foreclosure itself, as the law allows.
- (c) If Lender forecloses by judicial foreclosure, it will be entitled to a judgment that requires Borrower to pay any amount that Borrower owes according to this Deed of Trust.
- (d) If Borrower remains in possession of the Property after Lender is entitled to possess it, or after it has been sold, then Borrower will become a tenant at will and will have to pay rent to Lender or the new owner.
- (e) The Trustee and Lender shall have any other right or remedy allowed under the Note, this Deed of Trust, or at law, or in equity.

If Lender invokes the power of sale, Lender reserves the right to execute or cause Trustee to execute a written notice of the occurrence of an Event of Default and of Lender's election to cause the Property to be sold and cause such notice to be recorded in the county in which the Property is located. Lender or Trustee shall give notice of sale in the manner prescribed by applicable law to Borrower and to the other persons prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrower, may sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of the sale. Trustee may postpone sale of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees and costs of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto.

**It is understood and agreed that all of the Lender's rights under this Trust Deed are subordinate in all respects to the original rights of the first mortgagee and note holder who financed the purchase of the Property by Borrower and who, to the extent of that original mortgage, is in a first lien position (herein "First Mortgagee").** In the event that the First Mortgagee forecloses on the Property and the net sale proceeds from the Property are insufficient to discharge the first priority lien of the First Mortgagee, or Borrower executes a deed-in-lieu of foreclosure for the benefit of the First Mortgagee, the full amount of the Loan and all obligations of Borrower to repay the indebtedness secured by this Deed of Trust are waived. Furthermore, and notwithstanding any other provisions in the Note or this Deed of Trust, except in the case of an Event of Default described in Section 14 (h) above, Borrower's obligation to repay the Loan shall not exceed fifty percent of the Borrower's Net Gain on the sale or other transfer of the Property. For the purposes of this Deed of Trust, "Net Gain" means any remaining sale or other transfer proceeds that Borrower receives or is owed as a result of selling or otherwise transferring the Property after deducting (a) the pay off amount of the First Mortgagee, (b) all real estate fees and closing costs normally paid by the seller, and (c) the down payment paid by Borrower for the Property consistent with Section 8, "Shared Appreciation".

**16. Default Interest.** During any period in which the Borrower is in default hereunder, the Loan will bear interest on the unpaid balance thereof at the rate of ten percent (10%) per annum 30 days after the date on which a Notice of Default is delivered or mailed to Borrower unless the Note Holder specifies otherwise in writing. At the discretion of the Note Holder, any default interest may be added to the principal balance of the Loan.

**17. Post Judgment Interest.** The Loan will bear interest on the unpaid balance thereof at the rate of twelve percent (12%) per annum immediately upon the issuance of any judgment or other decree in favor of the Note Holder or Beneficiary in the exercise of their remedies under this Deed of Trust or the Note.

**18. Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Deed of Trust due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Deed of Trust discontinued at any time prior to the earlier of: (a) five days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to the power of sale contained in this Deed of Trust or (b) entry of a judgment enforcing this Deed of Trust if: (i) Borrower pays Lender all sums which would be then due under this Deed of Trust and the Note had no acceleration occurred; (ii) Borrower cures all breaches of any covenants or agreements of Borrower contained in this Deed of Trust or the Note; (iii) Borrower pays all reasonable expenses incurred by Lender and Trustee in enforcing the covenants and agreements of Borrower contained in this Deed of Trust, and in enforcing Lender's and Trustee's remedies as provided in Section 15 hereof, including, but not limited to, reasonable attorneys' fees; and (iv) Borrower takes such action as Lender may reasonably require to assure that the lien of this Deed of Trust, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Borrower, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

**19. Reconveyance.** Upon payment of all sums secured by this Deed of Trust, Lender shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and the Note evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any. Such fees may include, but are not limited to, escrow, reconveyance, processing and recording fees.

**20. Substitute Trustee.** In accordance with applicable law, Lender may from time to time remove Trustee and appoint a successor Trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor Trustee shall succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

**21. Use of Property.** The Property is not currently used for agricultural, timber or grazing purposes.

**22. Indemnity.** Borrower agrees to save, defend and to hold harmless Lender, its employees, agents and assigns, from any and all claims, demands, damages, liabilities, and expenses arising out of Lender's interest under this Agreement, including but not limited to attorneys' fees incurred by Lender in enforcing its rights hereunder. As used in this Deed of Trust and in the Note, "attorneys' fees" shall include attorneys' fees, if any, which shall be awarded by an appellate court.

**23. Time is of the Essence.** Time is of the essence with respect to all covenants and obligations Borrower has made under this Agreement.

**24. Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower. All covenants and agreements of one or more Borrower's shall be joint and several. Any Borrower who co-signs this Deed of Trust, but does not execute the Note, (a) is co-signing this Deed of Trust only to grant and convey that Borrower's interest in the Property to Trustee under the terms of this Deed of Trust, (b) is not personally liable on the Note or under this Deed of Trust, and agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Deed of Trust or the Note, without that Borrower's consent and without releasing that Borrower or modifying this Deed of Trust as to that Borrower's interest in the Property. At any time and from time to time upon written request of Beneficiary, and payment of the Trustee's fees and presentation of this Deed of Trust, without affecting the liability of any person for the payment of the indebtedness, Trustee may: (a) consent to the making of any map or plat of the Property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Deed of Trust or the lien or change thereof.

**25. Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Deed of Trust shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address, or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender’s address stated herein, or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

**26. Governing Law; Severability.** The state and local laws applicable to this Deed of Trust shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of federal law to this Deed of Trust. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust and the Note are declared to be severable. As used herein, “costs”, “expenses” and “attorneys’ fees” include all sums to the extent not prohibited by applicable law or limited herein.

**27. Borrower’s Copy.** Borrower shall be furnished a conformed copy of the Note and this Deed of Trust at the time of execution or after recordation hereof.

*(This portion of the page left blank intentionally)*

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Deed of Trust and in any rider(s) executed by Borrower and recorded with it.

\_\_\_\_\_  
Borrower:

\_\_\_\_\_  
Borrower:

STATE OF OREGON            )  
  : ss  
County of \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned Notary Public, in and for the County and State aforesaid, personally appeared the above-named \_\_\_\_\_, who is known to me to be the identical individual(s) who executed the within instrument, and acknowledged to me execution of said instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year last above written.

(NOTARY SEAL)

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My commission expires on: \_\_\_\_\_

STATE OF OREGON            )  
  : ss  
County of \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned Notary Public, in and for the County and State aforesaid, personally appeared the above-named \_\_\_\_\_, who is known to me to be the identical individual(s) who executed the within instrument, and acknowledged to me execution of said instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year last above written.

(NOTARY SEAL)

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My commission expires on: \_\_\_\_\_

(Rev. 5/6/09)

**EXHIBIT C  
NSP PROMISSARY NOTE**



**Neighborhood Stabilization Program (NSP)**

**State of Oregon  
Oregon Housing and Community Services (OHCS)**

\$ _____	_____	_____
<b>Loan Amount</b>	<b>Loan Number</b>	<b>Date</b>

**Borrower:** \_\_\_\_\_

**Property Address:** \_\_\_\_\_

- 1. BORROWER’S PROMISE TO PAY.** In return for a Loan that Borrower has received, Borrower promises to pay U.S. \$\_\_\_\_\_ (this amount is called “Principal”) plus interest, if any, and equity share as more fully described under the Deed of Trust of even date, to the order of the State of Oregon, acting by and through Oregon Housing and Community Services Department (“OHCS” or “Lender”) at the principal office of the Lender, located at 725 Summer St NE, Suite B, Salem, Oregon 97301-1266 or at a different place if required by the Note Holder (defined below). Borrower understands that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the “Note Holder.”
- 2. INTEREST.** No interest will be charged on the Principal balance of the Loan, except in the Event of Default as described in Section 6 or in the Deed of Trust of even date herewith executed in favor of Lender to secure repayment of this Note (“Trust Deed”). In the Event of Default, default interest, if any, shall accrue on the principal amount of the Loan at the rate of ten percent (10%) per annum beginning 30 days from the date on which a Notice of Default is delivered or mailed, unless the Note Holder specifies otherwise in writing, and until the default is cured to the satisfaction of the Note Holder (if the Note Holder permits a cure) or the Loan is paid in full. Any default interest may be added to principal, at the discretion of the Note Holder. Post judgment interest shall accrue at the rate of twelve percent (12%) per annum from the date of a judgment in favor of the Note Holder.
- 3. DUE DATE OF NOTE.** Borrower will pay in full all loan principal, together with any interest due and equity share, if applicable, and any other applicable charges described below upon: (1) demand by Note Holder under the terms of this Note or the Trust Deed, including for any default under this Note or the Trust Deed; or (2) the occurrence of any of the following: (a) the transfer, sale, refinancing, assignment or other conveyance of any or all interest in the property indicated above (“Property”); (b) if Borrower fails to maintain the Property as its principal residence at any time. Borrower will pay those amounts in full on any of the above-described events. Borrower will make all payments due under this Note in a timely manner.
- 4. BORROWER’S RIGHT TO REPAY.** Borrower has the right to make payments of principal and outstanding interest at any time without being charged any premium or penalty.
- 5. LOAN CHARGES.** If a law, which applies to the Loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to Borrower. The Note Holder may choose to make this refund by reducing any amount Borrower owes under this Note or by making a direct payment to Borrower. When the Loan is paid in full, Borrower am responsible for all costs to reconvey all security instruments (including the Trust Deed). Such fees may include, but are not limited to, escrow, reconveyance, processing and recording fees.
- 6. BORROWER’S FAILURE TO PAY AS REQUIRED:**

  - A. Default.** Borrower will be in default if Borrower fails to perform timely any obligation or covenant arising under this Note or the Trust Deed, including if Borrower cause or allow any sale, transfer, refinancing or assignment of any or all interest in the Property or if Borrower fails at any time to use the Property as my principal residence.

- B. **Notice of Default.** If Borrower is in default, the Note Holder may require me to immediately pay the full amount of Principal of the Note together with interest on said Principal at the rate of ten percent (10%) per annum, from the date specified in the Notice of Default until the default is cured to the satisfaction of the Note Holder, if the Note Holder permits a cure, or until all amounts due under this Note or the Trust Deed are fully paid. The date specified in the Notice of Default will be at least 30 days after the date on which the Notice of Default is delivered or mailed to Borrower unless the Note Holder specifies otherwise in writing.
  - C. **No Waiver by Note Holder.** Even if, at a time when Borrower is in default, the Note Holder does not require Borrower to pay immediately in full as described above, the Note Holder will still have the right to do so if Borrower is in default at a later date.
  - D. **Payment of Note Holder’s Costs and Expenses.** If the Note Holder has required Borrower to pay immediately in full as described above, the Note Holder will have the right to be paid back by Borrower for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law or contrary to this Note. Those expenses include, for example, reasonable attorney’s fees and other charges described in this Note together with default interest at the rate of ten percent (10%) per annum and post judgment interest at the rate of twelve percent (12%) per annum.
7. **GIVING OF NOTICES.** Unless applicable law requires a different method, any notice that must be given to Borrower under this Note will be given by delivering it or by mailing it by first class mail to Borrower at the Property address above or at a different address if Borrower provides the Note Holder a notice of that different address. Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail, postage prepaid, to the Note Holder at the address stated in Section 1 above or at a different address if Borrower is given a notice of that different address.
8. **OBLIGATIONS OF PERSONS UNDER THIS NOTE.** If more than one Borrower signs this Note, each Borrower is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any Borrower who is a guarantor, surety or endorser of this Note is also so obligated. Any Borrower who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each Borrower individually or corporately.
9. **WAIVERS.** Borrower and any other person who has obligations under this Note waive the rights of presentment and Notice of Dishonor. “Presentment” means demand by the Note Holder of payment of amounts due.

“Notice of dishonor” means notice from the Note Holder to other persons that amounts due have not been paid.

**BORROWER(S):**

\_\_\_\_\_

Borrower:

\_\_\_\_\_

Borrower:

(Rev. 5/6/09)

**EXHIBIT D  
FEDERAL ASSURANCES**

SUBGRANTEE hereby assures and certifies that with respect to any funds delegated under this Agreement:

It will comply with all applicable Federal regulations, policies, guidelines, and requirements as they relate to the application, acceptance, and use of all funds under this Agreement which may include, but are not be limited to:

OMB Circulars Nos.:

- [A-102](#) – Grants and Cooperative Agreements with State and Local Governments
- [A-133](#) – Audits of States, Local Governments, and Non-profit Organizations

Code of Federal Regulations:

- 2 CFR, Part 225 – Cost Principles for State, Local, and Indian Tribal Governments
- 2 CFR, Part 215 – Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Learning, Hospitals, and other Non-profit Organizations
- 2 CFR, Part 230 – Cost Principles for Non-profit Organizations

NOTE: Certain of these assurances may not be applicable to the Grant Program in this Agreement. If you have questions, please contact the OHCS Program Coordinator.

As the duly authorized representative of the Subgrantee, I certify that the Subgrantee:

**ASSURANCES : NON-CONSTRUCTION PROGRAMS**

1. Has the legal authority to apply for Grant Program funds and the institutional, managerial and financial capability (including funds sufficient to pay the non-granted share of project cost) to ensure proper planning, management and completion of the programmatic requirements.
2. Will give the awarding agency, the Comptroller General of the United States and, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all statutes relating to nondiscrimination. These include but are not limited to:
  - (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; 42 USC 2000d
  - (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 20USC1681
  - (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;
  - (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age;
  - (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
  - (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  - (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
  - (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
  - (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,

- (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. 42USC4601-4655
  8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
  9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
  10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
  11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
  12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
  13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
  14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
  15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
  16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
  17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
  18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing these programs.

## **ASSURANCES: CONSTRUCTION PROGRAMS**

1. Has the legal authority to apply for Grant Program funds and the institutional, managerial and financial capability (including funds sufficient to pay the non-granted share of project cost) to ensure proper planning, management and completion of the programmatic requirements.
2. Will give the awarding agency, the Comptroller General of the United States and, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after notice of award.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:
  - (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin;
  - (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
  - (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;
  - (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age;
  - (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
  - (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  - (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;

- (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
  - (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,
  - (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
  12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
  13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
  14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
  15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
  16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
  17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
  18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
  19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing these programs.

#### **ADDITIONAL ASSURANCES**

1. Will comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60).
2. Will assume all of the responsibilities for environmental review, decisionmaking, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I of the Housing and Community

Development Act, as amended (42 U.S.C. 5304) and published in 24 CFR Part 58. Subgrantee further acknowledges its responsibility for adherence to the Grant Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

3. Will comply with the Americans with Disabilities Act of 1990 (P.L. 101-336) and ORS 447.210 to 447.280.
4. Will comply with Section 16 of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), Section 401 of the Energy Reorganization Act of 1974 (Pub. L. 93-438), Title IX of the Education Amendments of 1972, as amended, (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482), the Department of Energy Organization Act of 1977 (Pub. L. 95-91), and the Energy Conservation and Production Act of 1976, as amended, (Pub. L. 94-385).
5. Will comply with Executive Order 11063 as amended by Executive Order 11259 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107.
6. Will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 170/u) and Executive Order 11246 (3 CFR 1964-1965 Comp., p 339), Executive Orders 11625, 12432 and 12138 and all implementing regulations issued pursuant to these statutes and authorities.
7. Will comply with the Fire Administration Authorization Act of 1992.
8. Will Comply with 37 CFR part 401, "Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
9. Will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352 et. Seq.) Contractors who apply or bid for an award of \$100,000 or more shall file the required certification.
10. No contract shall be awarded to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension".
11. Will comply with Public Law 103-227, Part C – Environmental Tobacco Smoke, also know as the Pro-Children Act 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State of local governments.
12. Will comply with Section 407 of Public Law 103-333 it is the sense of Congress that, to the extend practicable, all equipment and products purchased with funds made available in this Act should be American made.
13. Will comply with Section 508 of Public Law 103-333, statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.
14. Will require any individual, organization or other entity with whom it subcontracts, subgrants or subleases for the purpose of providing any service, financial aid, equipment, property or structure to comply with laws cited above. To this end, the subcontractor shall be required to sign a written assurance form.
15. Will compile and maintain information pertaining to programs or activities as required by the specific program requirements.

16. Will recognize and agrees that grant funds will be extended in reliance upon the representations and agreements made in this assurance and that the United States and the state of Oregon together or separately shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the SUBGRANTEE, its successors, transferees and assignees, as well as the person whose signature appears below and who is authorized to sign this assurance on behalf of the SUBGRANTEE.

\_\_\_\_\_  
Subgrantee Authorized Signature

\_\_\_\_\_  
Date

**EXHIBIT E  
REQUEST FOR FUNDS**

Subgrantee Name:	Date of Invoice:
	Invoice No.:
	Grant No.:
Subgrantee Federal Tax ID#:	Grant Expiration Date:
	<b>Billing Period: From _____ To _____</b>
Subgrantee Contact Name and Phone Number for billing questions:	
OHCS Grant Administrator Name: <b>Dona Lanterman 503-986-2120</b>	
Project Name: <b>Neighborhood Stabilization Program (HERA)</b>	

	<b>TOTAL</b>
<b>A. Total Grant Award:</b>	<b>\$</b>
B. Total Amount previously requested and received	<b>\$</b>
C. Total Amount Available ( $A - B = C$ )	<b>\$</b>
<b>D. Total Amount of this request:</b>	<b>\$</b>
E. Balance remaining on Contract ( $C - D = E$ )	<b>\$</b>

<i>FOR AGENCY USE ONLY</i>			
PCA _____	INDEX _____	GRANT PROJ/PH _____	AMOUNT _____
PCA _____	INDEX _____	GRANT PROJ/PH _____	AMOUNT _____
PCA _____	INDEX _____	GRANT PROJ/PH _____	AMOUNT _____
Reviewed & Approved for Payment by Program Manager _____			Date _____
Approved for funds by Grant Administrator _____			Date _____

<b>Page 2</b>	<b>REQUEST FOR FUNDS</b>
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**ADMINISTRATION AND PLANNING COSTS (24 CFR 570.206)**

<b>General Administration and Planning Activities:</b>	<b>AMOUNT</b>
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