

**AGREEMENT BETWEEN THE
CITY OF YAKIMA, WASHINGTON
AND OPPORTUNITIES INDUSTRIALIZATION CENTER (OIC) OF WASHINGTON
FOR CDBG SERVICES**

THIS AGREEMENT is entered into this _____ day of _____, 2021, between the City of Yakima, State of Washington ("City") and Opportunities Industrialization Center of Washington ("Agency").

RECITALS:

1. The City is an entitlement applicant for Community Development Block Grant (CDBG) funds under the Housing and Community Development Act of 1974 (the Act), Pub. L. 93-383 as amended, and is eligible to receive CDBG funds for the purpose of carrying out community development and housing activities authorized under the Act and under regulations promulgated by the Department of Housing and Urban Development (HUD) at 24 CFR Part 570.
2. The Washington State Legislature has declared in RCW 35.21.735 that carrying out the purposes of federal grants or programs is both a public purpose and an appropriate function for a city; and the City desires to contract with the Agency for the services described within this Agreement, for eligible activities under the Act and HUD regulations.
3. The City wishes to contract with the Agency for the services described in this Agreement, for eligible activities under the Act, and HUD regulations.

AGREEMENT:

In consideration of the mutual promises contained in this Agreement, the parties agree as follows:

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- | | |
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PART 1. GENERAL CONDITIONS

1. Scope of Agreement.

The Agreement between the parties consists of the signature page; the general conditions; the Federal, State and local program requirements; the evaluation and record-keeping requirements; each and every project Exhibit and Attachment incorporated into the Agreement; all matters and laws incorporated in the Agreement; and any written amendments made according to the general conditions. This Agreement supersedes any and all former agreements applicable to projects governed by this Agreement.

2. Scope of Work.

The Agency will provide a public service as allowed under CDBG Activity 570.201(e), specifically youth education services and programming to youth residents of the City of Yakima. The Project is more specifically described in the Annual Action Plan as follows:

1. After school tutoring including literacy, math, and recreation for approximately 50 K-12 youth.
2. Summer Enrichment Program serving approximately 50 K-12 youth.
3. "100 Jobs for 100 Kids" which this summer will provide summer employment educational opportunities to approximately 50 high school-aged youth. Due to the COVID-19 pandemic these youth may, or may not, also be placed in summer employment opportunities. The focus this year, however, is on job skills and employment education.
4. Computer Lab and STEM activities for approximately 50 K-12 youth.
5. Community Garden activities for approximately 25 children and youth.
6. Emergency Supplemental Services for approximately 100 youth which includes nutritional support for youth during the COVID-19 pandemic and slow re-opening of the Yakima community, and education and career enrichment through a summer bridge book system based on the participant's grade-level, with consideration given to learning deficiencies. Workbooks are assembled and include work on writing, math, STEM and literacy. These services will continue through the COVID-19 pandemic.

Youth served will be from census tracts where the majority of the population is low and moderate income.

This Agreement and compensation to the Agency is specifically and expressly dependent upon the City receiving an allocation of CDBG funds to pay for some or all of the services provided by the Agency. These funds will be used exclusively to support the services indicated above. Both parties understand that the funding from this contract may not cover all expenses incurred by the Agency for these services. This Agreement may be amended from time to time, in accordance with the general conditions, for the purpose of adding new projects, amending the scope of work, or for any other lawful purpose.

3. Commencement and Termination of Programs.

- A. When it is notified by HUD that funds will be released, the City shall furnish the Agency with written notice to proceed, however, the City may reimburse the Agency for work on a program which occurs prior to the notice to proceed, if allowed, but has no obligation to do. No work on a project shall occur prior to the notice to proceed without written approval from the City. Termination dates for individual programs shall be specified in the appropriate Attachments, if appropriate. Costs incurred after the termination date of this Agreement will not be reimbursed. The termination date may be changed through amendment of this Agreement.
- B. Upon termination of individual projects covered by this Agreement, the Agency shall transfer to the City any CDBG funds on hand at the time of termination and any accounts receivable attributable to the use of CDBG funds.

4. Administration.

The Agency shall appoint a liaison who shall be responsible for overall administration of CDBG funded project(s) and coordination with the City of Yakima. The Agency shall also designate one or more representatives who shall be authorized to sign the Voucher Reimbursement Requests and Program Accomplishments Reports. The names of the liaison and representatives shall be specified in the Attachment(s).

5. Compensation and Method of Payment.

- A. The City shall reimburse the Agency from CDBG funds only for the activities specified in the Scope of Work above and the Attachments in an amount not to exceed the amount specified on Attachment #1—CDBG Appropriation.
- B. The Agency shall submit a properly executed Voucher Reimbursement Request and Program Accomplishments Form as frequently as requested by the City, but at a minimum no less than each calendar quarter throughout the term of the Agreement. The City will make payment to the Agency not more than thirty (30) working days after said Reimbursement Request is received and approved by the City. The City will issue a statement of correction in the event that the Voucher Reimbursement Request is erroneous. Payment does not constitute final approval of the work performed. Payment requests that do not include the program accomplishments report will not be paid.
- C. The City will pay Agency for its services on a reimbursement only basis. Any funds received by Agency in excess of the actual expenses shall be reported to the City immediately. The City may demand immediate return of the excess funds.

6. Failure to Perform.

If the Agency fails to comply with any terms or conditions of this Agreement or to provide in any manner the activities or other performance as agreed to herein, the City reserves the right, following written notice to the Agency, to withhold all or any part of payment, suspend all or part of the contract, or prohibit the Agency from incurring additional obligations of funds until the City is satisfied that corrective action has been taken or completed as more specifically outlined in the Exhibit(s) and Attachment(s) to this Agreement. The option to withhold funds is in addition to, and not in lieu of, the City's right to termination as provided in Section 14 of the General Conditions of this Agreement.

7. Operating Budget.

The Agency shall utilize the funds received from the City under this Agreement to provide programs outlined in the Budget Summary found on Attachment #2. No line item expense shall cause total expenditures charged to this Agreement to exceed the total amount appropriated to the Agency by the City as indicated in Attachment #1—CDBG Appropriation.

8. Funding Alternatives and Future Support.

- A. The Agency shall report all program income generated under this Agreement for the purposes specified in this Agreement or generated through the program(s) funded under this Agreement and will provide the City with the intended use of such funds. Income that is not used to continue or benefit the program(s) funded under this

Agreement shall be returned to the City immediately and revert to the CDBG Fund for reallocation by the City.

- B. The City makes no commitment to future support and assumes no obligation for future support of the activities contracted herein beyond the contract date, except as expressly set forth in this Agreement.
- C. Should anticipated sources of revenue become unavailable to the City for use in the CDBG Program, the City shall immediately notify the Agency in writing and the City will be released from all contracted liability for that portion of the Agreement covered by funds not yet received by the City.

9. Amendments.

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

10. Assignment and Subcontracting.

- A. The Agency shall not assign any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Agency not less than fifteen (15) days prior to the date of any proposed amendment.
- B. Any work or services assigned or subcontracted under this Agreement shall be subject to each provision of this Agreement and proper bidding procedures. The Agency agrees that it is as fully responsible to the City for the acts and omissions of its subcontractors and their employees and agents, as it is for the acts and omissions of its own employees and agents, as provided in paragraph 11.B.

11. Hold Harmless and Indemnification.

- A. The Agency agrees that it is financially responsible for any audit exception or other financial loss to the City which occurs due to its negligence or its failure to comply with the terms of this Agreement.
- B. The Agency further agrees to defend, indemnify and hold harmless the City, its elected and appointed officials, employees, and agents from and against any and all claims, demands and/or causes of action of any kind or character whatsoever arising out of or in connection with the performance of this Agreement by the Agency, its employees, subcontractors, agents, or volunteers for any and all claims by any persons for alleged personal injury, death, or damage to their persons or property to the extent caused by the negligent acts, errors or omissions of the Agency, its employees, agents, subcontractors, volunteers or representatives. In the event that any suit or claim for damages based upon such claim, action, loss, or damages is brought against the City, the Agency shall defend the same at its sole cost and expense; provided that the City retains the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the City and/or its officers, agents, and/or employees or any of them or jointly

against the City and the Agency and its respective officers, agents, subcontractors, employees, volunteers or any of them, the Agency agrees to fully satisfy the same and the Agency shall reimburse the City for any cost and expense which the City has incurred as a result of such claim or suit, including, but not limited to attorneys' fees, costs and appeal costs and fees. The provisions of this section shall survive the expiration or termination of this Agreement.

12. Insurance.

- A. The Agency shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Agency, its agents, representatives, or employees.
- B. The Agency's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Agency to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- C. The Agency shall obtain insurance of the types and coverage described below:
 - i. Commercial General Liability. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Agency's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.
 - ii. Commercial Automobile Liability Insurance. If Agency owns any vehicles, before this Agreement is fully executed by the parties, the Agency shall provide the City with proof of commercial automobile liability insurance. Automobile liability shall apply to any auto and be shown on the certificate. In the event Agency does not own any vehicles, or uses non-owned vehicles in its operations, Agency shall provide proof of coverage for non-owned and hired automobile liability
 - iii. Workers' Compensation. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
 - iv. Professional Liability. Professional Liability insurance appropriate to the Agency's profession. Professional liability shall include coverage for its employees and officers and all contracts, volunteers and individuals performing professional services for the Agency. This requirement may be met instead by a combination of the Agency's professional liability insurance and professional liability insurance of all others performing services for the Agency in the minimum amounts shown below.
 - v. Directors' and Officers' Insurance. Directors' and Officers' insurance appropriate to the Agency's actions. If the Professional Liability policy covers

the actions of the Agency's directors and officers that would be covered under a Directors' and Officers' policy, this requirement may be met by that liability insurance.

D. The Agency shall maintain the following insurance limits:

- i. Commercial General Liability. The Agency shall maintain Commercial General Liability insurance with limits of no less than \$2,000,000.00 each occurrence, \$2,000,000.00 general aggregate.
- ii. Commercial Automobile Liability. The Agency shall maintain either Commercial Automobile Liability insurance and/or Non-Owned and Hired Automobile Insurance with limits of no less than \$3,000,000.00 per occurrence combined single limit body injury and property damage
- iii. Professional Liability. The Agency shall maintain Professional Liability insurance with limits of no less than \$1,000,000.00 per claim and \$2,000,000.00 policy aggregate limit.
- iv. Directors' and Officers' Insurance. The Agency shall maintain Directors' and Officers' insurance with limits of no less than \$1,000,000.00 per occurrence and an annual aggregate limit of at least \$1,000,00.00.

E. If any of the required insurance provides coverage on a claims-made basis:

- i. The retroactive date must be on or before the date of the Agreement or the beginning of services provided to the City. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after expiration or termination of the Agreement.
- ii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Agency must purchase "extended reporting" coverage for a minimum of five (5) years after completion of services provided by this Agreement.

F. The Agency's Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Agency's insurance and shall not contribute with it. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

G. The Agency shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Agency before commencement of the work.

H. The Agency shall provide the City with written notice of any policy cancellation within five (5) business days of their receipt of such notice.

- I. Failure on the part of the Agency to maintain the insurance as required shall constitute a material breach of this Agreement, upon which the City may, after giving five (5) business days' notice to the Agency to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Agency from the City.
- J. If the Agency maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Agency, irrespective of whether such limits maintained by the Agency are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Agency.
- K. The Agency shall not use or disclose Personal Information, as defined in RCW 19.255.010, in any manner that would constitute a violation of federal law or applicable provisions of Washington State law. Agency agrees to comply with all federal and state laws and regulations, as currently enacted or revised, regarding data security and electronic data interchange of Personal information.

13. Conflict of Interest.

A. Interest of Officers, Employees, or Agents:

No officer, employee, or agent of the City or Agency who exercises any functions or responsibilities in connection with the planning and carrying out the City of Yakima CDBG Program, or any other person who exercises any functions or responsibilities in connection with the City, shall have any personal financial interest, direct or indirect, in this Agreement, and the Agency shall take appropriate steps to assure compliance.

B. Interest of the Contractor(s) and Their Employees:

The Agency agrees that it will incorporate into every subcontract required to be in writing, and made pursuant to this Agreement, the following or equivalent provisions:

The Contractor covenants that no person who presently exercises any functions or responsibilities in connection with the CDBG Program has any personal financial interest, direct or indirect, in this Agreement. The Contractor further covenants that he or she presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services hereunder. The Contractor further covenants that in the performance of this Agreement no person having any conflicting interest shall be employed. Any such interest on the part of the Contractor or the Contractor's employees must be disclosed to the Agency and the City.

14. Suspension and Termination.

- A. This Agreement is subject to suspension or termination upon 30 days written notice by the City should:
 - i. The Agency mismanage or make improper or unlawful use of CDBG funds;
 - ii. The Agency fails to comply with the terms and conditions expressed herein or the applicable regulations and directives of the Federal Government, State or City;
 - iii. CDBG funds become no longer available from the Federal Government to the City;
 - iv. The Agency fails to carry out activities expressed by this Agreement; or
 - v. The Agency fails to submit reports or submits incomplete or inaccurate reports in any material respect.
- B. This Agreement is subject to suspension or termination upon 30 days written notice by the Agency should:
 - i. The City fail in its commitment under this Agreement to provide funding for services rendered, as herein provided; or
 - ii. CDBG funds become no longer available from the Federal Government or through the City.
- C. This Agreement may be suspended or terminated at any time, in whole or in part, upon the written agreement of the City and the Agency.
- D. Otherwise this Agreement shall terminate on the termination date specified on Attachment #1 and shall be subject to extension only by mutual agreement.
- E. Upon termination of this Agreement, any unexpended balance of the CDBG funds awarded through this Agreement shall lapse and remain in the City of Yakima's CDBG fund.
- F. In the event that termination occurs under paragraph A(i) of this section, the Agency shall return to the City all funds received by Agency which were expended in violation of the terms of this Agreement.

15. Reversion of Assets.

Upon expiration of this Agreement, the Agency shall transfer to the City any City CDBG funds received by the Agency and previously not authorized as a reimbursement, and any accounts receivable attributable to the use of City CDBG funds.

If the Agency ceases to use any asset acquired or improved with CDBG funds for the purpose described in this Agreement, within five years following the termination of this Agreement, the Agency shall pay to the City the fair market value of the asset less any portion of the value attributable to expenditures of non-CDBG funds, but this amount should not exceed the original purchase price of the asset.

PART 2 FEDERAL, STATE AND LOCAL PROGRAM REQUIREMENTS

1. Procurement Standards.

In awarding contracts pursuant to this Agreement, the Agency shall comply with all applicable requirements of local and State law for awarding contracts, including but not limited to procedures for competitive bidding, contractor's bonds, and RCW 60.28.010, which addresses retained percentages. In addition, the Agency shall comply with the requirements of the U.S. Office of Management and Budget, as applicable, relating to bonding, insurance and procurement standards; and all federal laws, regulations, executive orders and guidance documents. Where Federal standards differ from local or State standards, the stricter standards shall apply. The Federal standard for competitive bidding shall apply only if the applicable State or local standard for competitive bidding is greater than the federal standard.

2. Environmental Review (as applicable).

A. National Environmental Policy Act:

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

B. Other Federal Environmental Laws:

In decision making and action pursuant to NEPA, and otherwise under this Agreement, the standards, policies, and regulations of the following laws and authorities shall be followed: The National Historic Preservation Act of 1966 (16 U.S.C. 470 et. seq.) as amended, particularly section 106 (16 U.S.C. 470(f)); Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et. seq.), particularly section 2(c); the Reservoir Salvage Act of 1960 (16 U.S.C. 469 et. seq.), particularly section 3 (16 U.S.C. 469a-1), as amended by the Archaeological and Historic Preservation Act of 1974; Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et. seq.) as amended, particularly sections 102(a) and 202(a)(42 U.S.C. 4012a(a) and 4106(a)); Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951 et. seq.), particularly section 2(a); Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. seq.), particularly sections 2 and 5; the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et. seq.) as amended, particularly section 307(c) and (d)(16 U.S.C. 1456(c) and (d)); the Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et. seq., and 21 U.S.C. 349) as amended, particularly section 1424(e)(42 U.S.C. 300h-303(e)); the Endangered Species Act of 1973 (16 U.S.C. 1531 et. seq.) as amended, particularly Section 7 (16 U.S.C. 1536); the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et. seq.) as amended, particularly section 7(b) and (c)(16 U.S.C. 1278(b) and (c)); the Clean Air Act (42 U.S.C. 7401 et. seq.) as amended, particularly section 176(c) and (d)(42 U.S.C. 7506(c) and (d)); and HUD environmental standards (24 CFR Part 51, Environmental Criteria and Standards (44 FR 40860-40866, July 12, 1979).

C. State Environmental Policy Act:

Agencies that are branches of government under RCW 43.21C.030 retain responsibility for fulfilling the requirements of the State Environmental Policy Act,

RCW Chapter 43.21C, and regulations and ordinances adopted under that Chapter. If the Agency is not a branch of government under RCW 43.21C.030, the City may require the Agency to furnish data, information and assistance as necessary to enable the City to comply with the State Environmental Policy Act.

D. Satisfaction of Environmental Requirements:

Project execution under this Agreement by either the City or the Agency shall not proceed until satisfaction of all applicable requirements of the National and State Environmental Policy Acts. A written notice to proceed will not be issued by the City until all such requirements are complied with.

3. Nondiscrimination.

A. General:

The Agency shall comply with all Federal, State and local laws prohibiting discrimination on the basis of age, sex, marital status, race, creed, color, national origin, the presence of any sensory, mental or physical handicap or any other group protected under local, state or federal law existing or hereafter created. These requirements are specified in RCW chapter 49.60; Section 109 of the Housing and Community Development Act of 1974; Civil Rights Act of 1964, Title VI; Civil Rights Act of 1968, Title VIII; Executive Order 11063; Executive Order 11246; Section 3 of the Housing and Urban Development Act of 1968; Section 504 of the Rehabilitation Act of 1973; and, the Age Discrimination Act of 1975. Specifically the Agency is prohibited from taking any discriminatory actions defined in the HUD Regulations at 24 CFR 570.602(b)(1) and shall take such affirmative and corrective actions as are required by the Regulations at 24 CFR 570.602(b)(4).

B. Specific Discriminatory Actions Prohibited:

- i. The Agency may not, under any program or activity to which this Agreement may apply, directly or through contractual or other arrangements, on the grounds of race, color, national origin, or sex:
 - (a) Deny any person facilities, services, financial aid, or other benefits provided under the program or activity;
 - (b) Provide any persons with facilities, services, financial aid, or other benefits which are different, or are provided in a different form, from that provided to others under the same program or activity;
 - (c) Subject any person to segregated or separate treatment in any facility or in any matter or process related to receipt of any service or benefit under the program or activity;
 - (d) Restrict in any way access to, or in the enjoyment of, any advantage or privilege enjoyed by others in connection with facilities, services, financial aid, or other benefits under the program or activity;
 - (e) Treat any person differently from others in determining whether the person satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any facilities, services or other benefit provided under the program or activity; or

(f) Deny any person any opportunity to participate in a program or activity as an employee.

- ii. The Agency shall not use criteria or methods of administration that have the effect of subjecting individuals to discrimination on the basis of race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.
- iii. The Agency, in determining the site or location of housing or facilities provided in whole or in part with funds under this part, may not make selections of such site or location that have the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the grounds of race, color, national origin, or sex; or which have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or of the HUD Regulations.

C. Fair Housing (as applicable):

The Agency shall take necessary and appropriate actions to prevent discrimination in federally assisted housing and lending practices related to loans insured or guaranteed by the Federal government. (Civil Rights Act of 1968, Title VII; Executive Order 11063).

D. Employment:

- i. In all solicitations under this Agreement, the Agency shall state that all qualified applicants will be considered for employment. The words "equal opportunity employer" in advertisements shall constitute compliance with this section.
- ii. The Agency shall not discriminate against any employee or applicant for employment in connection with this Agreement because of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap, except when there is a bona fide occupational limitation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training. (RCW chap. 49.60; Executive Order 11246 as amended).
- iii. To the greatest extent feasible, the Agency shall provide training and employment opportunities for lower-income residents within the area served by CDBG assisted projects (Section 3, Housing and Urban Development Act of 1968, as amended).

E. Contractors and Suppliers:

- i. No contractor, subcontractor, union, or vender engaged in any activity under this Agreement shall discriminate in the sale of materials, equipment or labor on the basis of age, sex, marital status, race, creed, color, national origin, or

the presence of any sensory, mental, or physical handicap. Such practices include: employment, upgrading, demotion, recruiting, transfer, layoff, termination, pay rate, and advertisement for employment. (RCW Chap. 49.60; Executive Order 11246 as amended).

- ii. All firms and organizations described above shall be required to submit to the Agency certificates of compliance demonstrating that they have, in fact, complied with the foregoing provisions; provided, that certificates of compliance shall not be required from firms and organizations with fewer than 25 employees or on contracts and/or yearly sales of less than \$10,000.00.
- iii. To the greatest extent feasible, the Agency shall purchase supplies and services for activities under this Agreement from vendors and contractors whose businesses are located in the area served by CDBG-funded activities or owned in substantial part by program area residents. (Section 3, Housing and Urban Development Act of 1968, as amended).
- iv. CDBG funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

F. Notice:

- i. The Agency shall include the provisions of the appropriate subsections A, B, C, D, and E of this Section 3 entitled "Nondiscrimination" as required by law, and shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the said labor union or worker's representative of the commitments made in these subsections.
- ii. In advertising for employees, goods or services for the activities under this Agreement, the Agency shall comply with all federal laws, regulations, executive orders and guidelines, including, but not limited to OMB 2CFR-200. Agencies shall be considered to be in compliance with this provision if at least one of the following steps is taken: (a) advertise in a minority publication in addition to publication of general circulation; (b) utilize a minority contractors bidding center; or (c) utilize a local affirmative action office and/or certified minority/women's business enterprise directory.

4. Labor Standards.

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

5. Property Management.

- A. The Agency agrees that any non-expendable personal property (capital equipment), purchased wholly or in part with project funds at a cost of \$5,000.00 or more per item, is upon its purchase or receipt the program property of the City and/or Federal government. Final ownership and disposition of such property shall be determined under the applicable provisions of federal law, including, but not limited to, 2 CFR 200.
- B. The Agency shall be responsible for all such property, including its care and maintenance, at the Agency's expense.
- C. The Agency shall admit the City's property management officer to Agency's premises for the purpose of marking such property, as appropriate, with City property tags.
- D. The Agency shall meet the following procedural requirements for all such property:
 - i. Property records shall be maintained accurately and provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage of CDBG funds used in the purchase of property; and location, use, and condition of the property.
 - ii. A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.
 - iii. A control system shall be in effect to ensure adequate safeguards to prevent and/or minimize loss, damage, or theft of the property. Any such loss, damage or theft of property shall be investigated and fully documented.
 - iv. Adequate maintenance procedures shall be implemented to keep the property in good condition.

6. Acquisition and Relocation.

- A. Any acquisition of real property by a State Agency for any activity assisted under this Agreement shall comply with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (hereinafter referred to as the Uniform Act)(42 U.S.C. 4601 et. seq.) and the Regulations at 24 CFR Part 42.
- B. Implementation of any program provided for in this Agreement will be undertaken in a manner so as to minimize involuntary displacement of persons, businesses, nonprofit organizations, or farms to the greatest extent feasible.
- C. Any displacement of persons, businesses, nonprofit organizations, or farms occurring as the result of acquisition of real property assisted under this Agreement shall comply with the Uniform Act, the Regulations at 24 CFR Part 42, and the City of Yakima's displacement policy required by Federal CDBG regulations at 24 CFR

570.305. The Agency shall comply with the Regulations pertaining to costs of relocation and written policies, as specified by 24 CFR 570.602(c) and (d).

7. National Flood Insurance.

To the extent indicated by 24 CFR 570.605, the Agency shall comply with the flood insurance purchase requirements of Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et. seq. and the Federal regulations issued under that statute). The Agency shall comply with the Regulations at 24 CFR section 570.605.

8. Lead-Based Paint Poisoning.

The Agency shall comply with the HUD Lead-Based Paint Regulations (24 CFR Part 35) issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. sections 4831 et. seq.) requiring prohibition of the use of lead-based paint (whenever funds under this Agreement are used directly or indirectly for construction, rehabilitation, or modernization of residential structures) and notification of the hazards of lead-based paint poisoning to purchasers and tenants of residential structures constructed prior to 1950.

9. Administrative Requirements and Cost Principles.

- A. If the Agency is a governmental entity, the Agency shall comply with the requirements and standards of OMB Circular A-128, "Audits of State and Local Government," and Circular A-87, "Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally recognized Indian Tribal Governments," and with 2 CFR Part 200.
- B. If the Agency is not a governmental entity, the Agency shall comply with the requirements and standards of 2 CFR Part 200, and all other applicable federal laws, regulations, executive orders and guidelines.

10. Other Federal Requirements.

The absence of mention in this Agreement of any other Federal requirements which apply to the award and expenditure of the Federal funds made available by this Agreement is not intended to indicate that those Federal requirements are not applicable to Agency activities. The Agency shall comply with all other Federal requirements relating to the expenditure of Federal funds, including but not limited to: The Architectural Barriers Act of 1968 (42 U.S.C. 4151), and the Hatch Act (5 U.S.C. Chapter 15). Additionally, the Agency shall comply with the Federal requirements described by 24 CFR Part 570, Sections 600 through 603; Section 605; and Sections 607 through 612.

11. Nonsubstitution for Local Funding.

The CDBG funding made available under this Agreement shall be used only for eligible program expenses.

12. Public Ownership.

For Agencies that are not municipal corporations organized under the laws of the State of Washington, it may become necessary to grant the City a property interest where the subject

project calls for the acquisition, construction, reconstruction, rehabilitation, or installation of publicly owned facilities and improvements. The Agency shall comply with current City requirements regarding transfer of a property interest sufficient to meet any public ownership requirement imposed by law.

13. Public Information.

- A. In all news releases and other public notices related to programs funded under this Agreement, the Agency shall include information identifying a source of funds as the "City of Yakima CDBG Program."
- B. For all construction projects the Agency shall erect a sign to City specifications at the construction site, identifying the source of funds, except that this requirement may be waived for construction projects of \$100,000.00 or less.
- C. The Agency acknowledges that this Agreement and any other information provided by it to the City and/or relevant to the program(s) described in the Exhibit(s) and Attachment(s) are subject to the Washington State Public Records Act, Chapter 42.56 RCW.

14. Lobbying.

The Agency certifies, to the best of its knowledge and belief, that:

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject

to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

15. Religious Organizations.

The Agency will comply with all federal requirements concerning religious organizations and the use of Community Block Grant funds. All services delivered must be dispensed in a clearly non-sectarian manner, devoid of any religious influence.

PART 3 EVALUATION AND RECORD KEEPING

1. General.

The Agency agrees to maintain records and provide reports as listed in Attachment #4 of this Agreement, and as defined in this Part, below.

2. Evaluation.

The Agency shall participate with the City in any evaluation project or performance report required by the Federal Agency. Further, the Agency agrees to participate with the City in any mutually-agreed upon or reasonable evaluation project or performance report as requested by the City. In either situation, the Agency agrees to make available all information required by any such evaluation process.

3. Audits and Inspections.

The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit by the City, Federal, or State officials so authorized by law during the performance of this Agreement and during the period of retention specified in this Part 3.

A. Audits. The Agency will provide at or before the contract signing a copy of the Agency's most recent audit. The Agency will provide to the City a copy of the Agency's most recent audit for each year in which a contract for use of CDBG funds exists with the City. Failure to provide such audit will be considered a material breach of the Agreement and result in a refund to the City of all moneys paid or due under the Agreement.

B. Audit Requirements. Agencies receiving \$750,000.00 or more in federal funds will provide to the City the above required audits conducted in a manner required by 2 CFR Part 200 Uniform Guidance—Subpart F.

4. Records.

The Agency shall maintain a certified public audit for the City Community Development Block Grant year in which the funds are awarded and through each Community Development Block Grant year or portion thereof, in which the funds are used or a contract exists between the Agency and the City as required by 2 CFR Part 200 or other applicable federal law. As required by HUD Regulations, 24 CFR Part 570, the Agency shall compile and maintain the following records:

- A. Financial Management. Such records shall identify adequately the source and application of funds for activities within this Agreement, in accordance with the applicable provisions federal law, regulation, executive order or guidelines, including, but not limited to 2 CFR Part 200. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
- B. Relocation. If applicable, Agency record keeping must comply with the Uniform Act implementing regulations at 24 CFR Part 42. Indication of the overall status of the relocation workload and a separate relocation record for each person, business, organization, and farm operation displaced or in the relocation workload must be kept.
- C. Property Acquisition. If applicable, Agency files must contain a separate acquisition file for each acquisition process documenting compliance with the implementing regulations for the Uniform Act at 24 CFR Part 42. Major requirements include: (a) invitation to owner to accompany appraiser during inspection, (b) at least one property appraisal, (c) statement of basis for determination of just compensation, (d) written offer of just compensation, (e) all documents involving conveyance, (f) settlement cost reporting statement, and (g) notice to surrender possession of premises.
- D. Equal Opportunity. The Agency shall maintain racial, ethnic, and gender data showing the extent to which these categories of persons have participated in, or benefited from, the activities carried out under this Agreement. The Agency shall also maintain data which records its affirmative action in equal opportunity employment, and its good-faith efforts to identify, train, and/or hire lower-income residents of the program area and to utilize business concerns which are located in or owned in substantial part by persons residing in the area of the program.
- E. Labor Standards. Records shall be maintained regarding compliance of all contractors performing construction work under this Agreement with the labor standards required by federal law, and any State labor standards, as applicable.
- F. Miscellaneous Records. The Agency shall maintain such other records as may be required by HUD or the City. Such records shall include, but shall not be limited to, a separate and current file for each CDBG grant award, containing copies of originals of the following:
 - i. Grant Award Letter.
 - ii. Notice to Proceed and/or equivalent written approval from City.
 - iii. Project or program related authorizations, motions, resolutions or meeting minutes of the Agency's governing body.
 - iv. Contract Attachments, Exhibits and any amendments thereto.
 - v. This Agreement and any amendments thereto.
 - vi. Voucher reimbursement requests and program accomplishment reports.
 - vii. Bills for payment.
 - viii. Approved vouchers and warrants.
 - ix. Where CDBG funds will support Agency staff salary and/or fringe benefit costs, payroll time sheets signed by the employee and the employee's

supervisor, annotated to document percent of time charged against the project if less than full time.

- x. Where CDBG funds will be used to offset the cost of communications, travel and office supplies, and where these costs are shared with other programs and an invoice is available, documentation such as log sheets (for copy machine use, odometer readings, etc.). As an alternative, annotated invoices may be used to document charges as appropriate.
- xi. In capital projects where CDBG funds will be used to hire physical laborers and/or tradespeople (regardless of Davis-Bacon applicability to the project), hours that these employees worked, and their rate of pay per hour.

Additionally, each program file shall include documentation on all persons who have benefited from the program, as follows: residence status (City of Yakima resident, non-City of Yakima resident); income status based on federal poverty levels; and ethnic status (white, black American Indian or Alaskan Native, Hispanic, Asian or Pacific Islander).

5. Retention of Records.

Required records shall be retained for a period of three (3) years after termination of this Agreement, except as follows: (1) Records that are the subject of audit findings shall be retained for three (3) years after the program ends or three years after such findings have been resolved, whichever is longer; and (2) records for nonexpendable property shall be retained for three (3) years after its disposition. Nonexpendable property is defined in 2 CFR 200.333.

6. Reports.

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

Part 4 EXHIBITS

The following exhibits are incorporated herein by reference:

- 1. Original Grant Award Letter
- 2. Contract Scope of Work, Completion Date and Contact Information

Part 5 ACCEPTANCE AND SIGNATURES

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed effective the day and year first set forth above.

CITY OF YAKIMA

OPPORTUNITIES INDUSTRIALIZATION CENTER
OF WASHINGTON

Patricia Byers, Mayor



Steven Mitchell, CEO

Attest:

Sonya Claar-Tee, City Clerk

Approved as to Form:

Sara Watkins, City Attorney

ATTACHMENT #1
CONTRACT GENERAL INFORMATION

PROJECT NO.: 2021-

TITLE: OIC PUBLIC SERVICE

PROJECT SUMMARY: OIC Public Service—Youth Activities

ELIGIBILITY: Public Service

NATIONAL OBJECTIVE: Area Benefit

CDBG APPROPRIATION: \$75,000.00

TYPE OF PROJECT: Public Service

PROJECT LOCATION: 1211 South 7th Street, Yakima, Washington, 98901
Henry Beauchamp Community Center

SPECIAL CONDITIONS: See Attachment #3: Special Conditions

TERMINATION DATE: December 31, 2021

CONTACT PERSON: Steve Mitchell

TITLE: Executive Director

MAILING ADDRESS: 815 Fruitvale Blvd., Yakima, Washington, 98902

LOCATION ADDRESS: Same as Mailing Address

PHONE/FAX NUMBER: (509) 248-6751/(509) 575-0482

EMAIL: s.m@yvoic.org

**PERSONS AUTHORIZED TO SIGN VOUCHER REIMBURSEMENT REQUEST AND
PROGRAM ACCOMPLISHMENTS FORM:**

NAME/TITLE: DEREJE ALEMENEH MEKURIA, CFO

SIGNATURE:



(optional) NAME/TITLE:

SIGNATURE:

ATTACHMENT #2
PROJECT BUDGET

PROJECT NO.: _____ TITLE: _____

OVERVIEW

Agency's activities occur generally at the Henry Beauchamp Community Center, a facility owned by the City of Yakima and located in Southeast Yakima.

Services provided under this Agreement will focus on youth, educational skills, job skills and opportunities for low to moderate income youth, most of whom come from the surrounding neighborhoods.

Therefore, costs for all HBCC programs, including those noted below, will be charged to funding sources in a manner that will maximize the utilization of available funds, which may change from time to time during the year. Thus, amounts to be charged to each program under this Agreement cannot be specifically identified at this time. However, the Agency will provide the programs stated below and the total costs charged to the City under this Agreement for those services will not exceed the City's authorized amount as reflected in Attachment #1.

SUMMARY OF PROGRAMS TO BE PROVIDED WITHIN CDBG GRANT:

- 1.** After school tutoring including literacy, math, and recreation for approximately 50 K-12 youth.
- 2.** Summer Enrichment Program serving approximately 50 K-12 youth.
- 3.** "100 Jobs for 100 Kids" which this summer will provide summer employment educational opportunities to approximately 50 high school-aged youth. Due to the COVID-19 pandemic these youth may, or may not, also be placed in summer employment opportunities. The focus this year, however, is on job skills and employment education.
- 4.** Computer Lab and STEM activities for approximately 50 K-12 youth.
- 5.** Community Garden activities for approximately 25 children and youth.
- 6.** Emergency Supplemental Services for approximately 100 youth which includes nutritional support for youth during the COVID-19 pandemic and slow re-opening of the Yakima community, and education and career enrichment through a summer bridge book system based on the participant's grade-level, with consideration given to learning deficiencies. Workbooks are assembled and include work on writing, math, STEM and literacy. These services will continue through the COVID-19 pandemic.

The Agency will submit quarterly or monthly performance information to the City along with its invoice to provide City with evidence that Agency is meeting its performance responsibilities under this Agreement.

ATTACHMENT #3
SPECIAL CONDITIONS

1. Resolution #_____. In accordance with the legislative intent of the City Council as expressed in its 2021 Annual Action Plan adopted by Resolution #_____, the Agency must:

Provide public services at the Henry Beauchamp Community Center: 1211 South 7th Street, Yakima, Washington, 98901. Planned activities include, but are not limited to (please see above and the project timeline below for a more detailed description of the services offered):

1. After school tutoring including literacy, math, and recreation for approximately 50 K-12 youth.
 2. Summer Enrichment Program serving approximately 50 K-12 youth.
 3. "100 Jobs for 100 Kids" which this summer will provide summer employment educational opportunities to approximately 50 high school-aged youth. Due to the COVID-19 pandemic these youth may, or may not, also be placed in summer employment opportunities. The focus this year, however, is on job skills and employment education.
 4. Computer Lab and STEM activities for approximately 50 K-12 youth.
 5. Community Garden activities for approximately 25 children and youth.
 6. Emergency Supplemental Services for approximately 100 youth which includes nutritional support for youth during the COVID-19 pandemic and slow re-opening of the Yakima community, and education and career enrichment through a summer bridge book system based on the participant's grade-level, with consideration given to learning deficiencies. Workbooks are assembled and include work on writing, math, STEM and literacy. These services will continue through the COVID-19 pandemic.
2. Timely Progression of Project. The Agency agrees that it will complete the above project in a timely manner, and comply with the timeline as set forth in Attachment #4, Project Time Line.
3. Limitations on Expenditures and Adjustments: In the event that the City receives less CDBG revenues than originally estimated in the CDBG budget ordinance, the Agency will receive a proportionately equal reduction in its appropriation relative to the total decrease in total CDBG revenues. The amount of CDBG funds available to the Agency is stipulated in the "Notice of Grant Award". If the amount of CDBG funds available to the agency is less than appropriated, then the City will notify the Agency in writing when additional CDBG funds become available.
4. Termination of the Contract. This Agreement between the City of Yakima and Opportunities Industrialization Center of Washington shall terminate on December 31, 2021. In accordance with the terms of the Agreement, all unspent CDBG funds at the time of termination shall lapse and return to the City of Yakima's CDBG fund.

5. Public Information. The stipulations of Section 13(B) of the Agreement regarding the erection of signs identifying the source of funds are hereby waived.

ATTACHMENT #4
PROGRAM TIMELINE

Part 1. Schedule by Task

<u>Milestones¹</u>	<u>Projected</u>
Enroll up to 50 youth in the After School Tutoring Program	Ongoing through December, 2021
Enroll up to 50 youth in the Summer Enrichment Program	Ongoing through approx. August, 2021
Enroll up to 50 youth in Employment/Education Program	Ongoing through December, 2021
Enroll up to 50 students in the Computer Lab/STEM Enrichment Program	Ongoing through approx. August, 2021
Enroll up to 25 students in the Community Garden Project	Ongoing through approx. October, 2021
Enroll approximately 100 youth in Emergency Supplemental Services	Ongoing through December, 2021

Part 2. Expenditure Rate

<u>Reimbursement Period</u>	<u>CDBG Funds Vouchered Projected</u>
1 st Period (07/01/21—09/30/21)	\$37,500.00
2 nd Period (10/01/21—12/31/21)	\$37,500.00

¹ It should be noted that the work going into these programs occurs on a year-round basis. The dates listed in this contract correspond with the contract's terms and the dates for which OIC can seek reimbursement for qualifying expenses.

ATTACHMENT #5
PROGRAM TIMELINE/PERFORMANCE MEASUREMENTS

All CDBG subrecipients must bill the City in order to access funds from their grant. The City advances funds to subrecipients in order to expedite payments and then requests a drawdown from HUD to reimburse the City fund. This is how HUD keeps track of our timely Expenditure Requirement and if you do not bill, the City cannot meet its drawdown requirement. Checks are available generally within 30 days from the date your payment is processed. Payment request forms will be customized to your specific activity.

1. Quarterly or monthly payment request forms record expenditures incurred by the organization for a given period.
2. Quarterly or monthly service unit reports the number of youth served in each project funded by this Agreement and other contract-established service units.
3. Agency shall provide a Demographic reports maintain data on direct beneficiaries who were assisted with the funds requested with each quarterly or monthly report. Payment requests that do not include a Demographic report will not be processed.

Reimbursement Schedule:

1. The Agency must submit a request for reimbursement at least once a quarter and may submit such a request on a monthly basis, beginning with the date of this Agreement, and applicable to all costs incurred toward this grant beginning July 1, 2021.
2. Failure to submit a request for reimbursement, at least quarterly, in accordance with Part 1, Section 5 of this Agreement may cause the City to consider the Program abandoned and the CDBG funds made available for re-appropriation. Continued failure to request reimbursement and submit required performance reports will cause the City to take corrective action as it deems necessary.
3. The City shall reimburse the Agency for its expenses to be paid under this Agreement within the thirty (30) days following the receipt of a complete Voucher Reimbursement Request.
4. Final payment at the termination of this Agreement shall be requested within 30 days of the termination of this Agreement.

Required Contents of Reimbursement Request:

1. Reimbursement requests shall include Agency name, address, contact information, accomplishment data, budget information, and client income verification; receipts providing proof of expenditures or other documentation supporting the request for reimbursement; and an indication or showing of how the Agency has progressed toward its goals as set forth in Attachment #4.
2. Failure to properly submit a reimbursement request, will result in non-payment.