

RESOLUTION NO. 2023-22

A Resolution authorizing the City Manager to enter into a subgrantee agreement with Yamhill Community Action Partnership for pre-construction and construction reimbursement for applicable expenses incurred between July 07, 2021, through June 30, 2023 for the ANYDOOR Place, a McMinnville Navigation Center.

RECITALS:

Whereas, the AnyDoor Place, a McMinnville Navigation Center, addresses the need for an emergency low barrier shelter and supportive services facility in McMinnville; and

Whereas, Yamhill Community Action Partnership will reimburse the City for applicable pre-construction and construction expenses for the ANYDOOR Place, a McMinnville Navigation Center; and

Whereas, Funding for this project is included in the adopted FY22 Affordable Housing Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

1. That entry into a subgrantee agreement contract with Yamhill Community Action Partnership for applicable pre-construction and construction reimbursements for the ANYDOOR Place, a McMinnville Navigation Center is hereby approved.
2. The City Manager is hereby authorized and directed to execute the Subgrantee Agreement per Exhibit A.
3. That this resolution shall take effect immediately upon passage and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 9th day of May 2023 by the following votes:

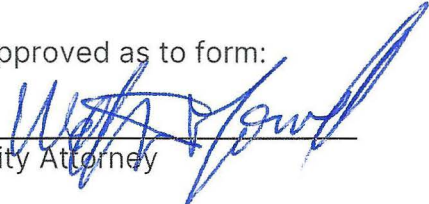
Ayes: Geary, Menke, Chenoweth, Peralta, Garvin

Nays: _____

Approved this 9th day of May 2023.

MAYOR

Approved as to form:



City Attorney

Attest:



City Recorder

EXHIBIT:

- A. Subgrantee Agreement for Reimbursement

Sub-Recipient Contract Agreement
Part 1. Signatures

The Agreement is between Yamhill Community Action Partnership, here in after referred to as “YCAP” and, City of McMinnville, hereinafter referred to as “SUBRECIPIENT”.

Term of Contract 07/01/2021 through 6/30/2023.

This Agreement consists of the following documents:

- Part 1. Signatures
- Part 2. Assurances, Terms and Conditions and Compliance Requirements

Subject to the terms of this agreement, funding availability, and any grant amount adjustments, YCAP will provide Oregon Housing and Community Services Department (OHCS) grant #7301 Grant Shelter Infrastructure and Operations Program – Navigation Centers funds up to \$500,000 to SUBRECIPIENT for architecture, design, pre-construction and construction costs. These funds are to be used by Subrecipient for pre-approved costs at the buildings located at 327 and 329 Adams St, McMinnville, OR 97128 hereinafter referred to as “Facility”, and to work in collaboration with YCAP’s housing stabilization program in a manner satisfactory to OHCS and in compliance with all program requirements. The provided funds are the maximum amount which the Subrecipient may use for the listed purposes. The capital expenditure related to this Agreement will be owned by YCAP per the terms of the Navigation Center Construction and Operations Agreement dated May 25, 2022.

Subrecipient shall perform in a satisfactory manner all activities in accordance with the approved specifications, budgets, and other terms and conditions of this Agreement. In addition, Subrecipient agrees to comply with applicable portions of Grant Agreement #7301 between YCAP and OHCS.

Subrecipient, by signature below of the authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

Yamhill Community Action Partnership

City of McMinnville

Alexandra Hendgen, Executive Director

Date

Date

Part 2: Assurances, Terms, Conditions and Compliance Requirements

This Agreement contains all the terms and conditions agreed upon by both parties. Services provided hereunder, and the performance of this agreement are made a part of this document as though fully set forth. Services must be delivered efficiently, effectively and within various program plan timelines.

1.) Funds will be distributed as follows:

Subrecipient will submit requests for reimbursement of approved architecture, design, pre-construction and construction costs through a mutually agreeable process and format. All fund distributions must be supported by documentation satisfactory to YCAP, including properly executed invoices, contracts, vouchers, orders, checks, and other accounting documents. Approved reimbursement requests will be paid within thirty (30) calendar days upon receipt of reimbursement request and all back up documentation. If Subrecipient does not use funds for the purposes described hereunder, Subrecipient shall pay back all of the grant funds to YCAP. Any funds disbursed to Subrecipient, but not used for the approved purposes must be returned.

2.) In the event that both parties agree that YCAP will incur any of these expenses directly, that portion of the compensation will be no longer be available for the Subrecipient. Any surplus and/or unused funds will be administered by YCAP in its sole discretion and as required under the grant. Grant expenses are only applicable to those incurred during the term of the contract. YCAP will have no further liability to disburse grant funds, pay for services directly, or reimburse expenses incurred after June 30, 2023.

3.) YCAP or OHCS, including its authorized representatives and authorized third parties may monitor the activities and records of Subrecipient. Subrecipient shall provide access to such records and provide additional reports as needed and requested by YCAP. Subrecipient will retain all records of this program for six (6) years.

4.) Subrecipient will inform YCAP of any changes to schedule or provision of services in advance. Any and all changes to schedule or provision of services funded through this agreement shall be agreed to by the parties. Information updates should be sent to YCAP's Executive Director (AlexandraH@yamhillcap.org) and Jenn Sharp (sledshedconsulting@outlook.com). All costs must be preapproved by YCAP's Executive Director (AlexandraH@yamhillcap.org).

5.) YCAP will not be obligated or liable for payment under this contract to any party other than Subrecipient unless agreed to by YCAP in writing. This contract will automatically terminate on the last day of the contract period. No payments will be made under this contract for good/services purchased outside the contract period. No reimbursements will be made for ineligible payments. Ineligible payments include those outside of the

items listed, at amounts listed, in attached budget or costs lacking backup documentation. Reimbursement submissions should be submitted in one submission to YCAP on or before the 10th of every month for reimbursement for the prior month's expenses.

- 6.) YCAP and Subrecipient may, without cause, by written notice, suspend activities or terminate this contract under any of the following conditions:
- A. By mutual consent of the parties, or by either party upon (30) calendar days written notice and delivered by certified mail or in person;
 - B. Notwithstanding the foregoing, YCAP may terminate this contract effective immediately upon delivery of written notice to Subrecipient or at such later date as may be established by YCAP, under the following conditions:
 - a. If YCAP funding from federal, state, or other sources is not obtained or not continued at levels sufficient to allow for purchase of the indicated quality and quantity of services. When possible, and if agreed upon by the parties, this contract may be modified to accommodate a reduction in funds.
 - b. If federal or state regulations or guidelines are modified or changed in such a way that the services are no longer allowable or appropriate for purchase under this contract.
 - c. If any time, including during the course of a program review, monitoring or review, it is determined that services or financial records have been falsified.
 - d. If Subrecipient fails within ten (10) calendar days of receiving written notice to meet any terms of this contract.
 - e. If Subrecipient fails to pursue the services to be performed under this contract so as to endanger performance of this contract in accordance with its terms and after receipt of written notice from YCAP or fails to correct such performance within ten (10) calendar days or such longer period as YCAP may authorize.
 - f. If Subrecipient fails within ten (10) calendar days or receiving written notice, to cooperate and participate in monitoring by YCAP or the Oregon Housing and Community Services (OHCS).
 - g. If Subrecipient fails within ten (10) calendar days or such other time agreed to by Subrecipient and YCAP, of receiving written notice, to affect any corrective actions required by YCAP arising from audit or monitoring funds or failure to meet performance.
 - C. The rights and remedies of YCAP provided in the above clause related to defaults (including breach of contract) by Subrecipient shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.
- 7.) Subrecipient shall use and maintain accounting policies, practices and procedures, which are consistent with generally accepted accounting principles, and in accordance with all applicable state and federal requirements. Subrecipient shall ensure that YCAP or their

designated agent, with reasonable notice, has access to all records related to operation of the facility that are necessary for audit, monitoring or other investigations.

- 8.) Subrecipient, if subject under the Oregon Worker's Compensation Law, will comply with ORS 656.017, which requires them to provide Worker's Compensation coverage that satisfies Oregon Law for all their subject workers.
- 9.) Subrecipient shall work as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this agreement including, but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.
- 10.) Subrecipient shall defend, save, hold harmless, and indemnify YCAP, the State of Oregon and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorney's fees (collectively, "claims"), resulting from, arising out of, or relating to the activities of Subrecipient or its officers, employees, subcontractors, agents, or subrecipients under this agreement, limited as required under Oregon law, if applicable, including the Oregon Tort Claims Act and the Oregon Constitution. Neither Subrecipient nor any attorney engaged by recipient may defend any claim in the name of YCAP or the State of Oregon (including any agency of the State of Oregon), nor purport to act as legal representation for the State of Oregon, without first receiving from the Oregon Attorney General, authority to act as legal counsel for the State of Oregon, nor may subrecipient settle any claim on behalf of the State of Oregon without the approval of the Oregon Attorney General. If the State of Oregon assumes its own defense, subrecipient will be liable for the attorney fees of the State of Oregon, including but not limited to any fees charges by The Oregon Department of Justice. Subrecipient may not use any grant funds to reimburse itself for the defense of or settlement of any claim.
- 11.) Subrecipient agrees at Subrecipient's own expense to maintain during the term of this Contract general liability insurance in a company authorize to do business in Oregon satisfactory to YCAP (which approval will not be unreasonably withheld) with combined single limit of not less than One Million Dollars (\$1,000,000) for personal injury or death, and One Million Dollars (\$1,000,000) for property damage, and that YCAP will be one of the parties insured thereunder. The policy shall contain a written endorsement which shall name YCAP as an additional insured under the policy. Such insurance shall cover all risks arising directly or indirectly out of the Subrecipient's activities at the facility, whether or not related to an occurrence caused by YCAP. Subrecipient shall provide certificates evidencing such insurance and bearing additional insured endorsement and endorsements requiring ten (10) days written notice to YCAP and any mortgagee prior to Subrecipient's occupancy of the property, to evidence renewals of the insurance. The amount of the limits of insurance set forth above shall be periodically increased by Subrecipient to reflect commercially reasonable rates for such insurance amounts.

- 12.) Subrecipient will not discriminate against, nor deny employment or services to any person on the grounds of race, color, religion, gender, familial status, marital status, sexual orientation, gender identity, source of income, sex, national origin, age, disability, citizenship, or political affiliation or belief. Subrecipient shall comply with all state and federal statutes relation to nondiscrimination.
- 13.) Subrecipient acknowledges that personally identifiable information is protected by federal laws. If Subrecipient collects any personally identifiable information of clients and/or applicants, it shall provide a privacy notification in writing to such client and/or applicant, and it shall follow state and federal laws for the collection, use, and sharing of such applicant/client information. In addition, Subrecipient shall protect the confidentiality of all information as required by law concerning applicants for and recipients of services funded by this agreement and shall not release or disclose any information except as directly connected with the administration of the particular program(s) or as authorized in writing by the applicant or recipient. All records and files shall be appropriately secured to prevent access by unauthorized persons, including but not limited to: (1) keeping computer terminals in a secure location and limiting access to those persons who have a legitimate interest in and are responsible for client records; (2) clearing monitors immediately after accessing client records; (3) locking or turning off terminals when they are unattended; and (4) ensuring that personally identifiable data only be given to authorized personnel as necessary for performing the work hereunder. Subrecipient shall ensure that all officers, employees and agents are aware of and comply with this confidentiality requirement.
- 14.) Subrecipient is solely liable for any failure or costs from Subrecipient's failure to meet any of the requirements of this contract.
- 15.) Subrecipient ensures that no activity under this contract will promote political or religious activities. No employees under this contract will be selected or promoted based on political or religious beliefs or affiliation.
- 16.) YCAP assumes no liability with respect to bodily injury, illness or any other damage or losses or with respect to any claims arising out of any activity under this contract unless otherwise specified. YCAP assumes no liability to third parties for any of Subrecipient's acts or omissions.
- 17.) YCAP and Subrecipient are the only parties to this agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to third persons unless such third persons are expressly identified by name and specifically described as intended to be beneficiaries of its terms. The State of Oregon is hereby expressly identified as an intended beneficiary.

- 18.) YCAP and Subrecipient hereto agree that if any term or provision of this agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.
- 19.) The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.
- 20.) Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Yamhill County. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
- 21.) This agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this agreement so executed shall constitute an original.
- 22.) 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 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. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision.
- 23.) Except as provided elsewhere herein, neither party will be liable for incidental, consequential or other direct damages arising out of or related to this agreement, regardless of whether the damages or other liability is based in contract, tort (including negligence), strict liability, product liability or otherwise. Neither party will be liable for any damages or any sort arising solely from the termination of this agreement in accordance with its terms.
- 24.) Subrecipient may not assign or transfer its interest in this agreement without the prior written consent of YCAP and any attempt by Subrecipient to assign or transfer its interest in this agreement without such consent will be void and of no force or effect. YCAP's consent to Subrecipient's assignment or transfer of its interest in this agreement will not relieve Subrecipient of any of its duties or obligations under this agreement. The provisions of this agreement will be binding upon and inure to the benefit of the parties hereto, and their respective successors and permitted assigns.

- 25.) Time is of the essence in Subrecipient's performance of the activities under this agreement.
- 26.) Each party agrees to protect the confidential and sensitive information it receives from any other signatory in accordance with applicable law, rule, and policy, and hold all information not verified or received as public information with the presumption that it is confidential or otherwise sensitive.
- 27.) If an action is instituted to enforce or interpret any term of this agreement, the prevailing party will recover from the losing party reasonable attorney fees and court costs incurred in the action as set by the trial court or arbitrators, as the case may be, and, in the event of appeal, as set by the appellate courts.
- 28.) Subrecipient certifies and represents that the individual(s) signing this agreement has been authorized to enter into and execute this agreement on behalf of Subrecipient, under the direction or approval of its governing body, commission, board, officers, members, or representatives, and to legally bind Subrecipient and shall provide proof of such authority upon request.