

NeighborImpact Heat Pump Grant Program – Project Agreement

This Agreement, made [Date] between [HOMEOWNER], hereinafter referred to as “Owner” and [CONTRACTOR], hereinafter referred to as “Contractor” and NeighborImpact, hereinafter referred to as “NI.”

WITNESSETH: That NI, Owner and Contractor, for consideration stated herein, mutually agree as follows:

- 1. Scope of Work.** The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, fixtures and services, including transportation services, and perform and complete all work required for rehabilitation in an efficient and workmanlike manner, of the Property described as follows:

[PROPERTY ADDRESS]

- 2. Contract Documents.** The Contract Documents shall consist of this Agreement, and the Contractor Bid and Scope of Work (Exhibit A), the Heat Pump Grant Program Requirements (Exhibit B), and the Contractor Acknowledgment (Exhibit C) which are incorporated herein by reference and are as much a part of this agreement as if set out fully herein.
- 3. Project Cost.** Parties agree on a project cost of [\$XX,XXX], which is further described within Exhibit A.
- 4. Heat Pump Project Specifications:** Contractor certifies that the Project Scope of Work as defined within Exhibit A complies fully with the Heat Pump Grant Program Requirements as defined within Exhibit B.
- 5. Compliance with Acts Relating to Construction.** Where applicable, the Contractor shall comply with the relevant provisions of the following Acts in the performance of its obligations under this Agreement:
 - a. The Davis Bacon Act as amended, 40 USC ' 276A to 276A-5; 42 USC Section 5310;
 - b. The Contract Work Hours and Safety Standards Act, 40 USC ' 327-333;
 - c. The Copeland Anti-Racketeering Act; and
 - d. All other applicable state and federal laws and regulations relating to construction contracts utilizing Community Development Grant Funds.
- 6. Project Grant:** NI will provide a Community Heat Pump grant in the amount of [\$X,XXX] to offset the cost of the repair and/or installation of a heat pump in Homeowner’s place of residence. NI will provide the full grant payment to the Heat Pump Contractor upon the Contractor’s completion of the project, as defined within Section 8 of this Agreement.

NI will have no financial obligations beyond the Community Heat Pump Grant funds. The Homeowner is responsible for paying all Heat Pump installation costs and/or related project costs above and beyond the Community Heat Pump grant amount awarded under this

Agreement.

- 7. Owner Payment:** Owner agrees to pay Contractor the total remaining balance of the project above and beyond the Community Heat Pump grant amount awarded by NI under this Agreement and further defined within Section 6.

Owner may withhold all or a portion of the final payment in an amount reasonably calculated to protect the Owner on account of (a) defective work not remedied; (b) claims filed or a reasonable basis to believe that claims will be filed; (c) failure of the Contractor to properly make payments for labor, materials, equipment or subcontracts; or (d) Contractor's significant failure to perform in accordance with this Contract.

Contractor is solely responsible for making timely payment to all subcontractors and suppliers arising out of or related to the Work.

- 8. Project Completion and Contractor Payment.** The Project Grant amount will be paid by NI to Contractor upon the following conditions:
- a. Contractor completion of the project Scope of Work, as defined within this Agreement.
 - b. Contractor issuance of an invoice or pay request to NeighborImpact, up to the Project Grant amount defined within Section 6.
 - c. Contractor submission of the approved County permit and inspection report.
 - d. Owner acceptance and approval of the project, through submission of a signed Certification and Acceptance of Improvements form to NI.
 - e. NI determination that the installed or repaired Heat Pump complies with the Heat Pump Grant Program Requirements as described in Exhibit B. NeighborImpact reserves the right to inspect the installed and/or repaired unit to verify that the project is complete, functioning properly, and that the project meets the Heat Pump Grant Program Requirements.
- 9. Liens.** The Contractor shall permit no lien or claim to be filed or prosecuted on any amount of labor or materials furnished to the Project under the scope of the Contract Documents.

Final payment shall not be due until the Contractor has delivered to the Owner evidence of complete releases of all liens for work completed arising out of Contractor's performance or a receipt in full covering all labor and materials for which a lien could be filed or a bond satisfactory to the Owner indemnifying him against any lien.

If any lien remains unsatisfied after final Contract payment is made, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

- 10. Change Orders.** Owner and Contractor expressly agree that no material changes or alterations in the scope of work, project completion date or price provided above shall be made unless in writing and mutually agreed to by both parties and authorized by NI.

If the Contractor is delayed at any time in the progress of the work by any act or neglect of the Owner or NI, or of any employee of either, or by any separate Contractor employed by the

Owner, or by changes ordered in the work, or by labor disputes, fire, unavoidable casualties or any cause beyond the Contractor's control, or by delay authorized by NI pending mediation or arbitration, or by any other cause which NI shall decide justifies the delay, the time of completion shall be extended for such reasonable time as NI may determine.

A written request for an extension must be made by Contractor to NI seven (7) days prior to the contracted completion date. The foregoing does not exclude the recovery of damages for delay by either Party under the provisions in the Contract Documents.

- 11. Permits and Codes.** Contractor agrees to secure and pay for all necessary permits and licenses required for Contractor's performance and to adhere to applicable local codes and requirements whether or not covered by the specifications and drawings for the work, including any Contractor registration requirements.

Permits and licenses necessary for the alteration of residential structures shall be secured and paid for by the Contractor prior to beginning work. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the Contractor observes that the Construction Specifications are at variance therewith, he shall promptly notify NI in writing and any necessary changes shall be as provided in the Contract for changes in work. If the Contractor performs any work contrary to such laws, ordinances, rules and regulations and without such notice to NI, he shall bear all costs arising there from. It is the responsibility of the Contractor to request and obtain all required inspections. Upon completion of the work, the Contractor shall furnish evidence of approval of inspections required from the applicable City or County Building Department, before requesting final payment.

- 12. Lead-Based Hazards.** The Contractor will coordinate all lead hazard activities with the lead risk assessor and/or inspector that works for or has been approved by Owner and NI. Projects that are regulated by the Residential Lead-Based Paint Hazard Reduction Act of 1992 and applicable federal law and regulations, and for which lead-hazards have been identified by a lead risk assessment will require lead safe work practices for all or part of the project. On such projects, or parts of projects, where interim lead hazard controls are to be conducted, only workers trained in accordance with federal law are permitted to perform the work; and, such workers are required to implement lead safe work practices as prescribed by 24 CFR 35.1335, "Standard treatments;" and 24 CFR 35.1345, "Occupant protection and work-site preparation."

Occupants and workers who have not personally taken the State certified lead safe work practices or equivalent certified training, shall not be permitted to enter the work-site area(s) that have been identified as lead hazardous, and which have been contained for safe work purposes. Only after the lead related work has been completed and certified clearance has been achieved will occupants or untrained personnel be permitted into such containment areas. Clearance examinations must be performed by State certified personnel who either work for or have been approved by NI.

Unless the Project is exempt from lead-based paint regulations as per 24 CFR 35.115, the Contractor's Proposal shall include all costs of interim control related work and lead safe work practices activities. However, costs for clearance examinations (risk assessor's time and materials, shipping and lab testing) are not part of the Contract amount.

- 13. Cleaning Up.** The Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by work of employees or subcontractors, and at the completion of work, he/she shall remove all his/her debris, tools, scaffolding and surplus materials from and about the building and shall have his/her work "broom clean" or its equivalent. In case of dispute, the Owner may remove the rubbish and charge the Contractor in whatever the amount NI determined to be reasonable.
- 14. Non-Discrimination.** During the performance of the Contract, the Contractor agrees as follows: The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, or any other legally protected status. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to race, creed, color, sex, national origin, or any other legally protected status. Such actions shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and for selection for training, including apprenticeship.
- 15. Hold Harmless.** Contractor shall agree to defend, indemnify, and hold harmless the Owner and NI, an Oregon Nonprofit Corporation, from liability and claim for damages because of bodily injury, death, property damage, sickness, disease or loss and expense arising from Contractor's performance under this agreement to install or construct housing rehabilitation to be paid for out of the proceeds of the Owner's Rehabilitation loan. Contractor is acting in the capacity of an independent contractor with respect to the Owner.
- 16. Subcontractors.** Contractor agrees that all the warranties contained herein shall apply to all work performed under the Contract, including that performed by any Subcontractors.
- 17. Owner Responsibilities.** The Owner agrees by acceptance of this Contract to:
- a. Permit the Contractor to use, at no cost, existing utilities, such as lights, heat, power and water necessary to carry out the completion of the work.
 - b. Cooperate with the Contractor to facilitate the performance of the work, including the removal of and replacement of rugs, window coverings, furniture, and personal belongings as may be necessary. Owner shall remove such items from home or construction area which will inhibit performance by the Contractor. If such items cannot be removed by Owner, the cost for removal of such items by Contractor should be negotiated prior to the beginning of construction and shall be included in the Construction Specifications or any revision thereto.
 - c. Owner must provide Contractor with reasonable access to the home and Owner must provide Contractor with notice, prior to the commencement of the project, if Owner will be away from the Property for any time period longer than two (2) days. Continuous access by Contractor during standard business hours is expected throughout the duration of the project. In the event of Owner absence for any time period lasting longer than two days, Owner is responsible for ensuring alternate arrangements are made for access.
- 18. Resolution of Disputes.** NI, the Owner and the Contractor expressly agree to settle any dispute pertaining to the Contract work or documents by the following procedure:

- a. Owner, Contractor, and NIt agree that any controversy or claim arising out of or relating to the Construction Contract and the incorporated documents, whether acts of commission or omission, and including, without limitation, the making, performance, or interpretation of the Construction Contract and the incorporated documents shall be settled by the following process: If the dispute involves the Owner and the Contractor, NI Community Development Director will mediate the dispute. If mediation to the satisfaction of the Owner and the Contractor is not achieved, the NI Executive Director will review the case. The Owner and/or Contractor must make a written request to the Executive Director within six months of last payment to the Contractor. The Executive Director will issue a decision within thirty (30) days of receipt of the request for the review. If the decision of the Executive Director is not acceptable to the Owner or the Contractor, then the case must be submitted for final ruling to the Construction Contractor's Board using their dispute resolution process.
- b. Nothing herein shall prevent a part from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate. Any claims must be commenced within one year of the date of the last payment to the Contractor.
- c. The Community Development Director contact information is:

NeighborImpact
20310 Empire Avenue, Suite A
Bend, OR 97703
(541) 323-6508

Executive Director contact information is:

NeighborImpact
2303 SW First Street
Redmond, OR 97756
(541) 548-2380

19. Prohibition of Kickbacks. The Contractor nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest has in any way colluded, conspired, connived or agreed, directly or indirectly with any other bidder, firm or person to submit a collusive or sham bid in connection with the Contractor for which the attached bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm, or person to fix any overhead, profit or cost element of the bid price or the bid price of any other bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement, any advantage against the Owner, NI, or any person interested in the proposed Contract.

The price or prices quoted are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

20. Warranties. Contractor affirms that he will file evidence of comprehensive public liability and

Worker's Compensation Insurance with NI, upon request. Contractor affirms that contractor is currently registered as a construction contractor by the Construction Contractors Board, and that any subcontractors doing work will be currently registered by the Construction Contractors Board.

Contractor warrants and represents to Owner the following: (1) Contractor does not have any active exclusions on the System for Award Management, <https://www.sam.gov/>, in accordance with E.O.'s 12549 and 12689, "Debarment and Suspension;" (2) Contractor is not listed in the State Oregon Bureau of Labor and Industries Ineligible Contractor's list; (3) Contractor is not listed on the list titled "Specially Designated Nationals and Blocked Person" maintained by the Office of Foreign Assets Control of the United States Department of Treasury; (4) the work, materials and equipment furnished under this Contract will be of new and of good quality; (5) the work and materials will be free of defects and will conform in all respects to the requirements of the Contract and Schedule A; (6) the Work will be performed in accordance with accepted standards for projects of similar scope in the area where the Property is located; and (7) the prices Contractor charges for services performed under this Contract are not in excess of the prices charged by Contractor to other clients for similar services under similar circumstances. Contractor shall promptly correct, at no additional cost to Owner, work reasonably rejected by Owner as failing to comply with the scope of work or specifications.

- 21. Acknowledgment.** The above warranties are in addition to, and not in limitation of, any and all other rights and remedies to which the Owner, or subsequent owners, may be entitled, at law or in equity, and shall survive the conveyance of title, delivery of possession of the property, or other final settlement made by the Owner and shall be binding on the undersigned and respective heirs, successors, or personal representatives, notwithstanding any provision to the contrary contained in any instrument previously executed by the Owner.
- 22. Venue.** Any action or proceeding arising out of this Contract will be litigated in courts located in Deschutes County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Deschutes County, Oregon.
- 23. Waiver.** No waiver will be binding on a party unless it is in writing and signed by the party making the waiver. A party's waiver of a breach of a provision of this Contract will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision
- 24. Severability.** If a provision of this Contract is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Contract will not be impaired.
- 25. Survival and Exhibits.** All provisions of this Contract that would reasonably be expected to survive the termination of this Contract will do so. The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Contract. Any exhibits, schedules, and other attachments referenced in this Contract are part of this Contract.
- 26. Attorney's Fees.** If any arbitration or litigation is instituted to interpret, enforce, or rescind this Contract, including but not limited to any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees

and other fees, costs, and expenses of every kind, including but not limited to the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.

27. Integration. This Contract contains the entire understanding of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Contract.

28. Counterparts. This contract may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same contract.

29. Entire Contract. This Contract, together with the other documents enumerated herein which are fully a part of this Contract as herein repeated, forms the entire Contract between the parties hereto.

This agreement entered into as of the day and year first written above.

**[CONTRACTOR NAME
& ADDRESS]
PHONE
CCB# [CONTRACTOR CCB#]**

Contractor's Signature DATE

[HOMEOWNER NAME] - Owner

Owner's Signature DATE

Owner's Signature DATE

NeighborImpact

NeighborImpact Representative DATE