

COMMUNITY IN ACTION, INC.
Residential Rehabilitation Program
GENERAL CONDITIONS,
and
PERFORMANCE REQUIREMENTS
FOR
REHABILITATION CONSTRUCTION CONTRACTS
(August 24, 2012)

Signature below acknowledges receipt of the above referenced document.

Contractor

Date

Business Name

Homeowner

Date

Homeowner

Date

PLEASE RETURN THIS FORM WITH YOUR BID FORM

COMMUNITY IN ACTION, INC. RESIDENTIAL REHABILITATION PROGRAM

**GENERAL CONDITIONS AND PERFORMANCE REQUIREMENTS FOR
REHABILITATION CONSTRUCTION CONTRACTS**

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COMMUNITY IN ACTION, INC. RESIDENTIAL REHAB PROGRAM

General Conditions and Performance Requirements for Rehabilitation Construction Contracts.

1 Definitions.

These provisions form a part of each contract for residential rehabilitation, and are as much a part of the Contract as any other provision of Contract Documents. The term "Contractor" refers to the Contractor named in the Contract Documents. The term "Owner" or "Homeowner" refers to the Owner of the property to be rehabilitated. The term "CinA" refers to Community In Action, Inc, an Oregon Non-Profit Corporation.

The Contract Documents include: the Contract; Scope of Work/Specifications (the scope of work includes the cumulative work specified in both the Contractor's written proposal and specifications, any attachments or addenda, the request for proposal packet including any instructions to contractor), and these General Conditions.

2 Execution.

The agreement shall be signed in duplicate by the Owner and the Contractor.

3 Scope of Work, Specifications, Drawings, Contractor Site Inspection, Concealed Conditions.

The scope of work ("SOW") includes the cumulative work and specifications contained in the Contractor's or subcontractor's written proposal, architectural and/or engineer drawings; and production descriptions and/or specifications accepted by CinA- all as referenced in one or more of the construction documents. All work shall be executed in conformity with the scope of work and specifications as set forth in the Contract Documents. If any contradictions exist between the Contractor's proposal and the SOW, the SOW will take precedence unless the Contractor can demonstrate a greater benefit to the Owner and to the integrity of the project by using the alternative specification.

Contractors are responsible for thoroughly studying and understanding any and all drawings, specifications, and other Contract documents. Prior to submitting a proposal or signing the Contract, the Contractor shall check and verify all field measurements. Contractors are responsible for making all necessary site visits to make themselves fully aware of existing conditions. Contractors are responsible for understanding all requirements of the work, and whether there are any restrictions or difficulties which might affect their performance of the terms of the Contract. Contractors shall be responsible for addressing factors such as seasonal weather patterns and existing site conditions. Contractors shall be responsible for assessing the need for repairing or replacing surfaces or building components that are adjacent to the work performed and which would need to be disturbed in order to accomplish a task (e.g., repairing or replacing siding, interior wall surfaces or structural members when removing and replacing doors or windows). Such foreseeable work and expenses shall be included in the Contractor's proposal. Failure to do so cannot be used as the basis or reason for non-performance once the Contract is in effect.

If, during the course of the work, subsurface or concealed conditions are discovered which differ materially from the scope of work previously defined, and the remediation of which would necessitate a change in the contract sum, the Contractor shall promptly inform the Owner and CinA prior to disturbing such conditions. CinA will promptly investigate such conditions and make a recommendation as to whether a contract change order is warranted.

The Owner shall select all styles, models, colors, and make other aesthetic choices of their concern. Such choices must be within the eligible expenditures as listed in the program's administrative policy and as permitted by federal regulations. It is the Contractor's responsibility to fully appreciate these concerns within the scope of their proposal. Trade names used are designed to establish quality desired. Before any substitutions are made, the written consent of the Owner and CinA must be obtained.

4 Protection of Employees, Work and Property.

The Contractor shall protect all his/her work and the Owner's property from injury or loss arising in connection with the Contract. The Contractor shall make good any such damage, injury or loss, unless caused by the Owner, or due to a cause beyond the Contractor's control. The Contractor shall adequately protect adjacent property as provided by the law and the Contract Documents.

The Contractor shall take any necessary precautions for the safety of employees on the job site, and shall comply with all applicable provisions of Federal and State safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed. He/She shall erect and properly maintain at all times necessary safeguards for the protection of workmen and the public.

The Contractor shall maintain such insurance as will protect him/her from claims under Workman's Compensation Acts and any other employee benefit acts; from claims for damages because of bodily injury, including death, to his/her employees and all others; and from claims for damages to property any or all of which may arise out of or result from the Contractor's operation under the Contract, whether such operations be by himself/herself or by any subcontractor or anyone directly or indirectly employed by either of them. This insurance shall be written for not less than the limits of liability specified as part of the Contract, if such specification is included. Certificates of such insurance shall be available upon request to the Owner and CinA.

In an emergency involving personal injury or damage to contract work, the Contractor, without special instruction or authorization from Owner or CinA is hereby permitted to act at the Contractor's discretion to prevent such personal injury or damage. Any compensation claimed by the Contractor on account of such emergency shall be determined by arbitration, as provided by both the Owner and CinA.

Unless otherwise provided, the Owner shall purchase and maintain fire insurance with extended coverage upon the entire structure on which the work of Contract is to be done to 100% of the insurable value thereof, including items of labor and materials connected therewith whether in or adjacent to the structure insured, plus materials, shanties, protective fences, bridges, temporary structures, miscellaneous materials and supplies incidental to the work, and such scaffolding, staging, towers, forms and equipment as are not owned or rented by the Contractor, the cost of which is included in the cost of work.

Certificates of such insurance shall be made available to the Contractor, if he so requires. If the Owner fails to purchase or maintain insurance as above and so notifies the Contractor, the Contractor may insure his own interests and that of the subcontractors and charge the cost thereof to the Owner. If the Contractor is damaged by failure of the Owner to maintain such insurance or so to notify the Contractor he may recover as stipulated in the Contract for recovery of damages.

The Owner shall be responsible for and at his option may insure against loss or use of his existing property, due to fire or otherwise, however caused. If required in writing by any party in interest, the Owner as Trustee shall, upon the occurrence of loss, given bond for the proper performance of his duties. He shall deposit any money received from insurance in an account separate from all his other funds and shall distribute it in accordance with such agreement as the parties in interest may reach, or under an award of arbitrators appointed, one by the Owner, another by joint action of the other parties in interest, all other procedure being as provided elsewhere in the Contract for arbitration. If after loss no compromising agreement is made, replacement of injured work shall be ordered and executed as provided for changes in the work.

The Trustee shall have the power to adjust and settle any loss with the insurers unless one of the Contractors or subcontractors interested shall object in writing within three (3) working days of the occurrence of loss, and thereupon arbitrators shall be chosen as above. The Trustee shall in that case make settlement with the insurers in accordance with the directions of such arbitrators, who shall also, if distribution by arbitration is required, direct such distribution.

The Contractor shall take reasonable precautions to protect project work, materials, equipment, tools and supplies from damage, loss or theft. The Contractor shall take reasonable precautions for the prevention of injury or accident and shall comply with applicable laws, ordinances, rules and regulations for the safety of persons on, about or adjacent to the project site including: employees, subcontractors, other workers and personnel performing work or inspections, occupants of the project dwelling or visitors to the project site.

Contractor shall confine his apparatus, the storage of materials, and the operations of his/her work to limits indicated by law, ordinances, permits or directions of Owner or CinA, and shall not unreasonably encumber the premises with his/her materials. The Contractor shall not structurally load or permit any part of the structure to be loaded with a weight that will endanger its safety.

Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by the work. At the conclusion of each workday the Contractor shall perform a clean-up and safety inspection of the work-site, and shall correct, cover, barricade or contain all hazards. Upon completion of the work, the Contractor is responsible for the clean-up and removal of all construction debris generated as a result of the work. The site will be left broom clean" or its equivalent unless more stringent requirements are required (e.g., Lead hazard clearance examinations).

Where the building that is to be rehabilitated is occupied, Contractors shall make allowances in their proposal for whatever inconvenience is incurred, (i.e., working around furniture, adjusting work hours to accommodate Owner's daily routine, etc.). The Contractor shall cover all carpets and furniture in the work area. Passageways and hallways shall be kept clear of debris, lumber or equipment. The Contractor shall ensure that appropriate barriers are erected to contain dust and debris generated by the workers. Bulk materials may not be stored inside the building without the Owner's permission.

Where exterior work is to be done, Contractor shall take care to prevent damage to landscaping, adjacent planters, stoops, patios, or areas of the building not receiving work. Debris and waste (including paint chips) will be removed from the project area as a part of clean up.

Contractor shall do all cutting, fitting or patching of his/her work that may be required to make its several parts come together and properly fit in order for it to receive or be received by work or other contractors as may be necessary for the completion of the project. Any cost caused by defective or ill-timed work shall be borne by the party responsible, as determined by CinA. Contractor shall not endanger, cut or alter the work of any other Contractor save with the consent of Owner and CinA.

Demolition of all parts to be removed shall be done in a safe, orderly manner taking care to avoid damage to parts which are to be left in place. Any damage resulting from the work shall be replaced or repaired at no additional cost to the Owner.

The Owner will make reasonable efforts to move furniture and rugs to create clear working space for the Contractor. Owner must allow the Contractor reasonable use of water and electricity.

5 Assignment.

Neither party to the Contract shall assign the Contract or sublet it as a whole without consent of the other, and CinA. Nor shall the Contractor assign any monies due or to come to him hereunder without the previous written consent of the Owner and CinA.

6 Bids

CinA encourages the letting of rehabilitation contracts on a competitive bid basis. Each bid must be based on all work called for in the applicable Drawings and Specifications. Each Bidder must include in the bid all the various branches or categories of work covered in these provisions. Each bid must be submitted on a form provided by CinA, if made available. The Owner has the right to reject any and all bids. CinA recommends that the Owner solicit at least three bids from qualified contractors. CinA encourages selection of low bid. However, final contractor selection is the Owner's prerogative, subject to CinA's right to disallow a given contractor or any particular bid.

Prospective Contractors are instructed to visit the site where the work is to be undertaken and to make themselves fully aware of the existing conditions. They should determine what the job involves, and whether there are any restrictions or difficulties, which might affect their performance under the terms of the Contract. Prospective Contractors should thoroughly study and understand the Rehabilitation Construction Specifications and Drawings, if any, and other Contract Documents. Failure to do these things cannot be used as an excuse or reason for non-performance once the Contract is executed.

The submission of a Price shall be evidence of a Contractor's having acquainted himself with the job site and his willingness to conform to all code and project requirements without additional compensation.

Contractors shall base their estimates on work to be undertaken only as indicated on the Rehabilitation Construction Specifications and Drawings. However, they shall assume certain related responsibilities regarding adjustments to surrounding work during the normal process of construction

improvements and repairs.

Any erasure, strikeover or other noticeable change in the form of working in the bid must be initialed by the Bidder or explained over Bidder's signature.

Each bid must be based on all work called for in the applicable Construction Specification and Drawings, if any. Each Bidder must include in the bid all the various branches or categories of work covered in these provisions. The Owner has the right to reject any and all bids.

7 Codes.

All work and materials must comply with the current State of Oregon Residential Specialty Code. In the event the State Historic Office considers a housing unit to be rehabilitated eligible for inclusion in the National Registry for Historic Places, then any and all repairs or alterations will conform to State Historic Guideline Rulings.

8 Permits, Inspections.

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 CinA 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 CinA, 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.

9 Registration, Bonding, Liability.

Each Contractor must be registered with the Oregon State Construction Contractors' Board ("CCB"), bonded and carry adequate liability insurance for damages and accidents that may result from the performance of the work in connection with this Contract, except persons acting as self-contractor, who may not be required to be registered. The Contractor must hold harmless and indemnify the Owner, CinA, and the City of Vale against any and all damages, injury or accidents which occur in connection with the performance of this contract or as a result of the storage of Contract materials on the Property.

10 Changes in Contract.

The Owner, without invalidating the Contract, may, with prior written consent of CinA, order extra work or make changes by altering, adding to or deducting from the work, the Contract Sum being adjusted accordingly. All such work shall be executed under the conditions of the original Contract unless the change requires an extension of time, in which case the Contract shall be adjusted accordingly at the time of the ordering of such change.

11 Correction of Work Before Substantial Completion.

11.1 The Contractor shall promptly remove from the premises all work rejected by CinA as failing to conform to the Contract, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected work, including additional testing and inspections, and expenses made necessary thereby, shall be at the Contractor's expense. The Contractor shall also bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

11.2 In addition to the Contractor's Obligations under Article 17, if, within one year after Final Completion of the Work or designated portion thereof or after the date for commencement of special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty.

12 Deduction for Uncorrected Work.

If CinA and the Owner decide it is impractical to correct work which is unacceptable or not done in accordance with the Contract, an equitable deduction from the Contract Sum, as determined by CinA, shall be made.

13 Delays and Extension of Time.

If the Contractor is delayed at any time in the progress of the work by any act or neglect of the Owner or CinA, 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 CinA pending mediation or arbitration, or by any other cause which CinA shall decide justifies the delay, the time of completion shall be extended for such reasonable time as CinA may determine.

A written request for an extension must be made by Contractor to CinA 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.

14 Owner's Right to Terminate Contract.

Upon written notice to the Contractor, the Owner may terminate the Contract for any of the following reasons: a) Contractor's insolvency, bankruptcy or any conduct or condition which has resulted in a monetary loss to CinA, in connection with Contract work or which reasonably threatens any such loss, b) Contractor's abandonment of the job, or failure to commence on the Contract within forty-five (45) days of issuance of Notice to Proceed by CinA, (c) failure to complete at least thirty percent (30%) of the job within forty-five (45) days of the issuance of the Notice to Proceed by CinA, d) Contractor's failure to comply with the provisions of Article 31 Disputes, or e) any other reasons that fall under another one of the Contract Documents.

15 **Contractor's Right to Stop Work Terminate Contract.**

If work is stopped under an order of any court or other public authority for a period of thirty (30) days or more, through no act or fault of the Contractor, or of anyone employed by him/her, then the Contractor may, upon seven (7) days written notice to the Owner and CinA, terminate the contract and recover from the Owner, as the exclusive remedy, payment for work completed and materials furnished. The proration of such payment is contingent upon approval by CinA.

16 **Application for Payments**

A maximum of two contractor payments may be made throughout the project. The Contractor may request a partial progress payment, and/or request full remaining payment upon completion.

Upon receipt of request for payment, CinA, or an independent inspector authorized by CinA will perform an inspection of the project to verify the Work has been completed in accordance with terms and conditions of the Contract Documents, including permit compliance. Once verification is complete, CinA will issue a Contractor Payment Release form and request certification and approval from Contractor and Homeowner. Requests must be certified by Homeowner, Contractor, and CinA. Payments will be made in accordance with the CinA Accounts Payable Schedule, generally, 15 days from the date of payment from the State.

16.1 Partial Progress Payments: Contractors may request one partial payment for the value of the acceptable work completed during the course of the work on each project when between 50-75% of the project is complete.

17 **Completion and Final Payment (Full remaining payment):**

Prior to authorization of the final payment:

- All contract work must be completed.
- Work must pass inspection of the CinA Rehabilitation Construction Inspector.
- The borrower must sign the Owner's Certification and Acceptance of improvements.
- The contractor must sign the Contractor's Affidavit, Warranty and Lien Waiver.
- If contracted work required permit(s), a copy of the final inspection must be delivered to both the homeowner and CinA prior to final sign off and payment.

17.1 Warranties required by the Contract Documents shall commence on the date of Owner's Certification and Acceptance of Improvements.

Final payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and equipment for which a lien could be filed or a bond satisfactory to the Owner to indemnify the Owner and CinA against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including costs and reasonable attorney's fees.

18 **Payments Withheld.**

CinA may withhold payments in whole or in part, to the extent necessary to protect Owner from the loss on account of:

- 18.1 Defective work not remedied.
- 18.2 Any claim filed or reasonable evidence indicating probable filing of any such claim.
- 18.3 Failure of the Contractor to make payments properly to subcontractors or for materials or labor.
- 18.4 Balances due to subcontractors or suppliers that in total approach or exceed the balance due after requested payment. Applicable balances are only for work on subject property.
- 18.5 Damage to another contractor's work.
- 18.6 Failure of Contractor to complete work within the time limits set forth in the Construction Contract.
- 18.7 Unsafe work practices.
- 18.8 Payment requests that are disproportionate to the work performed and/or materials supplied.
- 18.9 Payment requests of material supplied but not yet installed whereby CinA deems that installation is first required.
- 18.10 Non-compliance with applicable federal, state, and local laws and regulations.

As the above grounds are satisfied, payment shall be made for the amount withheld because of them.

19 **Warranty.**

The Contractor hereby warrants to the Owner and CinA that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the work will be free from defects not inherent in the quality required or permitted and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor agrees to correct any defects due to faulty materials or workmanship which shall appear within a period of one year from the date of final payment, and pay for any damage to work resulting therefrom. The Owner shall notice of observed defects with reasonable promptness.

20 **Liens.**

Neither the final payment nor any part of the retained percentage under the Contract shall become due until the Contractor has executed a complete release of all liens arising out of the Contract; and, the Contractor shall supply CinA a waiver of lien executed by each subcontractor, so that as far as he/she has knowledge or information, such waivers include all labor and materials for which a lien could be filed in connection with this Contract. If any lien is filed and remains unsatisfied after all payments

have been made to the Contractor, he/she shall reimburse the Owner for all money that the Owner may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee. Final Payment of the retained percentage will not become due until seventy-five (75) days after Final Completion pursuant to Oregon law (ORS 87.035 (2009)).

21 Subcontractors.

The contractor agrees that he/she is fully responsible to the Owner for the acts and omissions of his subcontractors and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

The Contractor agrees to bind every subcontractor to the terms of the Contract Documents, including the signed agreement, the Construction Specifications and Drawings and these General Conditions and Performance Requirements. Subcontractors shall be required, by the Contractor, to assume all obligations and responsibilities, including the responsibility for safety and lead safe work practices (if applicable) that the Contractor assumes towards the Owner. Each subcontract or agreement with a subcontractor shall preserve and protect the rights of the Owner and CinA as applicable to that portion of the project for which the subcontractor is responsible. The Contractor shall make available to each proposed subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the subcontractor will be obligated. CinA shall, on request, furnish to any subcontractor whenever practicable, evidence of the amount of the Contract.

22 Utilities.

The Owner will provide the Contractor with the services of water and electricity, if available, at no charge. During the cold weather season, the Owner will provide and maintain adequate heating in work areas, except that if the normal heating system is not operational it shall be the Contractor's responsibility to provide auxiliary heat, if needed, at the expense of the Contractor.

23 Working Conditions.

Where building to be rehabilitated is furnished and occupied by Owner, Contractor shall make allowances in their Bid Price for whatever inconvenience is incurred, i.e., working around furniture, adjusting working hours to accommodate Owner's daily routines, etc. The Contractor shall cover all carpets and furniture in the working areas on. Passageways and hallways shall be kept clear of debris, lumber or equipment. Bulk materials may not be stored inside the building. The Owner shall make reasonable effort to move furniture and rugs to create a clear working space for the Contractor.

24 Lead-based Hazards, Interim Controls, Lead-Safe Work Practice Standards, Clearance Testing.

The Contractor will coordinate all lead hazard activities with the lead risk assessor and/or inspector that works for or has been approved by CinA. 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 CinA.

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.

25 Use of Premises.

The Contractor shall confine his/her tools, the storage of materials and the operations of his/her workers to the limits indicated by law, ordinances, permits or directions of CinA and shall not reasonably encumber the premises with his/her materials. The Contractor shall not structurally load or permit any part of the structure to be loaded with a weight that will endanger its safety.

26 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 CinA determined to be reasonable.

27 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.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Contractor will, in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to any legally protected status.

The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor; provided that the foregoing provision shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

28 **Affirmative Action.**

The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirement of Section 3, of the Housing and Developmental Act of 1968, as amended. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by, persons residing in the area of the project.

The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 C.F.R. Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

The Contractor will send to each labor organization or representative or workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his/her commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135.

The Contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of liability to comply with the requirements of these regulations.

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of the Contract, shall be a condition of the Federal assistance provided to the project, finding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

29 **Community in Action Status.**

CinA will make periodic visits to the site to familiarize itself with progress and quality of the work to determine in general if the work is proceeding in accordance with the Contract Documents. It will not be required to make exhaustive or continuous on-site inspections to check the work and the Owner expressly understands and agrees that CinA will not be responsible for the Contractor's failure to carry out the work in accordance with the Contract Documents. However, CinA may reject any work as failing

to conform to the Contract Documents. CinA shall have the authority to act on behalf of the Owner as provided in the Contract Documents and to protect its interests in providing federal assistance for rehabilitating privately owned structures. CinA shall have authority to stop the work whenever necessary in its reasonable opinion to insure proper execution of the Contract.

30 Community in Action Decisions.

CinA shall be, in the first instance, the interpreter of the terms of the Contract Documents and the judge of their performance; and within reasonable time, shall make decisions on all claims or other matters relating to the execution and the progress of the Contract work. All such decisions shall be subject to arbitration as provided in this Contract.

31 Disputes.

CinA, the Owner and the Contractor expressly agree to settle any dispute pertaining to the Contract work or documents by the following procedure:

Owner, Contractor, and CinA and agents of CinA 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, the Rehabilitation Specialist will first be requested to mediate the dispute. If mediation to the satisfaction of the Owner and the Contractor is not achieved, the CinA Program Director will review the case. The Owner and/or Contractor must make a written request to the Program Director within six months of last payment to the Contractor. The Program Director will issue a decision within thirty (30) days of receipt of the request for the review. If the decision of the Program Director is not acceptable to the homeowner or the contractor, then the case must be submitted for final ruling to the Construction Contractor's Board using their dispute resolution process.

If any case cannot be heard by the Construction Contractor's Board in a timely manner, the dispute shall be settled by arbitration administered by the American Arbitration Association, before a single arbitrator, using the rules of commercial arbitration of the American Arbitration Association. Arbitration shall occur in a designated location in reasonably close proximity to the subject property.

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.

The Rehabilitation Specialist is Justen Allison and his contact information is:

Community in Action, Inc.
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32 **Performance Requirements.**

The following provisions shall be part, either by inclusion or reference, of each work write-up prepared by CinA in connection with a Housing Rehabilitation Loan.

33 **General Statements.**

33.1 Code Requirements. All work performed under these programs by any persons shall comply fully with current State of Oregon Residential Specialty Code. Additionally, all prefabricated products shall meet manufacturer's installation requirements.

33.2 Permit Requirements. All building permits required as a result of the proposed rehabilitation, whether City, County or State Building Department issued, shall be the responsibility of the Contractor or subcontractor hired to perform the work. The contractor shall provide CinA with copies of all permits obtained, unless otherwise stated in the Construction Contract. Upon completion of the work, the Contractor shall furnish evidence of approval of inspections required from the applicable City, County or State Building Department, before requesting final payment.

33.3 Owner Selection. The Homeowner shall select all styles, colors and color schemes in all areas of construction where the esthetic value is of a concern to the Homeowners. These selections shall comply with all codes and products performance requirements provided by this program and shall conform to written budgetary constraints. It shall be the Contractor's responsibility to fully appreciate these concerns before writing the bid.

33.4 Substitutions. It is not the desire of the homeowner to exclude any of the products or materials of equal or greater merit to those specified herein. Trade names used are designed to establish quality desired. Before any substitutions are made, the written consent of homeowner and CinA must be obtained. The Homeowner must make reasonable allowances for substitutions and shall not withhold consent without good reason.

33.5 Debris Removal. The Contractor shall be responsible for the removal of all construction debris generated as a result of work performed either by the general or any subcontractor. Disposal of such materials shall be made in accordance with environmental laws, ordinances, rules and regulations.

33.6 Guarantee. All materials provided shall have a twenty (20) year life expectancy or greater when possible. All work shall be guaranteed by the Contractor for one (1) year as to the quality of workmanship and materials.

34 **General Performance Requirements.**

34.1 Installation. All work and materials must be applied in accordance with the applicable manufacturer's last instructions and specifications. Any variations desired to be applied to the instructions or specifications must be called to the attention of CinA in writing prior to application. CinA, in consultation with the Owner, reserves the right to direct the scheduling of the proposed work as deemed necessary to insure proper conduct and completion of the proposed work.

34.2 Partitions. The Contractor shall furnish and erect to code specifications all stud partitions shown on drawings and/or specifications.

34.3 Carpentry Work. There shall be a competent carpenter foreman on the job during critical states of construction; who will consult with other trades as to openings, slots, furring requirements, and clearances; and who post the drawings and specifications on premises for reference by the Owner and other Contractors.

Carpenter work shall be performed by skilled, competent craftspeople. Workmanship shall produce level, straight, plumb and true conditions.

Framing lumber shall be new, Standard Grade or better, and of sizes shown and noted on plans and details, or as specified in the Construction Specifications, or if not noted or specified, then as required by the current State of Oregon Residential Specialty Code.

34.4 Cutting and Patching. Contractor shall do all cutting and patching of his work that may be required to make its several parts come together and properly fit to receive or be received by work of other Contractors shown upon, or reasonably implied by, the Drawings and Specification for the completed structure, and he shall make good after them, as CinA may direct. Contractor shall not endanger any work by cutting excavating or otherwise altering the work and shall not cut or alter the work of any other Contractor save with the consent of CinA.

34.5 Demolition. Demolition of all parts to be removed shall be done in a safe orderly fashion taking part to avoid damage to parts which are to be left in place. Any damage resulting from the work shall be replaced or repaired at no cost additional to the Owner. All debris shall be removed from the premises as it is generated and shall not be allowed to accumulate.

34.6 Weatherization. All weatherization measures, materials and installation shall comply with current Site Built Housing and Mobile Home Specifications for the State of Oregon, developed by Oregon Energy Coordinators Association, Inc. Copies are available at the CinA office.

34.7 Materials. All materials shall be new and all workmanship shall be of professional quality. Use of any secondhand or recycled materials is prohibited, unless approved by the Owner and local Building Official.

35 Hold Harmless.

I/We understand and agree that no warranties express or implied, are made by CinA or its employees to the Owners or Contractor for materials furnished or work performed pursuant to this Agreement. I agree to release and hold harmless CinA and its staff from any and all liability arising out of the performance of said improvements.

