JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS

CONSENT AGENDA REQUEST

TO: **Board of County Commissioners**

FROM: **Mark McCauley, Interim County Administrator**

DATE: **January 3, 2022**

SUBJECT: **AGREEMENT re: 2022 Affordable Housing/Homelessness Grant Funding; In the Amount of $50,000; Jefferson County Administrator; Habitat for Humanity**

STATEMENT OF ISSUE:

On December 6, 2021 the Board of County Commissioners approved the Housing Joint Oversight Board's 2022 affordable housing/homelessness grant recommendations. One of the recommendations was for Habitat for Humanity to receive $50,000 for the repair of houses inhabited by those with very low incomes.

ANALYSIS:

The attached Grant Agreement will provide the $50,000 in funds approved by the Board of County Commissioners on December 6, 2021.

FISCAL IMPACT:

Habitat for Humanity: $50,000

RECOMMENDATION:

Approve the attached Grant Agreement with Habitat for Humanity.

REVIEWED BY:

Mark McCauley, Interim County Administrator 12/29/21
Date

Grant Agreement by and Between
Jefferson County
and
Habitat for Humanity
For Affordable Housing/Homelessness Services Grant Funding

WHEREAS. RCW 36.22.178 authorizes a recording fee surcharge to provide funding for affordable housing services; and

WHEREAS, RCW 36.22.179 authorizes a recording fee surcharge to provide funding for homeless housing and assistance; and

WHEREAS, RCW 36.22.1791 authorizes an additional surcharge for local homeless housing and assistance; and

WHEREAS, RCW 82.14.530 authorizes the use of SHB 1590 sales tax revenues to support affordable housing; and

WHEREAS, RCW 82.14.540 authorizes the use of SHB 1406 sales tax revenues to support affordable housing; and

WHEREAS, on June 7, 2021 the Board of County Commissioners approved funding levels and authorized the release of a Request for Proposals for the funds collected pursuant to the above cited RCW's; and

WHEREAS, on December 6, 2021 the Board of County Commissioners approved the Housing Joint Oversight Board's recommendation for 2022 funding;

NOW, THEREFORE, Jefferson County, a political subdivision of the State of Washington, hereinafter referred to as "County," and Recipient, a non-profit corporation is Washington State (Recipient), in consideration of the mutual benefits, terms, and conditions hereinafter specified, do hereby agree as follows:

1. Grant Commitment. A 100% grant of funds is hereby made to Recipient for the project described in Section 2. The approved maximum amount of the grant shall be $50,000, all from Fund 148. The grant shall be available upon the submission of appropriate invoices pursuant to Section3.

2. Project Description, Schedule and Budget.

    a. The scope of work for the Project is described in Exhibit A, attached.

    b. The Project begins on January 1, 2022 and shall be completed by December 31, 2022.

    c. The budget for the Project is described in Exhibit B, attached.

3. Payment. Expenses incurred on the Project, as described in Section 2, by the Project's consultants, contractors, suppliers, or Recipient's staff shall be submitted to the County Administrator's Office by Recipient using a detailed invoice.

Each detailed invoice shall show individual items followed by the total amount incurred and the amount eligible for reimbursement under this grant. Recipient may submit such invoices to the County once per month during the course of the Project for work completed. All invoices shall be submitted no later than 30 days after project completion.

The county shall review and approve invoice payments. Payments will be limited to the monies that are available under the grant as described in Section 1. Such invoices, once approve, will be paid using the County's normal bill paying process and cycle.

4. Compliance with Laws. Recipient shall, in completing its project under this Grant Agreement, faithfully observe and comply with all federal, state, and local laws, ordinances, and regulation, applicable to the work to be completed under this Grant Agreement.

5. Indemnity.

   a. Recipient shall defend, indemnify and hold the County, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of Recipient in performance of this Agreement, except for injuries and damages caused by the sole negligence of the County.

   b. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of a bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Recipient and the County, its officers, officials, employees, agents and volunteers, Recipient's liability, including the duty and cost to defend, hereunder shall be only to the extent of Recipient's negligence.

   c. It is further specifically and expressly understood that the indemnification provided in this Agreement constitutes Recipient's waiver of immunity under Industrial Insurance, Title 51 RCE, solely for the purpose of this indemnification. This waiver has been mutually negotiated between the parties.

   d. The provisions of this section shall survive the expiration or termination of this agreement.

6. Required Insurance Coverages.

   a. Commercial General Liability.

      1) Recipient shall maintain commercial general liability coverage on a form acceptable to Jefferson County Risk Management for bodily injury, personal injury, and property damage, in an amount not less than two million dollars per occurrence ($2,000,000) and an aggregate of not less than four million dollars ($4,000,000), for bodily injury, including death, and property damage.

      2) The commercial general liability insurance coverage shall contain no limitations on the scope of the protection provided and include the following minimum coverage:

i. Broad form property damage, with no employee exclusion;
ii. Person injury liability, including extended bodily injury;
iii. Broad form contractual/commercial liability, including completed operations and product liability coverage;
iv. Premises – operations liability (M&C);
v. Independent contractors and subcontractors; and,
vi. Blanket contractual liability.

3) Recipient's commercial general liability policy shall include employer's liability coverage.

4) The County and its elected officials, officers and employees shall be named as an additional insured party under this insurance policy.

b. Automobile Liability.

Recipient shall maintain business automobile Liability insurance on a form acceptable to Jefferson County Risk Management with a limit of not less than a combined single limit of $1,000,000 each occurrence. Coverage shall include owned, hired, and non-owned automobiles.

c. Workers' Compensation (Industrial Insurance). Recipient shall maintain workers' compensation insurance at its own expense, as required by Title 51 RCW, for the term of this Agreement and shall provide evidence of coverage to Jefferson County Risk Management, upon request. If the County incurs any cost to enforce the provisions of this subsection, all costs and fees shall be recoverable form Recipient.

1) Recipient shall provide Workers' Compensation and Employer's Liability on a state approved policy form providing benefits as required by law with employer's liability limits no less than $1,000,000 per accident or disease.

2) This coverage shall extend to any contractor or subcontractor that does not have their own workers' compensation and employer's liability insurance.

7. Recipient expressly waives by mutual negotiation all immunity and limitations on liability, with respect to the County, under any industrial insurance act, disability benefit act, or other employee benefit act of any jurisdiction, which would otherwise be applicable in case of such claim.

8. General Insurance Requirements.

a. Insurance coverage shall be evidenced by one of the following methods:

1) Certificate of insurance; or,

2) Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.

b. Any deductibles or self-insured shall be declared to and approved by the County prior to the approval of this Agreement by the County. At the option of the County, the insurer shall reduce or eliminate deductibles or self-insured retention, or Recipient shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

c. Failure of Recipient to take out or maintain any required insurance shall not relieve Recipient from any liability under this agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification of the County.

d. Recipient's insurers shall have no right of recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so affected shall protect all the parties and shall be primary coverage for all losses covered by the above described insurance.

e. Insurance companies issuing Recipient's insurance policy or policies shall have no recourse against the County (including its employees and other agents and agencies) for payment of any premiums or for assessments under any form of insurance policy.

f. All deductibles in Recipient's insurance policies shall be assumed by and be at the sole risk of Recipient.

g. Any judgments for which the County may be liable, in excess of insured amounts required by this agreement, or any portion thereof, may be withheld from payment due, or to become due, to Recipient until Recipient shall furnish additional security covering such judgment as may be determined by the County.

h. Any coverage for third party liability claims provided to the County by a "Risk Pool" created pursuant to Ch. 48.62 RCW shall be non-contributory with respect to any insurance policy Recipient shall provide to comply with this Agreement.

i. The County may, upon Recipient's failure to comply with all provisions of this Agreement relating to insurance, withhold payment or compensation that would otherwise be due to Recipient.

j. Recipient shall provide a copy of all insurance policies specified in this Agreement.

k. Written notice of cancellation or change in Recipient's insurance required by this Agreement shall reference the project name and agreement number and shall be mailed to the County at the following address: Jefferson County Risk Management, P.O. Box 1220, Port Townsend, WA 98368.

l. Recipient's liability insurance provisions shall be primary and noncontributory with respect to any insurance or self-insurance or self-insurance programs covering the County, its elected and appointed officers, officials, employees and agents.

m. Any failure to comply with reporting provisions of the insurance policies shall not affect coverage provided to the County, its officers, officials, employees or agents.

n. Recipient's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

o. Recipient shall include all subcontractors as insured under its insurance policies or shall furnish separate certificates and endorsements for each subcontractor. All insurance coverage for subcontractors shall be subject to all the requirements stated in this Agreement. The insurance limits mandated for any insurance coverage required by this Agreement are not intended to be an indication of exposure nor are they limitations on indemnification.

p. Recipient shall maintain all required insurance policies in force from the time services commence until services are completed. Certificates, insurance policies, and endorsements expiring before completion of services will be promptly replaced.

q. Recipient shall place insurance with insurers listed to business in the State of Washington and having A.M. Best Company ratings of no less than A-, with the exception that excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be place with insurers or re-insurers licensed in the State of Washington.

r. Certificates of insurance as required by this Agreement shall be delivered to the County within fifteen (15) days of execution of the Agreement. To the extent a certificate lists or refers to any endorsements solely by name. description or number it shall be the responsibility of Recipient to obtain and provide to Jefferson County Risk Management a full and complete copy of the texts of such endorsements.

s. The County shall be named as an "additional insured" on all insurance policies required by this Agreement.

t. Recipient shall furnish the County with properly executed certificates of insurance that, at a minimum, shall include:

    1) The limits of coverage;

    2) The project name and agreement number to which it applies;

    3) The certificate holder as Jefferson County, Washington and its elected officials, officers, employees and agents with the address of Jefferson County Risk Management, P.O. Box 1220, Port Townsend, WA 98368; and

4) A statement that the insurance policy shall not be cancelled or allowed to expire except on thirty (30) days prior written notice to the County.

9. Independent Contractor. Recipient and the County agree that Recipient is an independent contractor with respect to the project to be completed pursuant to this Grant Agreement. Nothing in this Grant Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither Recipient nor any employee of Recipient, nor any subcontractor of Recipient shall be entitled to any benefits accorded to County employees by virtue of their services on the project to be completed under this Grant Agreement. The County shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the State industrial insurance program, or otherwise assuming the duties of an employer with respect to Recipient, or any employee, representative of agent of Recipient, or any contractor of Recipient.

10. Subcontracting Requirements.

    a. Recipient Owns Contract Performance. Recipient is responsible for meeting all terms and conditions of this Agreement including standards of service, quality of materials and workmanship, costs and schedules. Failure of a subcontractor to perform is no defense to a breach of this Agreement. Recipient assumes responsibility for all liability for the actions and quality of services performed by any subcontractor.

    b. Subcontractor Disputes. Any dispute arising between Recipient and any subcontractors or between subcontractors must be resolved with involvement of any kind on the part of the County and without detrimental impact on the delivery of contracted goods and services.

11. Legal and Regulatory Compliance. While performing under this Agreement, Recipient, subcontractors, and their employees are required to comply with all applicable local, state and federal laws, codes, ordinances and regulations, including but not limited to:

    a. Applicable regulations of the Washington State Department of Labor and Industries, including WA-DOSH Safety Regulation; and
    b. State and Federal Anti-Discrimination Laws.

12. Termination.

    a. Termination by the County.

        1) Should Recipient default in providing services under this Agreement or materially breach any of its provisions, the County may terminate this Agreement upon ten (10) days written notice to Recipient.

2) Recipient shall have the right and opportunity to cure any such material breach within the ten (10) day period.

3) The County may terminate this Agreement upon immediate notice to Recipient. Recipient will be reimbursed for services expended up to the date of termination.

4) This Agreement may be terminated or amended, in whole or in part, by the County upon thirty (30) days written notice in the event expected or actual revenue in Funds 148 and/or 149 is reduced or limited in any way.

b. Termination by Recipient.

1) Should the County, its staff, employees, agents and/or representatives default in the performance of this Agreement or materially breach any of its provisions, Recipient, at its option, may terminate this Agreement by giving ten (10) days written notice to the County representative.

2) The County shall have the right and opportunity to cure any such material breach within the ten (10) day period.

c. Termination Without Cause. This Agreement may be terminated without cause at any time by either party subject to a sixty (60) day advance written notice of such termination to the other party.

13. No Harassment or Discrimination. Recipient and any contractors/subcontractors will not discriminate against any person in the performance of work under this agreement or in the selection and retention of employees or procurement of materials or supplies on the basis of age, sex, marital status, sexual orientation, religion, creed, color, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained guide dog or service animal by a person with a disability, unless based on a bonafide occupational qualification.

14. Contract Expiration. This contract will run until the project is complete and until the County has made all payments required under this Grant Agreement, except that the project must be completed no later than the date listed in Paragraph 2.b. above, unless extended by mutual agreement.

15. Failure to Appropriate. Recipient acknowledges that the County may only appropriate monies in the current year and in a manner consistent with Paragraph 1. Above. The County agrees to appropriate monies to fund this grant unless emergency circumstances prevent the County from doing so. Any monies to be paid by the County to Recipient for this grant are subject to appropriation by the County Commission.

16. Integrated Agreement. This Grant Agreement represents the entire and integrated agreement between the County and Recipient and supersedes all prior negotiations, representation, or agreements written or oral.

17. Modification of this Agreement. This Agreement may be amended or supplemented only by a writing that is signed by duly authorized representatives of all parties.

18. No Assignment. Recipient shall not sell, assign, or transfer any rights obtained by this Agreement without the express written consent of the County.

19. Severability. Provided it does not result in a material change in the terms of this Agreement, if any provision of this Agreement or the application of this Agreement to any person or circumstance shall be invalid, illegal, or unenforceable to any extent, the remainder of this Agreement and the application of this Agreement shall not be affected and shall be enforceable to the fullest extent permitted by law.

20. No Third-party Beneficiaries. The parties do not intend, and nothing in this Agreement shall be construed to mean, that any provision in this Agreement is for the benefit of any person or entity who is not a Party.

21. Controlling Law. It is understood and agreed that this Agreement is entered into in the State of Washington. This Agreement shall be governed by and construed in accordance with the laws of the United State, the State of Washington and the County of Jefferson, as if applied to transactions entered into and to be performed wholly within Jefferson County, Washington between Jefferson County residents. No party shall argue or assert that any state law other than Washington law applies to the governance or construction of this Agreement.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties have caused this Grant Agreement to be executed this _____ day of ______________, 2022.

Jefferson County **Board of Commissioners**		Habitat for Humanity	
________________________	______	________________________	______
Kate Dean, Chair	Date	Authorized Signature	Date

Print Name/Title

ATTEST:

Carolyn Gallaway, CMC   Date
Clerk of the Board

APPROVED AS TO FORM:

Philip C. Hunsucker   Date
Chief Deputy Prosecuting Attorney

EXHIBIT A -SCOPE OF WORK - PROJECT DESCRIPTION

- Name of Project: Critical Home Repairs

- Amount requested:

  148 FUNDS $50,000

- Provide a brief description of the project:

Between January 1 and December 31, 2022, Habitat EJC plans to perform six Critical Home Repairs for homeowners living in Quilcene and Brinnon and other rural areas of East Jefferson County. We propose that the County provide $50,000 to underwrite *five* of those critical repairs. Funds will be used to complete projects on homes owned by persons at or below fifty percent of area median income, and these repairs make it possible for the homeowners to remain in their homes, which otherwise might not be habitable. Examples of such repairs include updating of electrical wiring that may be hazardous and/or not to code; repair or replacement of failed septic systems; and roof repair or replacement. A forgivable note will be attached to the home ensuring the subsidy allows the current owner to remain in the home, rather than profit by fixing up the house to sell it.

The funds will be used to repair at least five homes owned and inhabited by very-low-income residents of Jefferson County.

Habitat EJC shall provide all project and construction management: we will select projects, screen for income qualification and repair scope of work; manage subcontractors; and coordinate any volunteer involvement that may be appropriate.

- Specify the Project or Program goals and expected outcomes. Specify the methods by which the Project or Program will be measured and assessed.

1. At least five homes will be repaired.

   Measures: Scope of Work is developed on each selected project to address critical repairs; permits are secured as necessary; homeowner signs off on completed project.

2. The qualified owners of each repaired home will be able to remain safely in their home at the completion of the repairs, with an affordable arrangement to cover the cost of repairs.

   Measures: Homebuyer is certified at or below 50% AMI; repayment arrangement provides monthly payment so that total debt repayment does not exceed 43% of income (43% DTI); subsidy is provided in the form of a forgivable, no-interest note (forgiveness begins at five years and is completed at fifteen years); homebuyer completes required sweat equity, modified as necessary for age and disability.

Outcomes will be measured using the following:

- Scope of Work on each selected project addresses critical repairs
- Signed MOU with Homeowner
- Permits secured as necessary
- Final punch list and MOU signed by Homeowner
- Homeowner certified at or below 50% AMI
- Repayment arrangement provides monthly payment so that total debt repayment does not exceed 43% of income (43% DTI)
- Executed forgivable, no-interest note
- Documentation of required sweat equity, modified as necessary for age and disability

☐ Specify the number of individuals who will be impacted by the project.

We estimate between six and twelve individuals will be directly impacted. However, these repairs are often the only way that the homeowners are able to remain in their homes long-term, thereby relieving both the residents specifically, and East Jefferson County as a community, of the burden to find replacement/alternative housing at a time when affordable housing is critically scarce in our county, and the homeowners' resources are inadequate. Additionally, the homeowners and their families are most often able to remain in their home during the repairs, sometimes solely because the work is being done and/or coordinated by Habitat. This is an additional relief to County services.

☐ Note: Verify that units provided by your project will be affordable for households with incomes at or below fifty percent of the area median income.

All critical home repairs performed with grant funding will be on homes owned by persons whose income is at or below fifty percent of the area median income.

EXHIBIT B - BUDGET AND SOURCES

Financing Categories	**Estimator**	**Indicate if Committed or Application has been made. If not made indicate date application is to be submitted**
Private Loan	$	
Jefferson County Funds	$50,000	Grant, this application
Public Sources (State or Federal Funds)	$	
Foundations	$	
Low Income Housing Tax Credits (indicate 9% or 4%)	$	
Historic Tax Credits	$	
New Market Tax Credits	$	
Individual Contributions	$10,000	$6,000 is already committed by two donor households and will be used as an incentive to raise the remaining $4,000 from additional individual donors.
Gap (if any)	$	
TOTAL	**$60,000**	