

Council Business Meeting

06/07/2022

Agenda Item	Housing Insecurity Grant (State Grant-SB-5561) Acceptance	
From	Linda Reid	Housing Program Manager
Contact	reidl@ashland.or.us 541-552-2043	

SUMMARY

In the 2021 2nd special legislative session, the Oregon Legislature appropriated 14 million dollars from the General Fund to provide grants to Community Development Block Grant (CDBG) recipients for programs or services that address housing insecurity, lack of affordable housing or homelessness. There are 14 entitlement jurisdictions in the State of Oregon that receive a direct allocation of CDBG funding from HUD. [Senate Bill 5561](#) stipulated that the grant money should be divided evenly among them. The money has to be paid by DAS by June 30th, 2023, but does not have to be spent by the awarded cities by June 30th, 2023. However, the awarded cities do have to file an annual report with DAS every year detailing how the money has been used until it is fully spent.

Staff has outlined a process to identify potential activities which could utilize this one-time resource. The City Manager presented this process to the Housing and Human Services Commission at their regular meeting on May 26, 2022 to gain input on the proposed process. Both the memo detailing the proposed process and the minutes containing the Commission's recommendation are attached to this communication.

POLICIES, PLANS & GOALS SUPPORTED

[2020-2024 Consolidated Plan for Use of CDBG funds](#)

Tier 1: Higher Priority

- Emergency Preparedness
- Address Climate Change

Tier 2: Moderate Priority

- Economic Development
- Housing Needs
- Homeless Services
- All-Age Friendly Community

PREVIOUS COUNCIL ACTION

Not Applicable

BACKGROUND AND ADDITIONAL INFORMATION

In the 2021 2nd special legislative session, the Oregon Legislature appropriated 1 million dollars from the General Fund for a grant to recipients of CDBG funding to support programs or services that address housing insecurity, lack of affordable housing or homelessness.

FISCAL IMPACTS

This project will incur in kind costs for administration of the project by the City of Ashland's housing program specialist, as well as some administrative support from the City's Planning, Legal and Accounting departments. The City was not required to provide any matching funds for this grant.

STAFF RECOMMENDATION

Staff recommends that the City Council accept the award of \$1,000,000 from the State of Oregon Department of Administrative Services and appropriate the funds so City staff can move quickly when an opportunity presents itself.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

I move to accept the award of \$1,000,000 in State of Oregon Department of Administrative Services funding and approve the appropriation of the funds to the Housing Program.

REFERENCES & ATTACHMENTS

Grant agreement between Oregon Department of Administrative Services and the City of Ashland
[2021 Senate Bill 5561](#)

Draft Strategic Housing and Emergency Shelter Plan

GRANT AGREEMENT

Title: Senate Bill 5561 (2021 2nd Special Session) General Fund Grant

Agreement Number: 107-2021-5561-20

This grant agreement (“Contract”), dated as of the date the Contract is fully executed, is made by the State of Oregon, acting by and through its Department of Administrative Services (“DAS”), and the City of Ashland (“Recipient”). This Contract becomes effective only when fully signed and approved as required by applicable law (the “Effective Date”) and, unless earlier terminated, expires on June 30, 2023 (the “Expiration Date”). The period from the Effective Date through the Expiration Date is hereinafter referred to as the “Grant Term.”

Pursuant to the Oregon Laws 2021, chapter 4, section 32 (Second Special Session) (the “Authorization”), the Oregon Legislature appropriated \$1,000,000 from the General Fund for a grant to Recipient for programs or services that address housing insecurity, lack of affordable housing or homelessness.

SECTION 1 – GRANT

DAS shall provide Recipient, and Recipient shall accept from DAS, a grant (the “Grant”) in the amount of \$1,000,000.

Conditions Precedent. DAS’s obligations are subject to the receipt of the following items, in form and substance satisfactory to DAS and its counsel:

- (1) This Contract duly signed by an authorized officer of Recipient; and
- (2) Such other certificates, documents, opinions and information as DAS may reasonably require.

SECTION 2 – DISBURSEMENT

- A. Full Disbursement. Upon satisfaction of all conditions precedent, DAS shall disburse the full Grant to Recipient.
- B. Condition to Disbursement. DAS has no obligation to disburse funds unless, in the reasonable exercise of its administrative discretion, it has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.

SECTION 3 - USE OF GRANT

- A. Use of Grant Moneys.
 - (1) Recipient shall use the Grant for programs or services that address housing insecurity, lack of affordable housing or homelessness.
- B. Costs Paid for by Others. Recipient may not use any of the Grant to cover costs to be paid for by another State of Oregon agency or any third party.

SECTION 4 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient represents and warrants to DAS:

- A. Organization and Authority.
 - (1) Recipient is a city validly organized and existing under the laws of the State of Oregon.

- (2) Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract, (b) incur and perform its obligations under this Contract, and (c) receive the Grant funds.
 - (3) This Contract has been authorized by an ordinance, order or resolution of Recipient's governing body.
 - (4) This Contract has been duly executed by Recipient, and when executed by DAS, is legal, valid and binding, and enforceable in accordance with their terms.
- B. Full Disclosure. Recipient has disclosed in writing to DAS all facts that materially adversely affect its ability to perform all obligations required by this Contract. Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract is true and accurate in all respects.
- C. Pending Litigation. Recipient has disclosed in writing to DAS all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the ability of Recipient to perform all obligations required by this Contract.
- D. No Defaults. No Defaults or Events of Default exist or occur upon authorization, execution or delivery of this Contract.
- E. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract will not: (i) cause a breach of any agreement or instrument to which Recipient is a party; (ii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iii) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient or its properties or operations.

SECTION 5 - COVENANTS OF RECIPIENT

Recipient covenants as follows:

- A. Notice of Adverse Change. Recipient shall promptly notify DAS of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient related to the ability of Recipient to perform all obligations required by this Contract.
- B. Compliance with Laws. Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract and Recipient's use of the Grant funds.
- C. Annual Progress Reports. Recipient must submit to DAS annual progress reports (each a "Progress Report") until Grant funds are fully expended. A Progress Report is due one year from distribution of funding and thereafter annually until the Grant funds are fully expended. Each Progress Report shall contain a brief narrative and financial report on the total use of Grant funds. The narrative and financial report should include, but need not be limited to, the following information:
 - (1) Brief description of the project and use of Grant funds to date;
 - (2) Timeline for major project deliverables;
 - (3) Grant funds spent to date; and
 - (4) Project milestones met to date.

- D. Books and Records. Recipient shall keep accurate books and records of the uses of the Grant and maintain them according to generally accepted accounting principles.
- E. Inspections; Information. Recipient shall permit DAS and any party designated by DAS to inspect and make copies, at any reasonable time, of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters. Recipient shall supply any related reports and information as DAS may reasonably require.
- F. Records Maintenance. Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract for a minimum of six years beyond the later of the final and total expenditure or disposition of the Grant. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.
- G. Notice of Default. Recipient shall give DAS prompt written notice of any Default as soon as any senior administrative or financial officer of Recipient becomes aware of its existence or reasonably believes a Default is likely.
- H. Indemnity. Subject to the limitations of the Oregon Tort Claims Act, ORS 30.260 to 30.300, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless the State of Oregon, DAS and their officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorney's fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors.

SECTION 6 - DEFAULTS

Any of the following constitutes an "Event of Default":

- A. Any false or misleading representation is made by or on behalf of Recipient, in this Contract or in any document provided by Recipient related to this Grant.
- B. Recipient fails to perform any obligation required under this Contract, other than those referred to in subsection A of this section 6, and that failure continues for a period of 10 business days after written notice specifying such failure is given to Recipient by DAS. DAS may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 7 - REMEDIES

- A. Remedies. Upon any Event of Default, DAS may pursue any or all remedies in this Contract and any other remedies available at law or in equity to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to any one or more of the following:
 - (1) Terminating DAS's commitment and obligation to make the Grant.
 - (2) Barring Recipient from applying for future awards.
 - (3) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract.
 - (4) Requiring repayment of the Grant and all interest earned by Recipient on those Grant funds.
- B. Application of Moneys. Any moneys collected by DAS pursuant to section 7.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by DAS; then, as applicable, to repay any Grant proceeds owed; then, to pay other amounts due and payable under this Contract, if any.

C. No Remedy Exclusive; Waiver; Notice. No remedy available to DAS is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. DAS is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 7 of this Contract.

SECTION 8 - MISCELLANEOUS

A. Time is of the Essence. Recipient agrees that time is of the essence under this Contract.

B. Relationship of Parties; Successors and Assigns; No Third-Party Beneficiaries.

- (1) The parties agree that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.
- (2) Nothing in this Contract gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.
- (3) This Contract will be binding upon and inure to the benefit of DAS, Recipient, and their respective successors and permitted assigns.
- (4) Recipient may not assign or transfer any of its rights or obligations or any interest in this Contract without the prior written consent of DAS. DAS may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Recipient shall pay, or cause to be paid to DAS, any fees or costs incurred because of such assignment, including but not limited to attorneys' fees of DAS's counsel. Any approved assignment is not to be construed as creating any obligation of DAS beyond those in this Contract, nor does assignment relieve Recipient of any of its duties or obligations under this Contract. For the avoidance of doubt, nothing in this Section 8(B)(4) prevents Recipient from distributing Grant funds to contractors or subgrantees for the purposes described in Section 3(A).

C. Disclaimer of Warranties; Limitation of Liability. Recipient agrees that:

- (1) DAS makes no warranty or representation.
- (2) In no event are DAS or its agents liable or responsible for any direct, indirect, incidental, special, consequential or punitive damages in connection with or arising out of this Contract.

D. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or DAS at the addresses set forth below, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

If to DAS: Oregon Department of Administrative Services
ATTN: Kate Nass, Deputy Chief Financial Officer
155 Cottage St. NE
Salem OR 97301
kate.nass@oregon.gov

If to Recipient: City of Ashland
ATTN: Joe Lessard, City Manager
20 E Main Street
Ashland OR 97520
joe.lessard@ashland.or.us

- E. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.
- F. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.
- G. Amendments, Waivers. This Contract may not be amended without the prior written consent of DAS (and when required, the Department of Justice) and Recipient. This Contract may not be amended in a manner that is not in compliance with the Authorization. No waiver or consent is effective unless in writing and signed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.
- H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to DAS by its attorneys.
- I. Choice of Law; Designation of Forum; Federal Forum. 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 Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another 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.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

- J. Integration. This Contract (including all exhibits, schedules or attachments, if any) constitutes the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.

K. Survival. The following provisions, including this one, survive expiration or termination of this Contract: Sections 5.C., 5.E., 5.F., 5.H., 6, 7, 8.H. and 8.I.

L. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

STATE OF OREGON
acting by and through its
Department of Administrative Services

RECIPIENT

By: _____

By: _____

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

Sam Zeigler via email dated 2/15/2022

Senior Assistant Attorney General

DRAFT

Strategic Housing and Emergency Shelter Planning

June 2, 2022

Affordability Priorities

Short-Term

1. Immediate and Life-threatening
 - Temporary Extreme Weather Shelter
2. Transitional Housing¹ (6 mos.-2 yrs.; move to self-sufficiency)
 - Family with Children Housing
 - Individual Housing

Long-Term

3. Permanent Supportive Housing²
4. Affordable Housing³/Workforce Housing⁴
 - Deed restricted permanent affordable housing

Process

1. Identify available City resources - Spending plan
 - Housing infrastructure sources - available one-time funding
 - Grant funding
 - CDBG
 - Housing Trust Fund
 - Turnkey Grant
 - Additional Grants
 - Sale of City property
 - Community contributions
 - Etc./Other
 - Housing operations sources - Available ongoing/annual funding
 - CDBG
 - Housing Trust Fund
 - State of Oregon
 - Access (Community Action Agency)
 - Community contributions
 - Etc./Other
2. Housing and Human Services Advisory Review & Comment

¹ **Transitional housing** (TH) is designed to provide homeless individuals and families with the interim stability and support to successfully move to and maintain permanent housing. Transitional housing may be used to cover the costs of up to 24 months of housing with accompanying supportive services.

² **Permanent Supportive Housing** (PSH) is permanent housing in which housing assistance (e.g., long-term leasing or rental assistance) and supportive services are provided to assist households with at least one member (adult or child) with a disability in achieving housing stability.

³ **"Affordable Housing"** is a term that refers to a households' ability to find housing within their financial means. Households that spend more than 30% of their income on housing and certain utilities are considered to experience cost burden.

⁴ **"Workforce Housing"** has come to mean housing targeted to households who may earn too much to qualify for affordable housing subsidies, but not enough to afford a home or an apartment.

3. City staff recommendation and City Council spending priorities determination
4. Identify available location for infrastructure placement/procurement
5. Develop project proforma & develop RFP for potential partner(s) to assist in infrastructure placement/procurement and its operations
6. Housing and Human Services Advisory Review & Comment
7. City staff recommendation and City Council award of contract with RFP respondent for infrastructure placement/procurement and operations
8. Implement plan for available resources
 - Contracting, property acquisition and environmental review
 - Funding grant allocation process

Criteria for Facility Siting

The City of Ashland has identified a need to temporarily house families in need of six-month transitional housing, individuals during extreme weather and climate events that would pose a health hazard to unsheltered individuals, or to individuals whose house lacks heating or cooling. To secure permanent locations that can be used for such a purpose, City staff has identified a number of general criteria to be considered as part of site selection. Site selection could include either the purchase of vacant land that could subsequently be developed, or the purchase of a property currently containing a building that could be adapted for one or more of the identified uses. Site selection could also include examination of the following types of property:

- City owned surplus properties
- Non-profit owned properties which could be developed in partnership to consolidate supportive services
- Developed property currently available for sale
- Vacant property currently available for sale
- Select property owners with property not presently listed that could meet the site selection criteria.

There are a number of criteria the City should consider when identifying a site for temporary housing or extreme weather shelter to ensure the dedication of resources is successful at fulfilling the objective of creating a facility that can be flexibly used to best serve the City's long-term needs.

- Site to accommodate priority use – family accommodations/emergency shelter, etc.
- Site location should be near transit, within walking distance to a bus stop (1/4 mile).
- Site location should be near (walking distance) existing retail such as groceries.
- Site should have access to existing City utilities including water, sewer, electric.
- Site should be located outside of natural hazard areas (Floodplain, steep slopes, or property that could be inaccessible in a severe weather event).

In the case of emergency severe weather shelter, a new state law adopted by the Oregon Legislature this spring (HB 2006) requires the City of Ashland to approve an application for an Emergency Shelter regardless of state or local land use laws as long as the application complies with the approval criteria in the new state law. In other words, the City of Ashland can approve an application to develop an Emergency Shelter if the application complies with the new state law, even if, under other circumstances, the City's land use code would prohibit the Emergency Shelter at that location. Additional site selection criteria for severe weather shelter should include the following;

- Site should be large enough to accommodate a building that accommodates sleeping, communal space, and a commercial kitchen. The minimum building size should be approximately 3,000-4,000 square feet.
 - Additionally, the facility may include opportunities for:
 - Storage for personal property;
 - Commercial kitchen to allow for food to be prepared on-site;
 - Recreation areas for children and pets;
 - Potential areas for service providers to provide case management services for housing, financial, vocational, educational, or physical or behavioral health care services.
- Site should be able to accommodate a potential minimum 10 pallet structures in a location that can largely be screened from public view for privacy and security of occupants.
- Site should accommodate parking for staff, volunteers, occupants, and potentially some spaces available for individual car camping.
- Site should accommodate intermittent use by vehicles providing services such as portable laundry truck, dental health truck, shower truck (including utility hookups)
- Property zoning which allows for adaptive/flexible use of the building in the event needs change over time.
- Site acquisition should be for an amount that is within the City's budget, to include minimum upgrades needed for operation.
 - An existing building should be usable without a significant remodel, although the addition of a commercial kitchen, accessible restrooms, and the installation of fire suppression systems may be considered.
 - Substantial upgrades, additions, and alterations could be considered as future phases of development utilizing CDBG or AHTF revenue.