



**MEMORANDUM OF UNDERSTANDING
 BETWEEN DESCHUTES COUNTY AND NEIGHBORIMPACT
 DOMESTIC WELL ASSISTANCE GRANT AND LOAN PROGRAM
 Document # 2022-640**

PARTIES:

NeighborImpact
 2303 SW First
 Redmond, Oregon, 977056 ("NI")

Deschutes County, Oregon
 1300 NW Wall St.
 Suite 206
 Bend, OR 97703 ("County")

This MOU (this "agreement") is dated July _____, 2022, but made effective for all purposes as of the effective date (as defined below), and is entered into between Deschutes County ("County"), a political subdivision of the State of Oregon, and NeighborImpact ("NI"), an Oregon nonprofit corporation.

RECITALS:

- A.** NI operates a housing rehabilitation loan program for the benefit of low- and moderate-income homeowners in Crook, Deschutes and Jefferson counties and the Confederated Tribes of Warm Springs.
- B.** County has been allocated \$585,200 in state general funds through SB5561. The intent of the funding is to provide drought relief to Deschutes County residents through domestic and community well assistance.

C. County is allocating the \$585,200 to NI to manage a well repair and replacement grants and loan program for the benefit of Deschutes County homeowners.

IT IS, THEREFORE AGREED:

1. Term.

This agreement will be effective as of July __, 2022. This is known as the Effective Agreement Date. No services shall be performed prior to the Effective Agreement date. This agreement will continue until all grant monies under the program have been paid out or returned.

2. Statement of work.

The County shall contribute \$585,200 thousand to NI. The well repair and replacement program is detailed further in Exhibit A, Statement of Work, attached hereto and incorporated herein by reference. County staff shall periodically communicate with NI on administration of the grant program.

3. Compensation

NI will allocate an amount not to exceed 10% of the program funding (\$58,000) for NI administration and program delivery costs.

4. Invoicing and Payment Schedule

County will contribute funds into this program at the onset of the agreement. If for any reason, monies are not all utilized (in whole or part), they will be returned to the County.

5. Execution of Work.

NI shall at all times perform the work diligently, without delay, and punctually fulfill all requirements herein.

This Agreement outlines the entire relationship between NI and County for purposes stated in statement of work. This Agreement constitutes the entire Agreement between the parties concerning the subject matter

hereof, and supersedes any and all prior or contemporaneous agreements or understandings between the parties, if any, whether written or oral, concerning the subject matter of this Agreement which are not fully expressed herein. This Agreement may not be modified or amended except by a writing signed by all parties.

6. Books and Records.

NI shall keep proper and complete books of record and account and maintain all fiscal records related to this Agreement and the project in accordance with generally accepted accounting principles. NI shall provide a report to the County after the grants have been made, detailing the amounts of types of loans and grants made in Deschutes County.

NI acknowledges and agrees that County and its duly authorized representatives shall have access to the books, documents, papers, and records of NI which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after the Agreement expiration date. Copies of applicable records shall be made available upon request. Payment for reasonable costs of copies is reimbursable by County. If for any reason any part of this Agreement is involved in litigation, NI shall retain all pertinent records for not less than three years after the grant has been made, until all litigation is resolved, or in accordance with applicable ORS County record retention requirements whichever is longer. Full access will be provided to County and to its duly authorized representatives in preparation for and during litigation.

7. Termination.

This Agreement may be terminated for convenience by either party at any time prior to the expiration date upon 30 day written notice. If one party believes the other party to be in violation of this Agreement, that party shall notify the second party in writing of the circumstances leading to this conclusion. The party alleged to be in violation shall have 15 days to remedy the violation after which, if the violation continues to exist, the agreement will automatically terminate. In the event of early termination by either party, loans and rebates extended or obligated by NI shall remain with NI. Any balance remaining shall be returned to County within

15 days of termination, including a proportionate refund of the administration fee.

8. Litigation.

All claims, counterclaims, disputes and other matters in question between NI and County arising out of, or relating to, this Agreement or the breach of it will be decided, if the parties mutually agree, by arbitration, mediation, or other alternative dispute resolution mechanism, or, if not so agreed, in a court of competent jurisdiction within the State of Oregon and Deschutes County. In the event of any dispute arising from this Agreement each party shall be required to pay its own separately incurred attorney's fees, expenses, and court costs, including arbitration, trial and appeal.

9. Notification.

NI and County will include the following statements on any and all reports related to funding distributed through this program: 1) "The Deschutes County Well Repair and Replacement program is funded by the State of Oregon and Deschutes County".

10. Indemnity and Insurance.

10.1 County and NI agree to indemnify, defend, and hold harmless each other from all claims, lawsuits and actions of whatever nature brought against it which arise from NI and/or County's performance or omissions under this Agreement. No party shall be required to defend or indemnify the other for any claim or liability arising out of wrongful, or negligent acts or omissions of its own employees or representatives. Failure to supervise on the part of NI and/or County shall not constitute a defense to the indemnity obligation imposed by this provision. This provision is subject to the limitations, if applicable, set forth in Article XI, Section 10 of the Oregon Constitution and in the Oregon Tort Claims Act, ORS 30.260 to 30.300.

10.2 NI and County will obtain and maintain insurance policies that provide for adequate coverage for all risks normally insured against by a

person carrying on a similar business in a similar location, and for any other risks to which either is normally exposed. Minimum coverage limits of \$1,000,000 / \$2,000,000 are required. NI and County will have workers' compensation insurance in form and amount sufficient to satisfy the requirements of applicable Oregon law. Insurance requirements may be satisfied by existing program of self-insurance.

11. Successors & Assigns.

The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns. After this Agreement is executed, County and/or NI shall not enter into any new sub agreements for any work scheduled under this Agreement or assign or transfer any of its interest in this agreement without the prior written consent of NI and/or County.

12. No Partnership.

NI will act as an independent contractor for this project. This agreement is not intended to create a partnership, employment status or joint venture.

13. Compliance with Applicable Laws.

13.1 NI agrees to comply with all federal, state, and local laws, ordinances, and regulations applicable to this agreement. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Both parties hereby consent to the personal jurisdiction of all state courts within Deschutes County, and all federal courts within the State of Oregon.

13.2 NI shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

14. Tax Compliance.

By signature on this agreement, NI hereby certifies that it is not, to the best of its knowledge, in violation of any Oregon Tax Laws. For the purpose of this certification, "Oregon Tax Laws" are ORS Chapter 118, 119,

314, 316, 317, 318, 320, 321, and 323 and Sections 10 to 20, Chapter 533, Oregon Laws 1981, as amended by Chapter 16, Oregon Laws 1982 (first special session); the Homeowner's and Renters Property Tax Relief Program under ORS 310.630 to 310.690; and any local tax laws administered by the Oregon Owner of Revenue under ORS 305.620.

15. Severability.

The parties agree that if any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.

16. Force Majeure.

No party shall be held responsible for delay or default caused by fire, riot, public health emergencies and orders of federal, state, county and/or city jurisdictions, acts of God, and war which is beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligation under the agreement.

17. Waiver.

The failure of NI and/or County to enforce any provision of this agreement shall not constitute a waiver by NI and/or County of that or any other provision.

18. Ownership.

NI and County will have full access to, and rights to use, all documents prepared under this agreement.

19. Other Provisions.

NI and County shall protect and indemnify each other against any payroll taxes or contributions imposed with respect to any employees of NI and County by any applicable law dealing with pensions, unemployment compensation, accident compensation, health insurance, and related subjects. NI shall at NI's own cost and expense insure each person employed by NI the compensation provided for by law with respect to worker's compensation and employer's liability insurance.

20. Signatures

This Agreement may be signed in counterparts. A fax or email transmission of a signature page will be considered an original signature page. At the request of a party, the other party will confirm a fax or email transmitted signature page by delivering an original signature page to the requesting party.

21. Attachments

The following attachments are part of and applicable to this Agreement:

Exhibit A – Statement of Work

THIS AGREEMENT, WHICH INCLUDES ALL ATTACHED EXHIBITS, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THE TERMS OF THIS AGREEMENT SHALL NOT BE WAIVED, ALTERED, MODIFIED, SUPPLEMENTED, OR AMENDED, IN ANY MANNER WHATSOEVER, EXCEPT BY WRITTEN INSTRUMENT. SUCH WAIVER, ALTERATION, MODIFICATION, SUPPLEMENTATION, OR AMENDMENT, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN, AND SHALL BE VALID AND BINDING ONLY IF IT IS SIGNED BY ALL PARTIES TO THIS AGREEMENT. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, REGARDING THIS AGREEMENT EXCEPT AS SPECIFIED OR REFERENCED HEREIN. NI AND CITY, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

NEIGHBORIMPACT

By _____
Scott Cooper, Executive Director

Date _____

Deschutes County

By _____
Nick Lelack, County Administrator

Date _____

EXHIBIT A

STATEMENT OF WORK

The County shall contribute \$585,200 to NI to fund the Deschutes County Well Repair and Replacement program. NI will serve as the overall project manager and fiscal administrator for this program.

The grant funds are intended to partially or fully fund well repairs or replacement costs for owner-occupied housing units impacted by the drought conditions. Funds will be distributed through two NI-operated programs:

1. Home Preservation Loan program
2. Well Repair/Replacement Rebate program

Funds shall be fully obligated by June 30, 2023, and expended by September 30, 2023.

NI and County shall collaborate on communicating the availability of funding to Deschutes County residents.

Home Preservation Loan Program

A total of \$400,200 in funding will be allocated to the NI Home Preservation Loan program, including up to 10% (\$40,000) for administration and program delivery.

NI will manage these funds in alignment with NI's existing Home Preservation loan program policies and procedures.

Loan Program eligibility:

- Loan eligibility limited to owner-occupied housing units (stick-built and/or manufactured homes).
- Property must be located in Deschutes County.
- Homes must be primary residence of the applicant.
- Borrowers must have annual household incomes at or below 100% of the area median income (AMI) by family size for the current year, based on HUD's AMI calculations.
- Borrowers must meet Home Preservation program underwriting terms, including adequate credit history and the borrower's demonstrated ability to secure the loan through property equity.

- Borrowers are eligible for up to \$50,000 in County funds. Loan amounts will be based upon estimated project costs.
- Loan interest rates applicable to these funds will be those set by NI as of the date of this agreement, and will not be reviewed/adjusted during the term of this agreement.
- Loans may be structured as amortizing loans, deferred loans, or partial/interest-only loans depending on the borrower financial circumstances and ability to repay, at the discretion of the NI Lending Director and NI Lending Committee.
- All proposed loans will be reviewed and approved by the NI Lending Committee, which contains both NI board members and appointed community members.

Interest and Capital Repayment:

All principal and interest payments received by NI from borrowers funded through this program shall be retained by NI and allocated to the regional Home Preservation program for re-lending purposes to qualified borrowers in Crook, Deschutes and Jefferson counties and at the Confederated Tribes of Warm Springs. NI will manage the funds in perpetuity consistent with the NI bylaws, NI Home Preservation program policies and procedures, NI fiscal policies, and generally accepted accounting principles.

Rebate Program

A total of \$185,000 in funding will be allocated to fund domestic well assistance rebates, including up to 10% (\$18,500) for administration and program delivery.

These one-time rebates are intended to offset or rebate costs incurred by homeowners in Deschutes County related to well replacement or repair costs resulting from drought conditions.

Approved rebate amounts shall be the lesser of the full cost of well repair/replacement or \$2,000. An individual rebate shall not exceed \$2,000 under any circumstances.

A grant application will be made available on NI's website.

Rebate program eligibility and terms:

- Property must be located in Deschutes County.
- Homes must be primary residence of the applicant.
- Applicants must have incurred well replacement or repair costs due to loss of use of the well to provide domestic water during the period beginning on January 1, 2021. Costs incurred prior to January 1, 2021, are ineligible for this rebate program.
- Applicants must provide documentation of actual costs incurred. Documentation may include (but not be limited to) invoices and receipts for repair/replacement costs.
- Rebates will be conditioned upon NI receipt of a complete and accurate application, and upon documentation that the applicant meets the grant criteria and sufficient documentation has been provided to verify the well repair/replacement costs.
- Rebates will be made on a “first come-first served” basis, based upon full and complete applications received and ability to meet criteria.
- There are no income eligibility requirements associated with this rebate program.
- Well costs for new construction shall not be eligible for this rebate program.
- No individual or entity may receive more than one rebate from these funds.
- All recipients must provide a W-9 prior to receiving a rebate.
- Businesses, including agricultural operations, are not eligible for a rebate.
- NI will provide a 1099 to all recipients of rebates. Rebates are potentially taxable income.

Reporting

NI will provide a report to the County upon completion of the program, or upon request by the County. The report will include details and summaries of loans and grants funded under this agreement.