

**LETTER OF UNDERSTANDING**  
**JOHNSON COUNTY UTILITY ASSISTANCE PROGRAM**

THIS LETTER OF UNDERSTANDING (this "LOU"), is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Overland Park, Kansas (the "CITY"), and Johnson County Human Services, (the "COUNTY").

WHEREAS, the COUNTY provides financial assistance to income eligible Overland Park households with payment of delinquent utility bills through a Utility Assistance Program (the "Program"); and

WHEREAS, the COUNTY will match CITY funds with COUNTY funds to provide the services outlined in this LOU; and

WHEREAS, the CITY has approved and proposes to make a grant of up to \$30,000 for utility assistance payments for Overland Park residents in need of assistance (the "GRANT").

NOW, THEREFORE, in consideration of the promises and covenants of this LOU, the parties hereto agree as follows:

**I. Statement of Services**

The COUNTY shall:

- A. Be responsible for all client intake, counseling and assistance payments;
- B. Develop guidelines and procedures for determining client eligibility, income documentation requirements, the amount of assistance and the reason for assistance;
- C. Provide adequate certification that the services outlined in this LOU will principally serve low-to moderate-income persons residing in Overland Park, Kansas;
- D. Provide quarterly reports to the City no later than the end of the month following the end of each calendar quarter. The CITY shall have access to Program records at all reasonable times upon request for audit purposes; and
- E. Provide energy conservation education, individual counseling regarding energy usage and budgeting, and other supportive services to utility assistance clients.

**II. Term**

The term of this LOU shall be for the period commencing on January 1, 2013, and ending December 31, 2013, subject to the terms and conditions herein.

**III. Applicant Eligibility**

The COUNTY shall determine applicant eligibility using a minimum of the following factors:

- A. The applicant is a resident of the City of Overland Park;

- B. The applicant's household has an income at or below 30% (Extremely Low), to 50% (Very Low), or to 80% (Low) of the federal Area Median Income (AMI) levels;
- C. The applicant has a utility bill in arrears, including services for electricity, natural gas, heating wood, propane, water, or sewage; and
- D. The applicant has made a payment on the utility bill within the past three months of the current utility bill.

Notwithstanding the above, each household will be eligible to receive assistance only once per year.

#### **IV. Benefits**

- A. The COUNTY shall determine the benefits for eligible applicants in the following manner:
  - 1. Determine the amount of payment due to the utility based on the amount of arrearage or the maximum benefit, whichever is lower; and
  - 2. Determine the benefit allocations from appropriate sources. The amount allocated from the City shall not exceed \$125.00 per household per year and shall not exceed 50% of the total utility assistance provided.
- B. Payments will be made payable directly to the utility company and processed through the COUNTY's voucher system.
- C. GRANT funds shall be supplemental and in addition to the COUNTY's assistance normally available; and in no way shall the GRANT diminish the COUNTY's normal funding, or be used to reduce funding from other sources of assistance to Overland Park residents.

#### **V. Funding**

- A. The CITY shall disburse to the COUNTY, up to \$30,000 for fiscal year 2013, such GRANT being subject to conditions herein stated. In no one year shall the GRANT exceed \$30,000, including any unexpended funds from any prior year.
- B. The CITY agrees to disburse funds on the following schedule:
  - 1. Unexpended funds currently held by the COUNTY from the CITY's previous grant shall serve as the CITY's first payment under the terms of this LOU. The COUNTY shall provide a report to the CITY indicating the 2012 Program balance, if any, applied to the 2013 GRANT.
  - 2. The balance of the GRANT will be advanced in periodic payments upon request over the duration of this LOU. These periodic payments shall be based on the amount of assistance reported and the balance of the GRANT held by the COUNTY.
  - 3. At no time shall the aggregate of unexpended, unobligated GRANT funds held by the COUNTY exceed \$5,000.00.
- C. The GRANT will continue for the term specified as long as the Program continues to be operational and neither party has exercised its rights to terminate this LOU. If the COUNTY

ceases to exist during the term of this LOU or this LOU is terminated by either party, the unexpended GRANT funds will be returned to the CITY.

- D. A final request for funds is to be made within thirty (30) days of the termination of this LOU.
- E. The cost and liability to the CITY under this LOU shall not exceed the amount of the GRANT stated above.

#### **VI. Records and Reports**

- A. The COUNTY shall provide the CITY a quarterly report no later than the end of the month following the end of each calendar quarter. This report shall be in a form as approved by the City and shall include, at a minimum, a listing of the person/household receiving assistance, number of persons assisted, client address, AMI category of household assisted, type of assistance provided and the source and dollar amount of assistance.
- B. All records and documentation pertaining to the client's eligibility for the Program funded by this GRANT shall be provided to the CITY upon request. The COUNTY agrees to maintain all records for five years following the termination of this LOU.
- C. The CITY shall have access to Program records at all reasonable times upon request.

#### **VII. Non-Discrimination**

- A. During the performance of this LOU or any subcontract resulting thereof, the COUNTY, all subcontractors and vendors shall observe the provisions of the Kansas Acts Against Discrimination (K.S.A. 44-1001, et seq.) and Title VII of the Civil Rights Act of 1964 as amended and shall not discriminate against any person in the performance of work under the present LOU because of race, religion, color, sex, national origin, age, disability, ancestry, veteran status, or low income;
- B. In all solicitations or advertisements for employees the COUNTY, all subcontractors and vendors shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission");
- C. If the COUNTY, a subcontractor or vendor fails to comply with the manner in which the COUNTY, subcontractor or vendor reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the COUNTY, subcontractor or vendor shall be deemed to have breached the present LOU, and it may be canceled, terminated or suspended, in whole or in part, by the CITY;
- D. If the COUNTY, a subcontractor or vendor is found guilty of a violation of the Kansas Acts Against Discrimination under a decision or order of the Kansas Human Rights Commission which has become final, the COUNTY, subcontractor or vendor shall be deemed to have breached this LOU, and this LOU may be cancelled, terminated or suspended in whole or in part by the CITY; and
- E. The COUNTY shall include the provisions of paragraphs A through D above in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

### **VIII. Age and ADA Discrimination**

The COUNTY further agrees that the COUNTY shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.), and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project, and shall furnish any certification required by any federal, state or local laws, ordinances and regulations applicable to this project and in connection therewith.

### **IX. General Administration**

- A. All Program income derived from the GRANT shall be applied to assistance as outlined in this LOU. Program income shall include any client repayment of assistance.
- B. The COUNTY shall use the GRANT solely for the purpose of providing utility assistance payments to area utility companies, such as: electricity, natural gas, heating wood, propane, water or sewage bills, and
- C. Subject to the provisions and limitation of the Kansas Tort Claims Act, the COUNTY shall defend, indemnify, and hold harmless the CITY and its agents and/or employees from any and all claims, settlements, and judgments for personal injury, bodily injury, property damage, and/or death arising out of the COUNTY or any of its agents', servants', and/or employees' negligent acts and/or failures to act in the performance of this LOU.

### **X. Termination**

- A. Termination for Convenience. The CITY may, when the interests of the CITY so require, with 60 days notice, terminate this LOU in whole or in part, for the convenience of the CITY. The CITY shall give written notice of the termination to the COUNTY, specifying that the LOU, or a designated part thereof, shall be terminated; and when termination becomes effective, the COUNTY shall incur no further obligations to the CITY in connection with the terminated work or services; and on the date set in the notice of termination, the COUNTY will stop work or services on behalf of the CITY to the extent specified. In the event the LOU is terminated for convenience of the CITY, the CITY will disburse funds for costs incurred and funds expended by the COUNTY prior to the date of termination.
- B. Termination for Default. If the COUNTY is violating any of the conditions of this LOU or is executing the same in bad faith, the CITY may serve written notice on the COUNTY of its intention to terminate the LOU and unless, within seven (7) days after the serving of the notice, a satisfactory arrangement has been made for the continuance thereof, this LOU shall terminate. The CITY retains the right to withhold the GRANT or any portion thereof for damages incurred as a result of the COUNTY's breach of this LOU.

### **XI. General Provisions**

- A. Severability. If any provision of this LOU is held invalid, the remainder of this LOU shall not be affected thereby and all other parts of this LOU shall nevertheless be in full force and effect.
- B. Assignment. Neither party shall assign or transfer their interest in this LOU without the written consent of the other.

- C. Enforcement. The failure of the CITY or the COUNTY to insist on strict performance of any of the terms and conditions herein shall not be deemed a waiver of the right to demand strict performance of that or any other provision at any time thereafter.
- D. Section Headings and Subheadings. The section headings and subheadings contained in this LOU are included for convenience only and shall not limit or otherwise affect the terms of this LOU.
- E. Waiver. The CITY's failure to act with respect to a breach by the COUNTY does not waive its right to act with respect to subsequent or similar breaches. The failure of the CITY to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.
- F. Entire Agreement. This LOU constitutes the entire LOU between the CITY and the COUNTY for the use of funds received under this LOU and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the CITY and the COUNTY with respect to this LOU.
- G. Governing Law. This LOU shall be governed by, construed, and enforced in accordance with the laws of the State of Kansas.

IN WITNESS WHEREOF, the parties hereto have caused this LOU to be executed in triplicate by their duly authorized representatives and made effective on the day and year first written above.

CITY OF OVERLAND PARK, KANSAS

JOHNSON COUNTY DEPARTMENT OF HUMAN SERVICES

By \_\_\_\_\_  
Carl Gerlach, Mayor

By \_\_\_\_\_  
Deborah Collins, Director  
Johnson County Human Services

ATTEST:

ATTEST:

\_\_\_\_\_  
Marian Cook  
City Clerk

\_\_\_\_\_  
Julie Ohrt  
Senior Administrative Assistant

APPROVED AS TO FORM:

\_\_\_\_\_  
Stephen B. Horner  
Senior Assistant City Attorney