



CITY OF AVONDALE
Finance and Budget Department
11465 West Civic Center Drive Suite 250
Avondale, AZ 85323-6807
Phone: 623-333-2047
Fax: 623-333-0200

**INFORMAL REQUEST FOR PROPOSAL
FOR
FIRST-TIME HOMEBUYER ASSISTANCE PROGRAM
NFS 21-046**

All responses due by 06/02/2021, 10:00 A.M., Local Time, Phoenix, Arizona. Please email your response to Jill Lin at jlin@avondaleaz.gov.

BACKGROUND: The City of Avondale (the “City”) Neighborhood and Family Service Department (“NFS”) is seeking proposals from qualified firms to assist with the First-Time Homebuyer Assistance Program (“Program”).

The Program is designed to assist low- and moderate-income homebuyers who are able to purchase a home based on income, credit and job history, but lack the savings to pay down payment and closing costs. The federal funding source for the Program is the HOME Investment Partnership Program (HOME) as well possible program income from the Neighborhood Stabilization Program (NSP). These funds are provided to the City by the U.S. Department of Housing and Urban Development (HUD).

Section I – Project Information

- 1.1. The Purpose: The purpose of this Informal Request for Proposal (“RFP”) is to invite qualified consulting firms to submit proposals for the program administration and implementation in accordance with the Code of Federal Regulations 24 CFR part 92. The selected Proposer/Subrecipient (“Consultant”) will report to Housing & Community Development Manager and/or authorized City Staff.
- 1.2. Scope of Work: The Consultant will administer the Program funds in accordance with the Code of Federal Regulations 24 CFR part 92. The Consultant shall be capable of implementing all aspects of the Program, including contract administration, marketing, application intake, homebuyer counseling, homebuyer education, underwriting, homebuyer compliance monitoring, loan servicing and reporting. The requirements are expected to include, but may not be limited to the following:
 - 1.2.1. Providing technical assistance to the general public in connection with the daily operation of the Program as well as Program requirements.
 - 1.2.2. Preparation of written administrative procedures to ensure effective, consistent implementation of the Program.
 - 1.2.3. Processing Program applications, including review and screening of such applications with respect to HOME regulatory compliance, and creating a waiting list of compliant, qualified applicants. Monthly reporting to City will be required.

- 1.2.4. Providing formal homebuyer education curriculum in compliance with the U.S. Department of Housing & Urban Development.
- 1.2.5. Providing homebuyer counseling to assist new homebuyers with obtaining a mortgage lender and title company and assistance with all aspects of the homebuyer process as necessary.
- 1.2.6. Fully implement the federal lead-based paint requirements that are applicable to homebuyer assistance programs funded by HUD.
- 1.2.7. Conducting inspections of homes per HUD Housing Quality Standards (HQS) or HUD Uniform Physical Conditions Standards (UPCS) to ensure that they are decent, safe and sanitary and free of lead-based paint hazards.
- 1.2.8. Preparation and submission of reports, inspection records, lien releases, and warranties, as required by the City.
- 1.2.9. Provide quarterly performance reports to City in compliance with Maricopa County HOME Consortium requirements.
- 1.2.10. Preparation, maintenance and submission of data and records for semi-annual Contractor and Subcontractor Activity Report as required by HUD on the recurrence requested by City.
- 1.2.11. Servicing homebuyer loans.
- 1.2.12. Down Payment and Closing Cost Assistance. HOME funds may be used to pay down payment and closing costs for the purchase of a new home by a first-time homebuyer. Total assistance for down payment and closing costs may not exceed \$30,000 in aggregate and must only be in an amount to fill the client's needs without over subsidy for the purchase of an affordable home. Methodology shall be fully documented to justify the amount of assistance to be provided with HOME funds.
- 1.2.13. Eligible Beneficiaries. Eligible beneficiaries of Program assistance are first time homebuyers with a projected annual household gross income that does not exceed 80% of the HUD Area Median Income adjusted by household size at the time the commitment is made to the prospective homeowner*. Further, assistance must be rendered to Program participants within six (6) months of written income eligibility determination and notification to the applicant. The City will consider assistance to be rendered at close of escrow. Income must be determined and verified according to Section 8 guidelines. Homebuyers must have sufficient credit and income to obtain a sufficient mortgage to participate in the program. Buyer must contribute a minimum of \$1,000, or 1% of the purchase price of their own funds, whichever is greater. A first-time homebuyer is an individual or family who has not owned a home during the three-year period prior to purchase of a home. Divorced or separated single parents and spouses who have been out of the work force for the purpose of caring for a household are not bound by the three-year restriction.

- 1.2.14. **Eligible Property Types.** Purchased homes must be within the City of Avondale. Eligible property types include single-family homes, townhomes and condominiums. Mobile or manufactured homes are ineligible.
- 1.2.15. **Required Property Standards.** Purchased homes must meet all City of Avondale codes and ordinances as well as Housing Quality Standards pursuant to 24 CFR 982.401. The Subrecipient shall inspect (or have inspected by a third party) each home prior to closing. The results of the inspection are to be documented in writing using HUD form 52580. Work required to correct Code violations, or the presence of lead-based paint must be documented. If lead-based paint mitigation or abatement is completed, then a lead clearance is to be performed by a certified lead clearance professional. Homes to be purchased must meet accessibility standards if prospective occupants require special accommodations.
- 1.2.16. **Maximum Home Price.** The purchased homes may not exceed 95% of median purchase price for Maricopa County as established by HUD and will be provided to the Subrecipient by the City of Avondale as these figures are updated by HUD.
- 1.2.17. **Minimum and Maximum Investments.** The maximum direct assistance is \$30,000. Including down payment and closing costs. The minimum buyer investment is \$1,000 or 1% of the purchase price, whichever is greater.
- 1.2.18. **Terms of Assistance to Homebuyers.** Subrecipient must comply with the following terms of assistance to Program homebuyers:
- 1.2.18.1. **Form of Assistance:** All assistance provided to qualified and approved applicants must be offered in the form of a forgivable deferred loan (as opposed to a grant) due to federal affordability requirements. A purchased home must be owned and remain occupied by the assisted household as its primary residence for a “period of affordability” (“POF”) defined in 24 CFR 92.254 (a)(4). The length of the POF varies based on the subsidy provided, and is shown in the following table:

| Loan Amount | Required Period of Affordability¹ |
|----------------------|---|
| Under \$15,000 | 5 years |
| \$15,000 to \$40,000 | 10 years |

- 1.2.18.2. **Security of Investment:** All loans must be secured by a Promissory Note and Deed of Trust recorded against the assisted property and shall have a term equal to the affordability period. If the home is sold, transferred to another owner, or no longer used as the assisted household’s primary residence prior to satisfaction of the POF, the full amount of assistance must be returned to the beneficiary. The City of Avondale shall be listed as the beneficiary for all loans. The Subrecipient will also ensure that each assisted household execute

¹ The POF begins at close of escrow.

a HOME Written Agreement to be developed and provided by the City of Avondale.

- 1.2.18.3. Deferred Payment Loans. The Subrecipient will provide non-amortizing, Deferred Payment Loans that will be forgiven at the expiration of the term of the security instrument (at the termination of the POF). Loans will not be forgivable on a prorated basis and will be due in full if the assisted property is sold, transferred or no longer in use as the household's primary residence prior to the expiration of the POF.
- 1.2.19. Financial Underwriting. The Subrecipient will review all primary mortgages prior to providing the assistance to ensure the following: 1) mortgage loans are 30-year fixed interest rate loans; 2) mortgage loans are not sub-prime loans; 3) mortgage loans have reasonable interest in line with current prevailing interest rates; 4) closing costs are not excessive; 5) lender fees are not excessive; 6) mortgage lender underwriting is using debt ratios not to exceed 33% for the housing payment and 41% for maximum total debt (33/41); 7) the amount of assistance provided to buyers does not exceed the amount necessary to complete the sale; 8) the home is affordable to the homebuyer. The Subrecipient must provide to the City its loan policies and underwriting standards.
- 1.2.20. Subordination of Loan to Primary Mortgage Lender. The City's loan shall be second and subordinate in lien position to the Primary Mortgage issued to the homebuyer. The City will not permit its loan to be subordinated beyond second lien position. No Subrecipient shall subordinate its loan position for the purpose of refinancing a primary mortgage if refinancing results in "cash-out" to the homeowner or an increase from the original monthly housing payment.
- 1.2.21. Eligible Costs. Eligible costs are down payment, principle buy-down and closing costs.
- 1.2.22. Payment. Payment for services rendered shall be completed at close of escrow.
- 1.2.23. Ongoing Monitoring. Subrecipient shall monitor while homeowner continues to occupy the residence as their primary residence for the duration of the affordability period at least annually and provide documentation to the City.
- 1.2.24. Fair Housing Activities. Subrecipient shall provide annual fair housing training or other related activities to specifically educate homebuyers, realtors, and other Avondale businesses on Fair Housing.
- 1.2.25. Subrecipient Homebuyer Assistance Policies and Procedures. Subrecipient shall conduct homebuyer assistance activities in compliance with Homebuyer Assistance Policies and Procedures submitted with their Proposal. Elements of proposals must include a description and documentation of the following program components:
 - 1.2.25.1. Staffing and Administrative Structure
 - 1.2.25.2. Marketing and advertising methodology

- 1.2.25.3. Application approval and waiting list procedures
- 1.2.25.4. Financial underwriting standards (maximum debt ratio of 33/41)
- 1.2.25.5. Procurement procedures
- 1.2.25.6. Housing inspection process and payment procedures
- 1.2.25.7. Housing maintenance counseling procedures
- 1.2.25.8. Loan closing and recordation process
- 1.2.25.9. Loan servicing policies and procedures
- 1.2.25.10. Lien release procedures
- 1.2.25.11. Grievance and quality assurance procedures
- 1.2.25.12. Program income policies and procedures
- 1.2.25.13. Accounting procedures
- 1.2.25.14. Refinance and subordination policies
- 1.2.25.15. File retention procedures.
- 1.2.26. Liaison. The Subrecipient will be expected to maintain communication with City staff and attend meetings as required with the City and other local and federal officials as necessary to ensure the proper and timely implementation of the program.
- 1.2.27. Subrecipient Homebuyer Policies and Procedures. Subrecipient shall conduct homebuyer assistance activities in compliance with Homebuyer Assistance Policies and Procedures submitted with their Proposal. The City of Avondale will review these policies annually and procedures and may require modifications to conform with HUD regulations and/or City policy.
- 1.2.28. Subrecipient Staffing. The Subrecipient shall assign the following primary and secondary contact for Program transactions.

| Primary Contact | |
|-------------------|--|
| Name and Title: | |
| Email Address: | |
| Telephone Number: | |

| Secondary Contact | |
|-------------------|--|
| Name and Title: | |
| Email Address: | |
| Telephone Number: | |

1.2.29. City of Avondale Staffing. The City of Avondale will assign the following staff as the primary contact for Program transactions.

Marsha Chavez
Housing & Community Development Manager
City of Avondale
995 E. Riley Drive
Avondale, AZ 85323
Email: mchavez@avondaleaz.gov
Phone: 623-333-2726 (direct)

1.3. Minimum Qualifications:

- 1.3.1. The Proposer must have an active registration in System for Award Management (SAM) to be eligible for participation in Federal assistance programs or activities.
- 1.3.2. The successful Proposer must have the background, knowledge and skills in addressing the Scope of Work.
- 1.3.3. The Proposer must hold active mortgage license from Arizona Department of Financial Institutions.

1.4. Program Requirements.

- 1.4.1. Vendor's place of business must be accessible to all potential applicants, including special needs recipients.
- 1.4.2. Vendor shall not discriminate in the provision of Services hereunder because of race, color, religion, national origin, ancestry, sex, age, physical or mental handicap, or familial status as identified in Section 109 of the Fair Housing Act, Section 504 of the Rehabilitation Act, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and 24 CFR 92.350.
- 1.4.3. 109 of the Fair Housing Act, Section 504 of the Rehabilitation Act, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and 24 CFR 92.350.
- 1.4.4. Vendors must abide by federal and local regulations which HOME funds are subject to including, but not limited to, non-discrimination, equal opportunity, accessibility, lead-based paint, prevailing wages (construction only), audits, procurement and environmental review. Additional requirements can be found in the HOME regulations, 41 CFR Part 105-72 and 2 CFR Part 200.

1.5. Waiver; Rejection; Reissuance: Notwithstanding any other provision of this informal Request for Proposal, the City expressly reserves the right to: (i) waive any immaterial defect or informality, (ii) reject any or all proposals submitted or portions thereof and (iii) reissue an informal Request for Proposal.

1.6. Program Administrative Fee. Proposer shall submit a lump sum price per closing for all the services described in Section I. The City will not compensate for the service until the application is closed.

1.7. Invoice Submission and Required Format:

1.7.1. Consultant shall email invoices monthly to Avondale Account Payable at accountspayable@avondaleaz.gov and Housing & Community Development Manager, Marsha Chavez mchavez@avondaleaz.gov, and/or authorized City Staff.

1.7.2. Consultant will be paid at time of escrow.

Section II – Instructions and Conditions

2.1. Quantities: The City reserves the right to adjust the quantities as necessary to meet its needs.

2.2. Preparation/Submission:

2.2.1. A brief history and summary of your firm's qualifications, mortgage license number, a statement of your firm's policy regarding equal employment opportunity and affirmative action. (11 pt, Arial or Times New Roman; document size 8 1/2" x 11", maximum 2 pages)

2.2.2. Experiences & References:

2.2.2.1. At least three (3) government agencies, contact names, addresses, emails and telephone numbers

2.2.2.2. For each reference, list the general tasks pertain to the First-Time Homebuyer Assistance Program your firm performed in the past three years.

2.2.2.3. The amount of loan your firm have serviced for each reference.

2.2.3. Overall approach for coordinating and managing all work activities to meet program requirements and schedules. (11 pt, Arial or Times New Roman; document size 8 1/2" x 11", maximum 5 pages)

2.2.4. Resumes of all the key positions that will be involved in this project.

2.2.5. The completed and signed Exhibit A - Fee Proposal and section 1.2.28 of this RFP.

2.2.6. By submitting a proposal to this RFP, the Contractor certifies that in addition to reviewing and understanding the submittal requirements, it has reviewed the Exhibit B - Sample Professional Service Agreement.

2.3. All proposals must contain the quoting firm's name and be signed by an authorized agent, officer or employee.

2.4. Evaluation: The City will evaluate the proposal in accordance with the criteria below. The evaluation of the responses will be on combination of price proposal and qualifications or expertise with respect to first-time homebuyer program and regulations and shall be within the sole judgment and discretion of the Selection Committee. Contractor may be required to submit additional information to clarify their proposals at any time throughout the evaluation process.

2.4.1. Experience of Firm (maximum 40 points)

Evaluation will include relevant experience and qualifications, key personnel, record of past performance (including references), quality of recently completed projects, including adherence to schedules, deadlines and budgets and experience with similar projects.

2.4.2. Project Approach (maximum 40 points)

Contractors will be evaluated on the effectiveness of the proposer's organizational project management structure and the capabilities of the facility to be used in executing and managing the project. Contractors shall discuss how post-pandemic or related housing down turns strategies will be employed to maintain the program and expend funds in a timely manner.

2.4.3. Price Proposal (maximum 20 points)

The lowest responsive price proposal shall receive the full 20 points. The next lowest responsive price proposal shall receive a portion of the full 20 points equivalent to the percentage between the lowest and next lowest price proposal (i.e., if Proposal X submits the lowest responsive price proposal of \$3,000 and Proposal Y submits the next lowest responsive price proposal of \$3,500, Proposal X receives 20 points and Proposal Y receives $20 \text{ points} \times (\$3,000/\$3,500)$ or 17 points).

2.5. Award will be made to the Contractor whose proposal is the most advantageous to the City.

2.6. Please submit your proposal to Jill Lin, Senior Buy at jlin@avondaleaz.gov.

2.7. Upon request, Contractor shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Contractor's sole determination, the Services to be provided do not require a safety plan, Contractor shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.

2.8. If you need additional information or have questions please contact Jill Lin by email jlin@avondaleaz.gov or Marsha Chavez or by email mchavez@avondaleaz.gov

Section III – Price Proposal:

- 3.1. Enter the price on the Price Proposal Sheet, Exhibit A. Price Proposal shall be firm fix price.
- 3.2. The City intends to award this contract to the Proposer that it considers will provide the best overall approach to providing the first-time homebuyer program services.
- 3.3. All responses shall be considered firm for a period of 90 calendar days, commencing the day following the date of the request for proposal due date. Any responses specifying any time less than 90 calendar days shall be deemed non-responsive.

Note: Prices offered shall include applicable state and local taxes.

Section IV – Execution and Submission

By executing this document and submitting a proposal to the City of Avondale, the authorized agent agrees (i) he/she has read the City's Standard Terms and Conditions, dated March 16, 2020, as set forth on the City of Avondale website (<https://www.avondaleaz.gov/government/departments/finance-budget/standard-terms>), which are incorporated into and become a part of the company's proposal offer as if set forth fully herein and (ii) the company shall be bound by the Standard Terms and Conditions, dated March 16, 2020. By signing below the company is offering to provide the services set forth in Exhibit A and upon written acceptance of the company's offer by the City, it will have entered into a binding agreement. The offer shall be considered held open for 90 days from the quotes due date set forth above.

Signature: _____ Date: _____
Printed Name: _____ Title: _____
Company Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Email Address: _____ Telephone No. _____

Proposals for amounts exceeding \$50,000 will not be authorized and will require a formal procurement process.

EXHIBIT A
TO
INFORMAL REQUEST FOR PROPOSAL
FOR
FIRST-TIME HOMEBUYER ASSISTANCE PROGRAM

NFS 21-046
[Fee Proposal]

(See following page(s).)

EXHIBIT A

PRICE PROPOSAL

FIRST-TIME HOMEBUYER ASSISTANCE PROGRAM

NFS 21-046

NOTE: Pricing shall be all-inclusive such as overhead, profit, taxes, equipment, labor and material.

| Item | Description | Quantity/Unit | Lump Sum Price |
|------|----------------------------|------------------------------|----------------|
| 1 | Program Administrative Fee | 1 Application per closing | \$ /EACH |

Company Name: _____

Authorized Signature: _____ Date: _____

EXHIBIT B
TO
INFORMAL REQUEST FOR PROPOSAL
FOR
FIRST-TIME HOMEBUYER ASSISTANCE PROGRAM
NFS 21-046
[PROFESSIONAL SERVICE AGREEMENT]

(See following page(s).)

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND**

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is entered into as of _____, 2021, between the City of Avondale, an Arizona municipal corporation (the “City”), and _____, a(n) _____ (the “Consultant”).

RECITALS

A. The City has received HOME investment partnership funds (“HOME Funds”) under Title II of the Cranston-Gonzales National Affordable Housing Act of 1990, Public Law 101-625.

B. The City issued an Informal Request for Proposals, NFS 21-046 FIRST-TIME HOMEBUYER ASSISTANCE PROGRAM (the “RFP”), a copy of which is on file in the City’s Finance Office and incorporated herein by reference, seeking proposals from vendors for First-Time Homebuyer Assistance Program (the “Services”).

C. The Consultant responded to the RFP by submitting a proposal (the “Proposal”), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Consultant for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Consultant hereby agree as follows:

1. Term of Agreement.

1.1. Initial Term. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until _____, 2022 (the “Initial Term”), unless terminated as otherwise provided in this Agreement.

1.2. Renewal Terms. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a “Renewal Term”) if (i) it is deemed in the best interests of the City, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of this Agreement, the Consultant requests, in writing, to extend this Agreement for an additional one-year term and (iii) the City approves the additional one-year term in writing (including any

price adjustments approved as part of this Agreement), as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason. The Consultant's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that the City may, at its discretion and with the agreement of the Consultant, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

1.3. Non-Default. By requesting extension for a Renewal Term as set forth above, or by consenting to a Renewal Term in any manner, Consultant shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Consultant claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. Consultant shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit B and incorporated herein by reference.

This is an indefinite quantity and indefinite delivery Agreement for Services, which shall only be provided when the City chooses to move forward with a pending project and proper authorization and documentation have been approved. The City does not guarantee any minimum or maximum amount of Services will be requested under this Agreement. For project(s) determined by the City to be appropriate for this Agreement, the Consultant shall provide the specific Services to the City agreed upon between the parties in a written invoice, quote, purchase order or other form of written acknowledgment describing the Services to be provided (each, a "Work Order"). Each Work Order shall (i) contain a reference to this Agreement and (ii) be attached hereto as Exhibit B and incorporated herein by reference. Work Orders submitted without referencing this Agreement will be subject to rejection. Consultant acknowledges and agrees that Work Order(s) containing unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement (collectively, the "Unauthorized Conditions"), other than City's project-specific requirements, are hereby expressly declared void and shall be of no force and effect. Acceptance by the City of any Work Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement shall not alter such terms and conditions or relieve Consultant from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement. If the Agreement is renewed pursuant to Subsection 1.2 above and such renewal includes any Unauthorized Conditions, other than price, those terms will be null and void.

3. Compensation. The City shall pay Consultant an amount not to exceed \$50,000.00 each year for the Services at the rates set forth in the Fee Proposal attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The City shall pay the Consultant at escrow, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices

shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Safety Plan. Consultant shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration (“OSHA”), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Consultant’s sole determination, the Services to be provided do not require a safety plan, Consultant shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.

6. Ownership of Documents . All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

7. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign specific individuals to key positions. If deemed qualified, the Consultant is encouraged to hire City residents to fill vacant positions at all levels. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Consultant’s performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the City.

9. Licenses; Materials. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Consultant. The City has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Consultant.

10. Performance Warranty. Consultant warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

11. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold harmless the City and each council member, officer, employee or agent thereof (the City and any such person being herein called an “Indemnified Party”), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys’ fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever

("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Consultant, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

12. Insurance.

12.1. General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.

B. No Representation of Coverage Adequacy. By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect Consultant. The City reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement, but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

C. Additional Insured. All insurance coverage, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees as Additional Named Insured as specified under the respective coverage sections of this Agreement.

D. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

E. Primary Insurance. Consultant's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the City as an Additional Insured.

F. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping

coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance and necessary endorsements citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

G. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the City, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Consultant. Consultant shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

H. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the City. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the City and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant will provide the City with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Consultant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The City shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Consultant's responsibility to forward renewal certificates and declaration page(s) to the City 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, will be subject to

rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(1) The City, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

(a) Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 03 97 or equivalent.

(b) Auto Liability – Under ISO Form CA 20 48 or equivalent.

(c) Excess Liability – Follow Form to underlying insurance.

(2) Consultant’s insurance shall be primary insurance with respect to performance of this Agreement.

(3) All policies, except for Professional Liability, including Workers’ Compensation, waive rights of recovery (subrogation) against City, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Consultant under this Agreement.

(4) ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

K. Endorsements. Consultant shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Section.

L. Bonding and Insurance. The Consultant shall comply with the insurance requirements of 41 CFR 105-72.401.

M. Grantor Recognition. The Subrecipient shall ensure recognition of the role of the grantor agency in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include reference to the support provided herein in all publications made possible with funds available under this Agreement.

12.2. Required Insurance Coverage.

A. Commercial General Liability. Consultant shall maintain “occurrence” form Commercial General Liability insurance with an unimpaired limit of

not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured's clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

B. Vehicle Liability. Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant's owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

C. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work in any way related to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. If Consultant employs anyone who is required by law to be covered by workers' compensation insurance, Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

12.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or be materially changed without 30 days' prior written notice to the City.

13. Termination; Cancellation.

13.1. For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Consultant of written notice by the City. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

13.2. For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.3. Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.4. Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

13.5. Gratuities. The City may, by written notice to the Consultant, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Consultant an amount equal to 150% of the gratuity.

13.6. Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations

under this Agreement are current expenses subject to the “budget law” and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City’s obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Consultant informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Consultant hereby waives any and all rights to bring any claim against the City from or relating in any way to the City’s termination of this Agreement pursuant to this section.

14. Miscellaneous.

14.1. Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Consultant, its employees and subcontractors are not entitled to workers’ compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Consultant do not intend to nor will they combine business operations under this Agreement.

14.2. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

14.3. Laws and Regulations. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future OSHA standards.

14.4. Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Consultant.

14.5. Provisions Required by Law. Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, this Agreement will promptly be physically amended to make such insertion or correction.

14.6. Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of this Agreement which may remain in effect without the invalid provision or application.

14.7. Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting this Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

14.8. Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Consultant without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

14.9. Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior, written approval of the City. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Consultant.

14.10. Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, shall not release the Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.

14.11. Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury,

which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

14.12. Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13. Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Consultant any amounts Consultant owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Consultant any amounts Consultant owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

14.14. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the City: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Charles A. Montoya, City Manager

With copies to: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Procurement Officer

City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: City Attorney

If to Consultant: _____

Attn: _____
Email: _____
Phone: _____

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

14.15. Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the City. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

14.16. Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 14.17 below, Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17. E-Verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-

verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18. Israel. For Contracts in excess of One Hundred Thousand (\$100,000) Dollars, Consultant certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

14.19. Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFP and the Consultant's Proposal, the documents shall govern in the order listed herein. If the Agreement is renewed pursuant to Subsection 1.2 above and such renewal includes any conflicting terms, other than price, those terms will be null and void.

14.20. Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21. Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Consultant. Consultant may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Consultant. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

14.22. The Consultant must have a financial management system that complies with 41 CFR 105-72-301(b)(1)-(7).

14.23. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

14.24. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names

14.25. Documentation and Record-Keeping.

A. Records to be Maintained. The Subrecipient shall maintain all records required by the federal regulations specified in 24 CFR 92.508, which are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- (1) Program records as set forth in 24 CFR 92.508(a)(2).
- (2) Project records as set forth in 24 CFR 92.508(a)(3).
- (3) Community Housing Development Organizations (CDHOs) records as set forth in 24 CFR 92.508(a)(4).
- (4) Financial records as set forth in 24 CFR 92.508(a)(5).

92.508(a)(6).

- (5) Program administration records as set forth in 24 CFR
- (6) Records concerning compliance with other federal requirements as set forth in 24 CFR 92.508(a)(7).
- (7) Records documenting compliance with environmental review regulations as required by 24 CFR Part 58.

B. Retention. The Subrecipient shall retain all written and electronic records pertinent to expenditures incurred under this Agreement for a period of six years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for five years after final disposition of such property. Records for any displaced person must be kept for five years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

C. Client Data. The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining

eligibility, and description of service provided. Such information shall be made available to the City monitors or their designees for review upon request.

D. Disclosure. The Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited unless consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

E. Close-Outs. The Subrecipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), submitting final close-out reports to the City and determining the custodianship of records.

F. Audits and Inspections. All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the City, its designees or the federal government, at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with City policy concerning Subrecipient audits and, as applicable to 29 CFR Part 99.

14.26. Reporting and Payment Procedures.

A. Program Income and Recaptured Funds. Program income means gross income received by the City, or a Subrecipient directly generated from the use of HOME funds or matching contributions. When program income is generated by housing that is only partially assisted with HOME funds or matching funds, the income shall be prorated to reflect the percentage of HOME funds used. Program income includes, but is not limited to, the following:

(1) Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or matching contributions;

(2) Gross income from the use or rental of real property, owned by the City, or a Subrecipient, that was acquired, rehabilitated, or constructed, with HOME funds or matching contributions, less costs incidental to generation of the income (Program income does not include gross income from the use, rental or sale of real property received by the project owner,

developer, or sponsor, unless the funds are paid by the project owner, developer, or sponsor to the participating jurisdiction, subrecipient or State recipient);

(3) Payments of principal and interest on loans made using HOME funds or matching contributions;

(4) Proceeds from the sale of loans made with HOME funds or matching contributions;

(5) Proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions; and

(6) Interest earned on program income pending its disposition;

(7) Any other interest or return on the investment permitted under §92.205(b) of HOME funds or matching contributions.

B. Nature of Proceeds. Program income and recaptured funds received as a result of program activities shall be returned to the City as lien beneficiary. These funds may be made available for additional homebuyer activities as determined by the City. In the case where a HOME-assisted unit is sold, the City shall be entitled to the net proceeds of the sale. Net proceeds shall be calculated as follows: sales price minus first mortgage payoff minus closing costs minus seller investment. Should the net proceeds of the sale be less than the value of the City's lien, the City will consider the lien to be paid in full and HOME restrictions will be released.

C. Payment Procedures. The City will pay to the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient and consistent with an approved budget and City policy concerning payments. Payments will be made for eligible expenses actually paid by the Subrecipient (reimbursement). Payments will be adjusted by the City in accordance with program income balances available in Subrecipient accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Subrecipient.

D. Progress Report. The Subrecipient shall submit bi-monthly Progress Reports to the City in the form, content and frequency as required by the City. The Progress Reports are due no later than August 15th, October 15th, December 15th, February 15th, April 15th and June 15th of each year. The Subrecipient will submit other reports regarding contract activities and the demographics of the populations served upon the request of the City.

14.27. Procurement.

A. Compliance. The Subrecipient shall comply with City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

B. OMB Standards. The Subrecipient shall procure all materials, property, or services in accordance with the requirements of 2 CFR Part 105-72, and Procurement Standards set forth in 24 CFR 92.505 and 24 CFR 84.40-84.46.

C. Travel. The Subrecipient shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this Agreement.

14.28. Relocation, Real Property Acquisition and One-For-One Housing Replacement.

Use of HOME funds subjects the City and the Subrecipient to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24.

14.28.1. Reasonable Actions. The City must ensure that it has taken all reasonable steps to minimize the displacement of persons as a result of a project assisted with HOME funds. For down payment and closing cost programs, the City must inform the seller of property, in writing, that the prospective homebuyer does not have the power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement. The seller must also be informed, in writing by the Agency, of the estimate of the fair market value of the property.

14.28.2. Relocation Assistance. If the property being considered by the prospective homebuyer is tenant-occupied, the tenant must be provided relocation assistance. That assistance includes advisory services, certain notices, moving expenses, and replacement housing assistance. Replacement housing assistance consists of either rental assistance or down payment assistance if the tenant wishes to become a homeowner. (24 CFR 92.353, 49 CFR 24.101)

14.28.3. Risk of Displacement. In order to reduce the risk of displacement from the City's program, the Subrecipient agrees to require that assisted units be vacant at least 30-days prior from the date of contract. The Subrecipient further agrees that it will obtain written notification from the seller that the property has been vacant for 30 days prior to the execution of the purchase contract, and that the seller is entering into a voluntary sale agreement

14.29. Personnel and Participant Conditions.

14.29.1. Civil Rights

A. Compliance. The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended (the Fair Housing Act), Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063 as amended by Executive Order 12259, Executive Order 11246 as amended by Executive Order 11375, 11478 and 12086 and, if applicable, Section 104(b) and Section 109 of Title I of Housing and Community Development Act of 1974 as amended.

B. Nondiscrimination. The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, nation origin, sex, disability or other handicap, age, or marital/familial status. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

C. Land Covenants. This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 and 24 CFR 92.350 and 24 CFR 92.351. In regard to sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, and providing that the City and the United States are beneficiaries of the deed or lease entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

D. Section 504. The Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1974, which prohibits discrimination against the handicapped in any federally assisted program. The City shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

14.29.2. Affirmative Action

A. Plan. The Subrecipient agrees that it shall be committed to carry out an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.

B. Women and Minority Owned Business Enterprises. The Subrecipient shall use its best efforts to afford minority and women owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement and will document these efforts to the City. As used in this Agreement, the term "minority and women owned business enterprise" means a business at least 51 percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representation by businesses regarding their status as minority and women owned business enterprises in lieu of an independent investigation.

C. Access to Records. The Subrecipient shall furnish and cause each of its own contractors or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

D. Notifications. The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understandings, a notice, to be provided by the agency's contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

E. EEO/AA Statement. The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

F. Subcontracting Provisions. The Subrecipient will include the provisions of subsections 16.1, Civil Rights and 16.2, Affirmative Action, in every subcontract or purchase orders, specifically or by reference, so that such provisions will be binding upon each of its Subrecipients or subcontracts.

14.29.3. Employment Restrictions

A. Prohibited Activity. The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for

political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

B. Labor Standards. The Subrecipient agrees to comply with the applicable requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, the Copeland “Anti-Kickback” Act, the Contract Work Hours and Safety Standards Act and all applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Services may be subject to the Davis-Bacon Act, the Copeland “Anti-Kickback” Act and the Contract Work Hours and Safety Standards Act depending upon the size of the Home. Davis-Bacon wages do not apply to single-family home rehabilitation, but if the property contains 12 or more units, the Subrecipient will be required to pay its contractors Davis-Bacon wages. Likewise, the Contract Work Hours and Safety Standards Act does not apply to single-family home rehabilitation, but it applies for residential property containing not less than eight units. It is anticipated that federal prevailing wage rates, including the Copeland “Anti-Kickback” Act, will not be required for the Services. If necessitated by the requirements of the Services, the current wage rates will be provided in the Quotation packages and the Subrecipient agrees to comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journeyworkers; provided, that if wage rates higher than those required under the regulations are imposed by state or local laws, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. If applicable, the Subrecipient shall maintain documentation which demonstrates compliance with this subsection. The Subrecipient will cause or require to be inserted in full, in all contracts subject to such regulations, provisions meeting the requirements of this subsection.

C. “Section 3” Clause.

(1) Compliance. Compliance with the provisions of Section 3 of the Housing and Community Development Act of 1968, as amended, 12 U.S.C.

1701, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the federal financial assistance provided under this Agreement and binding upon the City, the Subrecipient and any of the Subrecipient’s Subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient’s Subrecipients and subcontractors, their successors and assigns, to those sanctions specified by this Agreement through which federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exist which would prevent compliance with these requirements. The subrecipient further agrees to comply with these Section 3” requirements and to include the following language in all subcontracts executed under this Agreement:

“The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section

3 of the Housing and Community Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low and very low-income persons residing in the metropolitan area in which the project is located.”

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction project are given to low and very low-income persons residing within the metropolitan area in which the CDBG funded project is located; where feasible, priority should be given to low and very low-income persons within the service area of the project or neighborhood in which the project is located, and to low and very low-income participants in other HUD programs, and award contracts for work undertaken in connection to housing rehabilitation, housing construction, or other public construction projects are given to business concerns that provide economic opportunities for low and very low-income persons residing within the metropolitan area in which CDBG funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low and very low-income residents within the service area or neighborhood in which the project is located, and to low and very low-income participants in other HUD programs. The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

(2) Notifications. The Subrecipient agrees to send to each labor organization or representative of worker with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker’s representative of its 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.

(3) Subcontracts. The Subrecipient will include the “Section 3” Clause set forth above in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract

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

14.29.4. Conduct.

A. Subcontracts. In addition to the requirements of subsection 13.9, the following provisions shall apply:

(1) Monitoring. The Subrecipient will monitor all subcontracted services on a regular basis to ensure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions to correct areas of noncompliance.

(2) Content. The Subrecipient shall cause all the provisions of this Agreement in its entirety to be incorporated into and made a part of any subcontract executed in the performance of this Agreement.

(3) Selection Process. The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

B. Hatch Act. The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United States Code.

C. Conflict of Interest. The Subrecipient agrees to abide by the provisions of 24 CFR 92.356 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflicts of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or any designated public agencies or Subrecipients which are receiving funds under the HOME Program.

D. Lobbying. The Subrecipient hereby certifies that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to

influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) It will require that the entire language of subsection 18.4(d)(4), Lobby Certification, be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly.

(4) Lobby Certification. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

E. Copyright. If this Agreement results in any copyrightable materials or inventions, the City reserves the right to royalty free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

F. Religious Organization. The Subrecipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interest, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 92.257.

14.30. Environmental Conditions.

14.30.1 Air and Water. The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement: (A) Clean Air Act, 42 U.S.C., 7401, et seq., (B) Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder, (C) Executive Order 11738, providing for the

Administration of the Clean Air Act and the federal Water Pollution Control Act and (D) Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

14.30.2 Flood Disaster Protection. In accordance with the requirements of the Flood Disaster Protection Act of 1973, the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

14.30.3 Lead-Based Paint. The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and HUD Lead-Based Paint Regulations at 24 CFR 570.608, 24 CFR Part 35 and 29 CFR Part 1926, as amended. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. Subrecipient shall comply with any state and local laws or regulations governing environmental hazards and their remediation. Obligations under these regulations include, but are not limited to, the following:

A. Lead Content. Subrecipient shall not use or subcontract to a contractor who uses lead-based paint having more than 6/100 of 1% lead content by weight in the performance of this Agreement.

B. Protection of Workers. Subrecipient shall protect its workers disturbing lead painted surfaces, including, but not limited to the following:

(1) Contact the Inspector. Subrecipient shall contact the inspector for the Owner and City before disturbing any surfaces painted with lead paint to document the content of lead on all painted surfaces to be disturbed.

(2) Air Quality Monitoring. Subrecipient shall conduct air quality monitoring when appropriate for the type of activity to determine the level of worker protection required by OSHA. If air quality monitoring results exceed 30 ug/cu. For an eight-hour period, then worker blood testing and monitoring requirements provided in OSHA shall apply.

(3) Protective Equipment. Subrecipient shall provide personal protective equipment, including a respirator program, as is appropriate to the type of job as required by OSHA.

(4) Containment. Subrecipient shall provide proper containment of the work site and clean the work site not less than daily to contain lead dust.

(5) Facilities. Subrecipient shall make proper facilities available for worker hygiene when entering or exiting a work area.

(6) Signage. Subrecipient shall provide for appropriate signage indicating the presence of a lead hazard when conducting work activities.

(7) Cleaning. Subrecipient shall ensure that specialized cleaning of containment areas is complete before reoccupancy by the occupant of the house. For activities that remove identified lead hazards, the Subrecipient shall ensure that specialized cleaning is adequate to meet clearance standards adopted by HUD and local or state Departments of Health.

C. Removal of Paint. Subrecipient shall not use the following methods to remove paint that is, or may be, lead-based paint.

(1) Open flame burning or torching.

(2) Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.

(3) Abrasive blasting or sandblasting without HEPA local exhaust control.

(4) Heat guns operating above 1100 degrees Fahrenheit or charring the paint.

(5) Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1.0 ft. of electric outlets, or when treating defective paint spots totaling no more than 2 sq. ft. in one interior room or space, or totaling no more than 20 sq. ft. on exterior surfaces.

(6) Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with the regulations of the Consumer Product Safety Commission at 16 CFR 1500.3 and/or other hazardous chemical in accordance with OSHA regulations at 29 CFR 1910.1200 or 1926.59, as applicable to the work.

14.30.4 Asbestos. The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to OSHA regulations at 29 CFR Part 1926, as amended, and EPA regulations. Subrecipient shall comply with any state and local laws or regulations governing environmental

hazards and their remediation. Obligations under these regulations include, but are not limited to, the following:

A. Abatement. If asbestos are identified during the initial inspection, Subrecipient shall not begin the Services until all abatement has occurred. Abatement contractors must be certified.

B. Asbestos Free Materials. The project is to be constructed by the Subrecipient with asbestos free materials. The Subrecipient shall agree that if materials containing asbestos are subsequently discovered at any future time to have been included in the construction done by the Subrecipient or any of its subcontractors or agents, the Subrecipient shall be liable for all costs related to the abatement of such asbestos and damages or claims against the City not withstanding any statute of limitations or other legal bar to any claim by the City.

14.30.5 Historic Preservation. The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on the Federal, state or local historic property list.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

Date: _____

ATTEST:

Marcella Carrillo, City Clerk

“Consultant”

_____,
a(n) _____

By:_____

Name:_____

Title:_____

SAMPLE PROFESSIONAL AGREEMENT

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND

[Consultant's Proposal]

See following pages.

SAMPLE PROFESSIONAL AGREEMENT

EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND

[Scope of Work]

See following page(s).

SAMPLE PROFESSIONAL AGREEMENT

EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND

[Fee Proposal]

See following page.