

**REQUEST FOR
STATEMENTS OF QUALIFICATIONS**

City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323

SOLICITATION INFORMATION AND SELECTION SCHEDULE

Solicitation Number: **NFS 15-050**

Solicitation Title: **FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List**

Release Date: **July 7, 2015**

Monthly SOQ Deadline: **First City working day of each month
3:00 p.m.** (local time, Phoenix, Arizona)

Short-Listed Firms: The City will determine the short-listed firms monthly, 21 calendar days after the Monthly SOQ Deadline

City Representative: **Loretta Browning** **lbrowning@avondale.org**
623-333-2029

- * The City of Avondale reserves the right to amend the solicitation schedule as necessary.
- ** The City of Avondale will accept SOQ on an ongoing, monthly basis.

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PART I. RFQ PROCESS

1.1 Purpose; Background. The City of Avondale (the “City”) is issuing this Request for Statements of Qualifications (this “RFQ”) to establish a prequalified contractors list to perform professional home rehabilitation and demolition contracting services during the 2015/2016 through 2019/2020 fiscal years, to be undertaken with the following federal and/or general funding sources:

- Neighborhood Stabilization Program (“NSP”) income received from prior NSP-eligible projects.
- Arizona State Housing Trust Fund (“SHF”) administered by Arizona Department of Housing (“ADOH”) pursuant to the City’s ADOH Owner-Occupied Rehabilitation Program.
- HOME Investment Partnership Program (“HOME”) administered by ADOH and the Maricopa HOME Consortium (“Consortium”) pursuant to the City’s Consortium Owner-Occupied Rehabilitation Program.
- Community Development Block Grant (“CDBG”) Program provided by the U.S. Department of Housing and Urban Development (“HUD”).
- City of Avondale general funds (“General Funds”).

The NSP Program, the ADOH Owner-Occupied Rehabilitation Program, the Consortium Owner-Occupied Rehabilitation Program and the CDBG Program are herein collectively referred to as the “Programs.” This RFQ seeks to expand upon and replace the FY 2013/2014 – FY 2014/2015 Housing Rehabilitation Comprehensive Prequalified Contractors List to include licensed general contractors (“Contractors”) eligible to submit quotations on individual rehabilitation and demolition projects of single-family dwellings, as well as demolition construction projects on commercial properties, throughout the City for the Programs (the “Comprehensive Prequalified Contractors List”).

A. The NSP Program. The NSP Program utilizes program income generated by previous NSP-eligible projects for repairs, replacement, removal and/or disposal (“NSP Rehabilitation Projects”) or demolition (“NSP Demolition Projects”) to qualified residential units. NSP Rehabilitation Projects and NSP Demolition Projects are herein collectively referred to as “NSP Projects.” The City plans to contract up to **10** NSP Projects (each, an “NSP Project”) for services on residential units during the period covered by this RFQ, contingent upon the availability of funding. The maximum funding to be awarded for an NSP Project is limited to \$49,000.00.

B. The Owner-Occupied Rehabilitation Program – ADOH-Funded. The ADOH Owner-Occupied Rehabilitation Program utilizes federal grant funds available by ADOH through the SHF, which includes HOME funds for home repairs and improvements that remove

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code issues as well as health and safety concerns while addressing the overall energy efficiency of the home. Eligible homes include single-family dwellings that are structurally sound and owner-occupied by an income-eligible household. The assistance is provided to eligible homeowners in the form of a forgivable loan for a period of affordability based on the amount of the investment. The City plans to contract up to **30** individual projects (each, an “ADOH Owner-Occupied Rehabilitation Project”) during the period covered by this RFQ, contingent upon the availability of funding. The maximum SHF funding to be awarded for an ADOH Owner-Occupied Rehabilitation Project will be limited to \$50,000.00, but certain ADOH Owner-Occupied Rehabilitation Projects may be awarded up to an additional \$10,000.00 in CDBG funds per unit.

C. The Owner-Occupied Rehabilitation Program – Consortium-Funded. The Consortium Owner-Occupied Rehabilitation Program utilizes HOME funds available through the Consortium for home repairs and improvements that remove code issues as well as health and safety concerns while addressing the overall energy efficiency of the home. Eligible homes include single-family dwellings that are structurally sound and owner-occupied by an income-eligible household. The assistance is provided to eligible homeowners in the form of a forgivable loan for a period of affordability based on the amount of the investment. The City plans to contract up to **30** individual projects (each, a “Consortium Owner-Occupied Rehabilitation Project” and, together with the ADOH Owner-Occupied Rehabilitation Projects, the “Owner-Occupied Rehabilitation Projects”) during the period covered by this RFQ, contingent upon the availability of funding. The maximum funding to be awarded for a Consortium Owner-Occupied Rehabilitation Project is limited to \$50,000.00, but certain Consortium Owner-Occupied Rehabilitation Projects may be awarded up to an additional \$10,000.00 in CDBG funds per unit.

D. The CDBG Program. The CDBG Program utilizes CDBG funds that are allocated directly to the City from HUD. This program provides for (i) the immediate repair of a specific item or items required to ensure the health, safety and welfare of the occupants or for the removal of code violations (“CDBG Rehabilitation Projects”) or (ii) demolition (“CDBG Demolition Projects”). CDBG Rehabilitation Projects and CDBG Demolition Projects are collectively referred to as “CDBG Projects.” CDBG Projects may be completed in conjunction with, or as a precursor to, an Owner-Occupied Rehabilitation Project. The assistance is provided to eligible homeowners in the form of a grant based on the amount of investment. The City plans to contract up to **100** individual projects (each, a “CDBG Project”) during the period covered by this RFQ, contingent upon the availability of funding. Each CDBG Project likely will be funded up to \$10,000.00, but the maximum funding to be awarded for a CDBG Project is limited to \$15,000.00. Maximum funding awards will be at the sole discretion of the City.

E. General Fund Projects. The City may use City General Funds to undertake demolition and related activities at properties that are beyond economically-feasible repair and pose a health and safety risk to the public (“General Fund Projects”). Specific actions may include, but are not limited to, utility removal, hazard testing and abatement, demolition of structures and landscaping, and site clearance. The City will determine which properties qualify for demolition at its sole discretion. The City anticipates completion of up to **15** individual General Fund Projects during the term of this RFQ, contingent upon the availability of funding, with an expected cost of no more than \$25,000.00 per unit demolished.

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The NSP Rehabilitation Project(s), ADOH Owner-Occupied Rehabilitation Project(s), Consortium Owner-Occupied Rehabilitation Project(s) and CDBG Rehabilitation Project(s) are herein collectively referred to as the “Rehabilitation Projects.” All NSP Project(s), ADOH Owner-Occupied Rehabilitation Project(s), Consortium Owner-Occupied Rehabilitation Project(s), CDBG Project(s) and General Fund Project(s) are herein collectively referred to as the “Projects.”

F. Scope of Work. The scope of work/specifications for each specific Project will be developed by the City.

(1) NSP Projects.

(a) NSP Rehabilitation Projects. Contractors selected for inclusion on the Comprehensive Prequalified Contractors List with a designation of interest in NSP Rehabilitation Projects pursuant to the process defined herein will be required to be qualified to rehabilitate all NSP-assisted residential properties to the extent necessary to comply with applicable laws, codes, and other requirements, including HUD Housing Quality Standards, HUD Uniform Physical Conditions Standards (UPCS), the NSP regulations and the Maricopa HOME Consortium Housing Rehabilitation Standards (collectively, the “NSP Rehabilitation Standards”).¹ Each NSP Rehabilitation Project must also comply with green and energy efficiency standards as stated in each NSP Rehabilitation Project’s scope of work/specifications. NSP Rehabilitation Projects may involve the improvement of the overall appeal of the home and neighborhood by replacing older obsolete products, systems and appliances with Energy Star and WaterSense labeled products, including such items as compact fluorescent light bulbs, Energy Star rated HVAC systems and appliances, low-flow water fixtures and other “green” products as appropriate.

(b) NSP Demolition Projects. Contractors selected for inclusion on the Comprehensive Prequalified Contractors List with a designation of interest in NSP Demolition Projects pursuant to the process defined herein will be required to be qualified to demolish structures, remove utilities, test for hazards, perform abatement, and clear/grade sites in accordance with the City codes and ordinances, “Uniform Standard Specifications for Public Works Construction” sponsored and distributed by the Maricopa Association of Governments (“MAG”), the Uniform Standard Details for Public Works Construction” sponsored and distributed by MAG (together, the “MAG Specifications”), any amendments or supplements to the MAG Specifications adopted by the City, the City Supplement to the MAG Uniform Standard Specifications and Details for Public Works Construction dated

¹ The HUD Housing Quality Standards, Uniform Conditions and Physical Standards, the NSP regulations and the Maricopa HOME Consortium Housing Rehabilitation Standards are available on the City’s website, under the Neighborhood and Family Services Department, Housing and Community Development, “Housing Rehab Bid Opportunities” page.

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April 2008, OSHA regulations at 29 CFR Part 1926, as amended, Maricopa County standards and regulations and EPA regulations related to asbestos and other hazards, and applicable environmental review laws as set forth in 24 CFR 58.5 (collectively, the “Demolition Standards”).

(2) Owner-Occupied Rehabilitation Projects. Contractors selected for inclusion on the Comprehensive Prequalified Contractors List with a designation of interest in Owner-Occupied Rehabilitation Projects pursuant to the process defined herein will be required to be qualified to rehabilitate all assisted residential properties to the extent necessary to comply with City codes and ordinances, HUD Housing Quality Standards, HUD Uniform Physical Condition Standards (UPCS), Maricopa HOME Consortium Housing Rehabilitation Standards, the State of Arizona Rehabilitation Standards, Energy Star, International Energy Conservation Code (IECC, 2009 edition, or better) and the Arizona Governor’s Office of Energy Policy Weatherization Standards (collectively, the “Owner-Occupied Rehabilitation Standards”). For ADOH Owner-Occupied Rehabilitation Projects, in addition to complying with the Owner-Occupied Rehabilitation Standards, a weatherization professional certified by the Building Performance Institute must perform all weatherization work and must perform both a pre-construction energy audit and a post-construction compliance inspection. Owner-Occupied Rehabilitation Projects may involve the improvement of the overall appeal of the home and neighborhood by replacing older obsolete products, systems and appliances with Energy Star and WaterSense labeled products, including such items as compact fluorescent light bulbs, Energy Star rated HVAC systems and appliances, low-flow water fixtures and other “green” products as appropriate.

(3) CDBG Projects.

(a) CDBG Rehabilitation Projects. Contractors selected for inclusion on the Comprehensive Prequalified Contractors List with a designation of interest in CDBG Rehabilitation Projects pursuant to the process defined herein will be required to be qualified to perform emergency home repairs in accordance with City codes and ordinances, HUD Housing Quality Standards, Maricopa HOME Consortium Housing Rehabilitation Standards, Energy Star, and International Energy Conservation Code (IECC, 2009 edition, or better); provided, however, that only the items set forth in the scope of work will be required to be rehabilitated. CDBG Rehabilitation Projects may include the immediate repair of one or more items required to ensure the health, safety and general welfare of the home occupants and for the removal of code violations, including, but not limited to, electrical, plumbing, heating, cooling or roofing issues. Handicap accessibility modifications may also be addressed in CDBG Rehabilitation Projects.

(b) CDBG Demolition Projects. Contractors selected for inclusion on the Comprehensive Prequalified Contractors List with a designation of interest in CDBG Demolition Projects pursuant to the process defined herein will be required to be qualified to demolish structures, remove utilities, test for hazards,

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perform abatement, and clear/grade sites in accordance with the Demolition Standards.

(4) General Fund Projects. Contractors selected for inclusion on the Comprehensive Prequalified Contractors List with a designation of interest in General Fund Projects pursuant to the process defined herein will be required to be qualified to demolish structures, remove utilities, test for hazards, perform abatement, and clear/grade sites in accordance with the City codes and ordinances, the MAG Specifications, any amendments or supplements to the MAG Specifications adopted by the City, the City Supplement to the MAG Uniform Standard Specifications and Details for Public Works Construction dated April 2008, and Maricopa County standards and regulations and EPA regulations related to asbestos and other hazards.

G. Ongoing List. The City will accept statements of qualifications (“SOQ”) from interested parties on an ongoing, monthly basis with the Monthly SOQ Deadline as set forth in the solicitation schedule set forth on the cover of this RFQ. The City will determine the short-listed firms 21 calendar days after each Monthly SOQ Deadline.² Contractors selected for inclusion on the Comprehensive Prequalified Contractors List pursuant to this RFQ will be notified by the City and will be invited to submit quotations for each proposed Project within the Contractor’s stated area of interest. No agreements will be executed as a direct result of this RFQ. This RFQ is for the purpose of establishing a Comprehensive Prequalified Contractors List only and should not be construed as a formal procurement solicitation nor should it be construed as an obligation on the part of the City to award any contracts.

1.2 Preparation/Submission of SOQ. Contractors are invited to participate in the competitive selection process for the Comprehensive Prequalified Contractors List as outlined in this RFQ. Responding parties shall review their SOQ submissions to ensure the following requirements are met.

A. Irregular or Non-responsive SOQ. The City shall consider as “irregular” or “non-responsive” and reject any SOQ not prepared and submitted in accordance with this RFQ, or any SOQ lacking sufficient information to enable the City to make a reasonable determination of compliance to the minimum qualifications. Unauthorized conditions, limitations, or provisions shall be cause for rejection. An SOQ may be deemed non-responsive at any time during the evaluation process if, in the sole opinion of the City, any of the following are true:

- (1) Contractor does not meet the minimum required skill, experience or requirements to perform or provide the home rehabilitation or demolition services.
- (2) Contractor has a past record of failing to fully perform or fulfill contractual obligations.

² The Comprehensive Prequalified Contractors List of contractors currently eligible to submit on Projects will be posted on the City’s website under the Neighborhood and Family Services Department, Housing and Community Development, “Housing Rehab Bid Opportunities”: <http://www.avondale.org/index.aspx?NID=2389>.

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(3) Contractor cannot demonstrate financial stability.

(4) Contractor's SOQ contains false, inaccurate or misleading statements that, in the opinion of the City Manager or authorized designee, are intended to mislead the City in its evaluation of the SOQ.

B. Submittal Quantities. Interested Contractors must submit **one original** and **three copies (four total submittals)** of the SOQ. In addition, interested parties must submit **one original copy** of the SOQ on a CD-ROM (or electronic media approved by the City) in printable Adobe or Microsoft Word format (or other format approved by the City). Failure to adhere to the submittal quantity criteria shall result in the SOQ being considered non-responsive.

C. Required Submittal. The SOQ shall be submitted with a cover letter with an **original ink** signature by a person authorized to bind the Contractor. An SOQ submitted without a cover letter with an **original ink signature** by a person authorized to bind the Contractor shall be considered non-responsive. The SOQ shall be a maximum of **12** pages to address the SOQ criteria (excluding résumés and the Contractor Information Form, but including the materials necessary to address general information, organizational chart, photos, tables, graphs, and diagrams). Each page side (maximum 8 1/2" x 11") with criteria information shall be counted. However, one page may be substituted with an 11" x 17" sheet of paper, folded to 8 1/2" x 11", showing an organizational chart and only having information on one side. Cover, back, table of contents and tabs may be used and shall not be included in the page count, unless they include additional project-specific information or SOQ criteria responses. The minimum allowable font for the SOQ is **11 pt, Arial or Times New Roman**. Failure to adhere to the page limit, size and font criteria and shall result in the SOQ being considered non-responsive. Telegraphic (facsimile), electronic (e-mail) or mailgram SOQ will not be considered.

D. Contractor Responsibilities. All Contractors shall (i) examine the entire RFQ, (ii) seek clarification of any item or requirement that may not be clear, (iii) check all responses for accuracy before submitting an SOQ and (iv) submit the entire SOQ by the official Monthly SOQ Deadline. A late SOQ will not be considered. A Contractor submitting a late SOQ shall be so notified. Negligence in preparing an SOQ shall not be good cause for withdrawal after the Monthly SOQ Deadline.

E. Sealed Submittals. All SOQ shall be sealed and clearly marked with the SOQ number and title, **(NFS 15-050) FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List**, on the lower left hand corner of the mailing envelope. A return address must also appear on the outside of the sealed SOQ. The City is not responsible for the pre-opening of, post-opening of, or the failure to open, any SOQ not properly addressed or identified.

F. Address. All SOQ shall be directed to the following address: City Clerk, 11465 West Civic Center Drive, Suite 200, Avondale, Arizona 85323, or hand-delivered to the City Clerk's office by the Monthly SOQ Deadline indicated on the cover page of this RFQ.

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G. Amendment/Withdrawal of SOQ. At any time prior to the Monthly SOQ Deadline, a Contractor (or designated representative) may amend or withdraw its SOQ. Any erasures, interlineations, or other modifications in the SOQ shall be initialed in **original ink** by the authorized person signing the SOQ. Facsimile, electronic (e-mail) or mailgram SOQ amendments or withdrawals will not be considered. No SOQ shall be altered, amended or withdrawn after the specified Monthly SOQ Deadline.

1.3 Cost of SOQ Preparation. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. An SOQ submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Contractor is responsible for all costs incurred in responding to this RFQ. All materials and documents submitted in response to this RFQ become the property of the City and will not be returned.

1.4 Inquiries.

A. Written/Verbal Inquiries. Any question related to the RFQ shall be directed to the City Representative whose name appears on the cover page of this RFQ. Questions shall be submitted in writing or via e-mail. Any inquiries related to this RFQ shall refer to the number and title, page and paragraph. However, the Respondent should not place the RFQ number and title on the outside of any envelope containing questions, because such an envelope may be identified as a Submittal and may not be opened until after the Monthly SOQ Deadline.

B. Inquiries Answered. Verbal or telephone inquiries directed to City staff **will not be answered.** Within two business days following receipt of a written or e-mailed question, an answer will be mailed, sent via facsimile and/or e-mailed to all parties who obtained an RFQ package from the City and who legibly provided a mailing address, facsimile number and/or e-mail address to the City.

1.5 Addenda. Any addendum issued as a result of any change in this RFQ shall become part of the RFQ and must be acknowledged in the SOQ submittal. Failure to indicate receipt of the addendum shall result in the SOQ being rejected as non-responsive.

1.6 Public Record. All SOQ shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code.

1.7 Confidential Information. If a Contractor believes that an SOQ or protest contains information that should be withheld from the public record, a statement advising the City Representative of this fact shall accompany the submission and the information shall be clearly identified. The information identified by the Contractor as confidential shall not be disclosed until the City Representative makes a written determination. The City Representative shall review the statement and information and shall determine in writing whether the information shall be withheld. If the City Representative determines to disclose the information, the City Representative shall inform the Contractor in writing of such determination.

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1.8 Contractor Licensing and Registration. Prior to the award of an NSP Rehabilitation Agreement, ADOH Owner-Occupied Rehabilitation Agreement, Consortium Owner-Occupied Rehabilitation Agreement, CDBG Rehabilitation Agreement or Demolition Agreement (each, an “Agreement”), the successful Contractor shall (i) be licensed with the Arizona Corporation Commission to do business in Arizona, (ii) have a completed Request for Vendor Number on file with the City Financial Services Department, (iii) be licensed with the Arizona Registrar of Contractors without any pending, unresolved or valid complaints, (iv) be bonded and provide proof of liability insurance and workers’ compensation insurance, (v) have a lead renovator certificate and (vi) be registered with the Federal System for Award Management. The Contractor shall provide licensure information and evidence of the requested certifications and registrations with the SOQ, including evidence of any licenses that are pending at the time the SOQ is submitted. Corporations and partnerships shall be able to provide a Certificate of Good Standing from the Arizona Corporation Commission.

1.9 Certification. By submitting an SOQ, the Contractor certifies:

A. No Collusion. The submission of the SOQ did not involve collusion or other anti-competitive practices.

B. No Discrimination. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246.

C. No Gratuity. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor or service to a City employee, officer or agent in connection with the submitted SOQ. It (including the Contractor’s employees, representatives, agents, lobbyists, attorneys, and subcontractors) has refrained, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process, including the Selection Committee, elected officials, the City Manager, Assistant City Managers, Department Heads, and other City staff, unless such person is designated as a City Representative on the cover of this RFQ. All contact must be addressed to the City’s Procurement Agent, except for questions submitted as set forth in Section 1.4 (Inquiries) above. Any attempt to influence the selection process by any means shall void the submitted SOQ and any resulting Agreement.

D. Financial Stability. It is financially stable, solvent and has adequate cash reserves to meet all financial obligations including any potential costs resulting from an award of a Rehabilitation Agreement.

E. No Signature/False or Misleading Statement. The signature on the cover letter of the SOQ is genuine and the person signing has the authority to bind the Contractor. Failure to sign the SOQ, or signing it with a false or misleading statement, shall void the submitted SOQ and any resulting agreement.

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F. Agreements. In addition to reviewing and understanding the submittal requirements, it has reviewed the attached sample NSP Rehabilitation Agreement, ADOH Owner-Occupied Rehabilitation Agreement, Consortium Owner-Occupied Rehabilitation Agreement, CDBG Rehabilitation Agreement and Demolition Agreement, including any Exhibits.

1.10 Offer. An SOQ submittal is an offer to contract with the City based upon the terms, conditions and specifications contained in this RFQ and the Contractor's responsive SOQ, unless any of the terms, conditions, or specifications is modified by a written addendum or agreement amendment. Provided, however, that no contractual relationship shall be established until the Contractor has submitted a quotation on a Project and has signed, and the City has approved an Agreement between the City and the Contractor in the form acceptable to the City Attorney. Samples of the NSP Rehabilitation Agreement, ADOH Owner-Occupied Rehabilitation Agreement, Consortium Owner-Occupied Rehabilitation Agreement, CDBG Rehabilitation Agreement and Demolition Agreement are included herein.

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

1.12 Protests. Any Contractor may protest this RFQ issued by the City, the proposed award of an Agreement, or the actual award of an Agreement. All protests will be considered in accordance with the City Procurement Code.

PART II. STATEMENT OF QUALIFICATIONS FORMAT; SCORING

2.1 Comprehensive Prequalified Contractors List.

A. Term of Comprehensive Prequalified Contractors List. The Comprehensive Prequalified Contractors List will be used to invite Contractors to submit quotations to provide professional home rehabilitation and demolition services on specific Project assignments. Contractors selected for inclusion on the Comprehensive Prequalified Contractors List will be eligible to submit quotations on Projects for one year from the date of approval, subject to four subsequent one-year renewal terms in the manner provided by the City; provided, however, that City staff will verify Contractors' qualifications when reviewing quotations submitted in response to a Request for Quotations as set forth in Part IV herein.

B. Monthly SOQ Deadline. To facilitate proper review of SOQ, the Contractor must submit its SOQ by the first City working day of the month, and for a Contractor to be eligible to submit quotations on a Project, the Contractor must be included on the Comprehensive Prequalified Contractors List. The City will update the short-listed firms on the Comprehensive Prequalified Contractors List by 21 calendar days after the Monthly SOQ Deadline. Contractors selected for the Comprehensive Prequalified Contractors List will be notified, and the Comprehensive Prequalified Contractors List will be available on the City's Neighborhood and Family Services Department website under Housing and Community Development, Housing Rehab Bid Opportunities.

CITY OF AVONDALE
NEIGHBORHOOD & FAMILY SERVICES DEPARTMENT
NFS 15-050

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2.2 Proposal Format and Scoring. Upon receipt of an SOQ, each submittal will be reviewed for compliance with the submittal requirements by the Selection Committee composed of representatives from the City. The SOQ shall be organized and submitted in the format as outlined below. Failure to conform to the designated format, standards and minimum requirements may result in a determination that the SOQ is non-responsive. Additionally, the Selection Committee will evaluate and award points to each SOQ based upon the evaluation criteria as outlined in this document. Points listed below are the maximum number of points possible for each criteria and not the minimum number that the Selection Committee may award.

A. General Information - 10 pts.

- (1) One page cover letter as described in Part I, Subsection 1.2(C) (Required Submittal).
- (2) Title sheet with the following information:
 - (a) Title: Statement of Qualifications to provide Professional Contracting Services for Housing Rehabilitation and Demolition – (NFS 15-050) FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List.
 - (b) Submitted to: City of Avondale City Clerk
 - (c) Submittal date: _____, 201__
 - (d) Area(s) of Interest (*select one or multiple*):
 - (i) NSP Rehabilitation Projects
 - (ii) NSP Demolition Projects
 - (iii) ADOH Owner-Occupied Rehabilitation Projects
 - (iv) Consortium Owner-Occupied Rehabilitation Projects
 - (v) CDBG Rehabilitation Projects
 - (vi) CDBG Demolition Projects
 - (vii) General Fund Projects (demolition)
 - (e) Contact Person
Name: _____
Address: _____
E-mail address: _____
Telephone number: _____
 - (f) Location of firm’s principal office and local work office, if different:

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Name: _____

Address: _____

E-mail address: _____

Telephone number: _____

(3) Identify any contracts or subcontracts held by the Contractor or officers of the Contractor that have been terminated within the last five years. Include information on any claims arising from a contract which resulted in litigation or arbitration within the last five years. Briefly describe the circumstances and the outcome or, if not applicable, indicate as such.

(4) Contractor Information Form (may be attached as separate appendix).

B. Experience and Qualifications of the Contractor - 50 pts.

(1) Provide a brief description of the Contractor's firm including the number and types of personnel who would serve on Projects.

(2) Provide a list of three to five similar projects in which the Contractor's firm had a significant contribution with an emphasis on local experience. Include:

- (a) Type of project (single family, multi-family, substantial or emergency repairs, rehabilitation, demolition) and include brief list of work completed.
- (b) Total amount of contract for the project listed.
- (c) Completion Date (month/year).
- (d) References and telephone numbers of clients familiar with the projects.
- (e) Funding source (CDBG, NSP, HOME, SHF).

(3) Provide identification information of the firm, including the legal name and address of the firm. Explain the legal organization of the Contractor's firm (e.g., partnership, corporation, joint venture, sole proprietorship, limited liability company, etc.). If a joint venture, identify the members of the joint venture and provide all of the information required under this section for each member. If a limited liability company, provide the name of the member or members authorized to act on the company's behalf. If the firm is a wholly owned subsidiary of another company, identify the parent company. If the corporation is a nonprofit corporation, provide nonprofit documentation. Provide the

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name, address, e-mail address and telephone number of the person to contact concerning the SOQ.

- (4) Provide a statement regarding the following:
 - (a) The firm's familiarity and capability of compliance with City's standard insurance requirements and contract documents. Copies of the City's sample NSP Rehabilitation Agreement, sample ADOH Owner-Occupied Rehabilitation Agreement, sample Consortium Owner-Occupied Rehabilitation Agreement, sample CDBG Rehabilitation Agreement and sample Demolition Agreement are attached hereto.
 - (b) If interested in Rehabilitation Projects, the firm's philosophy and approach to implementing cost-effective energy efficient improvements and rehabilitation as well as the firm's familiarity with the Arizona Governor's Office of Energy Policy Weatherization Standards. Provide one to two examples of projects the firm has completed that have included these types of improvements.

C. Personnel Qualification and Pertinent Experience - 40 pts.

- (1) Provide the firm's general or specific experience pertaining to federally-funded housing rehabilitation and cost-effective "green" improvements and design.
- (2) Provide the firm's general or specific experience pertaining to hazard testing, abatement and demolition services.
- (3) Provide certifications, licenses and memberships in professional associations, societies or boards.
- (4) Identify the firm's personnel or subcontractors who are Building Performance Institute ("BPI") certified and provide a copy of the BPI certification in the appendix. If none, please indicate not applicable.
- (5) Attach a résumé and evidence of certification, if any, for the personnel who will serve in key positions for Projects, including specific experience for each person on relevant projects, the number of years the personnel has been with the present firm and the total years of experience. Résumés should be attached together as a single appendix at the end of the SOQ and will not count toward the SOQ page limit.

Total Possible Points for SOQ Submittal:

100

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*Applicants must score a minimum of 75 points in total for inclusion on the Comprehensive Prequalified Contractors List.

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PART III. CONTRACTOR INFORMATION FORM

By submitting a Statement of Qualifications, the submitting Contractor certifies that it has reviewed the administrative information and draft of the terms and conditions in the applicable Agreement and, if awarded an Agreement, agrees to be bound thereto.

CONTRACTOR SUBMITTING SOQ

FEDERAL TAX ID NUMBER

PRINTED NAME AND TITLE

AUTHORIZED SIGNATURE

ADDRESS

TELEPHONE

FAX #

CITY STATE ZIP

DATE

WEB SITE: _____

E-MAIL ADDRESS: _____

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES (check appropriate item(s)):

- _____ Small Business Enterprise (SBE)
- _____ Minority Business Enterprise (MBE)
- _____ Disadvantaged Business Enterprise (DBE)
- _____ Women-Owned Business Enterprise (WBE)

Has the Contractor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise?

If yes, please provide details and documentation of the certification.

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PART IV. REQUEST FOR QUOTATIONS PROCESS: AWARD OF AGREEMENT

4.1 Request for Quotations. The City will send notice of a Request for Quotations to all of the Contractors on the Comprehensive Prequalified Contractors List including (i) notice of the Project, including a proposed scope of work or specifications developed by the City, (ii) the time and location of the mandatory walk-through and (iii) the deadline for submission of a quotation on the Project. The City also will publicly advertise notice of opportunities for Projects on the City Neighborhood and Family Services Department website.³

4.2 Mandatory Walk-Through. Contractors must attend the mandatory walk-through for a Project to be eligible to submit a quotation on a specific Project. For the walk-through, Contractors must arrive at the scheduled time and sign in with the City representative. Contractors arriving more than five minutes after the scheduled time will not be allowed to sign in or submit a quotation on that Project. A City representative will be present at the walk-through to answer questions.

4.3 Quotations. The City will use best efforts to obtain a minimum of three quotations per Project and will take all necessary affirmative steps to ensure that minority firms, women-owned business enterprises, small businesses operated by people residing within the vicinity of the Projects and labor surplus area firms are used when feasible and when such firms are available on the Comprehensive Prequalified Contractors List. Contractor selection and notification will occur within three City working days of the Request for Quotations due date. Contract award shall be based on the lowest responsible and responsive⁴ quotation, the Contractor's overall ability to complete the Project on time, and the responsibility and qualifications of the Contractor. First-time Contractors will not be awarded more than one Project at a time. Upon successful completion of the Contractor's first Project, it may be awarded multiple Projects, subject to the limitation in Section 4.5 (Award) below.

4.4 Excluded Contractors. The City reserves the right to exclude from consideration any Contractor who has been assessed liquidated damages associated with any contract, has had any contract terminated for non-compliance, has any pending, unresolved, or valid complaints with the Arizona Registrar of Contractors, has not maintained required warranty obligations on completed Projects or is listed as a debarred contractor at the Federal System for Award Management.

4.5 Award. The awarded Contractor for each NSP Rehabilitation Project will be required to execute the City's NSP Rehabilitation Agreement in a form acceptable to the City Attorney, the awarded Contractor for each ADOH Owner-Occupied Rehabilitation Project will be

³ The opportunities are listed on the City's website, under the Neighborhood and Family Services Department page, Housing and Community Development, "Housing Rehab Bid Opportunities": <http://www.avondale.org/index.aspx?NID=2389>. Upon inclusion on the Comprehensive Prequalified Contractors List, questions pertaining to any Requests for Quotations can be directed to Matthew Hess at the City Neighborhood and Family Services Department, (623) 333-2726.

⁴ "Responsive" means that the Contractor has satisfied all of the Contractor qualifications, that the quotation has been submitted on time and includes all the required materials, including addenda, if any.

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required to execute the City's ADOH Owner-Occupied Rehabilitation Agreement in a form acceptable to the City Attorney, the awarded Contractor for each Consortium Owner-Occupied Rehabilitation Project will be required to execute the City's Consortium Owner-Occupied Rehabilitation Agreement in a form acceptable to the City Attorney, the awarded Contractor for each CDBG Rehabilitation Project will be required to execute the City's CDBG Rehabilitation Agreement and the awarded Contractor for each NSP Demolition Project, CDBG Demolition Project or General Fund Project will be required to execute the City's Demolition Agreement in a form acceptable to the City Attorney, samples of each of which are included with this RFQ. In order to facilitate the timely completion of Projects to be undertaken, the City reserves the right to temporarily exclude any Contractor from future notifications of Requests for Quotations when two or more projects being performed for the City (pursuant to this RFQ or otherwise) are concurrently under contract or have been awarded to that Contractor at that time. Contractors will remain on Comprehensive Prequalified Contractors List, but will not be invited to submit quotations on new Projects until one of its existing two City projects has been completed.

4.6 Pre-construction Conference for Rehabilitation Projects. The City will conduct a pre-construction conference for each Rehabilitation Project. This conference will include the homeowner and the awarded Contractor. The City will introduce the two parties, answer any questions they may have and serve as a liaison. The relevant Rehabilitation Agreement, which will be provided in advance to the homeowner and will be in substantially the form as attached to this RFQ, will be reviewed with the parties and signed at this time. After the Rehabilitation Agreement is signed, the City will issue a Notice to Proceed signed by the homeowner. The awarded Contractor shall begin work on the date specified in the Notice to Proceed and shall complete the work within the specified amount of time.

4.7 Satisfactory Performance. The awarded Contractor will perform the work in accordance with the contract documents, specifications, and the applicable rehabilitation or demolition standards, subject to a clear and final inspection by the City and, in the case of a Rehabilitation Project, approval of the homeowner. If the work performed by the Contractor is found to be unsatisfactory by the City or if contract relations among the Contractor, the homeowner, as applicable, or other parties are found to be unsatisfactory, the City may remove the Contractor's name from the Comprehensive Prequalified Contractors List.

SAMPLE NSP REHABILITATION AGREEMENT

THIS NSP REHABILITATION AGREEMENT (this “Agreement”) is made as of _____, 201____, between _____, a(n) _____ (the “Contractor”), _____, whose mailing address is _____ (the “Owner”), and the City of Avondale, an Arizona municipal corporation (the “City”).

RECITALS

A. Title III of Division B of the Housing and Economic Recovery Act of 2008 (Public Law 110-289) established the Neighborhood Stabilization Program (“NSP”) for the purpose of assisting in the redevelopment of abandoned and foreclosed homes. In 2010, Section 1497 of the Wall Street and Consumer Protection Act of 2010, a/k/a the “Dodd-Frank Act” (Public Law 111-203, approved July 21, 2010) provided for an additional allocation (third round) of funding for NSP. Except where provided for otherwise, these amounts are distributed based on funding formulas for such amounts established by the Secretary of the U.S. Department of Housing and Urban Development (“HUD”) in accordance with the Housing and Economic Recovery Act of 2008 and unless otherwise stated, the grants are to be considered Community Development Block Grant (“CDBG”) funds.

B. The City has received NSP funds from HUD and has generated program income from such NSP funds to implement NSP-eligible activities.

C. The City issued a Request for Statements of Qualifications, NFS 15-050 “FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List” (the “RFQ”), seeking statements of qualifications from contractors for professional home rehabilitation contracting services. The Contractor submitted a Statement of Qualifications (the “SOQ”) in response to the RFQ.

D. The Owner owns a residential unit eligible for rehabilitation, located at _____ (the “Home”).

E. The City developed a scope of work for rehabilitation services on the Home and issued a Request for Quotations to all of the contractors on the FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List who submitted qualified SOQ. Contractor attended a mandatory walk-through on the Home and submitted a Quotation in response to the scope of work for the Home (the “Quotation”), attached hereto as Exhibit A and incorporated herein by reference.

F. The City selected the Contractor as the lowest responsible and responsive contractor to perform home rehabilitation services on the Home (i) in accordance with the Quotation, City codes and ordinances, U.S. Department of Housing and Urban Development (“HUD”) Housing Quality Standards, the Neighborhood Stabilization Program regulations and Maricopa HOME Consortium Housing Rehabilitation Standards (collectively, the

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“Rehabilitation Standards”) and (ii) as more particularly set forth in Section 2 below (the “Services”).

G. The City, the Owner and the Contractor desire to enter into this Agreement for the purpose of (i) establishing the terms and conditions by which the Contractor may provide the Services and (ii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing 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, the Owner and the Contractor hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until the Completion Date as defined herein.

2. Scope of Work. The Contractor shall perform the Services as set forth in this Agreement and as more particularly forth in the Quotation, attached hereto as Exhibit A, and shall provide any and all permits, labor, materials, equipment, supervision, services and taxes necessary to perform the Services as set forth in this Agreement.

2.1 Review of Site and Scope of Work. Contractor shall carefully study and compare all drawings, specifications and instructions set forth in the Quotation. If Contractor discovers any discrepancies, errors, omissions or inconsistencies in the drawings or specifications, or between the drawings and specifications, or discovers any conflicts between existing site conditions and the requirements of the drawings and specifications, the Contractor shall immediately call all such discrepancies to the attention of the City.

2.2 Dimensions. The Contractor shall use, for data and dimensions, figures marked on the drawings in the Quotation in preference to what the drawings may measure to scale; but in the absence of figured dimensions, scale dimensions may be used with the prior, written concurrence of the City. The Contractor shall verify all dimensions shown and check all measurements in connection with any present building or buildings, level or grades, walks, driveways or other existing conditions before executing any work. Contractor shall report any errors or inconsistencies to the City immediately. It is the responsibility of the Contractor to contact Arizona Blue Stake, pursuant to ARIZ. REV. STAT. §§ 40-360.21 to 40-360.32, and provide Blue Stake verification of underground utilities on and off the site.

2.3 Energy Efficiency and Energy Star Guidelines. In performing the Services, the Contractor shall use best efforts to include improvements that result in increased energy efficiency of the Home in accordance with the Quotation. Energy efficient improvements must be cost effective, further ensure the long-term affordability of the Home, increase Owner

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sustainability and improve the overall appeal of the Home and neighborhood by replacing older obsolete products, systems and appliances with Energy Star and WaterSense labeled products.

2.4 Change Orders. Any changes in the Quotation, character or extent of the Services under this Agreement shall be made only by a prior, written Change Order signed by the Contractor and the Owner, and approved in writing by the City's home rehabilitation specialist or authorized designee (the "Rehabilitation Specialist"), setting forth the changes in the Services, the extension of the Completion Date (as hereinafter defined), if any, and any adjustment of the Contractor's compensation. Each Change Order approved and accepted by the parties pursuant to this Agreement shall be attached hereto as Exhibit B and incorporated herein by reference. Only those changes necessary to correct unforeseen code violations can be paid for with the NSP3 funds and the Owner shall be responsible for any remaining charges. Contractor shall be responsible for all costs incurred in performing any work not authorized by the Quotation or an approved and accepted Change Order. Change Orders will not be issued to cover any cost, loss or expense for additional labor or materials required to rectify any error or inconsistency in the drawings and specifications of the Quotation unless Contractor gave prior notification to, and received written approval from, the City.

2.5 Correction of Services. Contractor shall promptly remove from the Home all work rejected by the Owner or agents of the City for failure to comply with this Agreement and the Quotation, whether or not incorporated in the construction. Contractor shall (A) promptly replace and re-execute the Services in accordance with this Agreement and the Quotation without expense to the Owner or the City and (B) bear the expense of repairing or replacing all work of other contractors destroyed or damaged by such removal or replacement. All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work within ten days after receipt of written notice of such rejection, the Owner may remove, or cause to be removed, such work and store materials at the expense of the Contractor.

2.6 Debris and Material Removal. Contractor shall keep the Home clean and orderly during the term of the Agreement and shall remove all debris and construction materials as they accumulate. Unless specified otherwise in the Quotation, materials and equipment that have been removed and replaced as part of the Services belong to the Contractor, and Contractor is responsible for the removal from the Home of such materials and equipment.

3. Completion of Services. Contractor shall begin the Services on the date specified in the written Notice to Proceed and shall complete the Services within ___ calendar days after the date specified in the Notice to Proceed (the "Completion Date").

3.1 Extensions. The Completion Date may be extended if (A) at least five business days prior to the Completion Date, the Contractor requests, in writing, to extend the Completion Date, (B) the City approves the extension in writing, as evidenced by the signature of the Rehabilitation Specialist thereon and (C) the Owner approves the extension in writing.

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3.2 Liquidated Damages. If the Contractor fails to complete the Services within the Completion Date or any extension of the Completion Date as set forth in subsection 3.1 above, Contractor shall pay to the Owner an amount of \$50.00 per day for each calendar day that occurs between the required Completion Date, or extension thereof, as set forth in subsection 3.1 above, and the actual date the Contractor completes the Services. The Contractor shall not be charged with liquidated damages or any excess costs when (A) the delay in completion of the Services is due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not limited to, acts of God or of the public enemy, acts of the Owner, acts of another contractor in performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather and (B) the Contractor has promptly (within five days after occurrence of the delay event) given written notice of such delay to the Owner and to the City.

4. Compensation. The City shall pay Contractor an aggregate amount not to exceed \$_____00 for the Services (the "Contract Price").

5. Procedure for Payment.

5.1 Final Inspection; Payment Request Packet. When Contractor has completed the Services, Contractor shall submit to the City (A) a payment request form, (B) an invoice of the Services performed and materials used, (C) a lien waiver waiving and releasing all of Contractor's and any subcontractor's or supplier's lien rights for work, labor and materials provided on the Home and (D) a certificate of completion stating the Services have been completed (collectively, the "Payment Request Packet"). After Contractor submits the Payment Request Packet, City shall perform a final inspection of the Home to confirm that the Services conform to the Rehabilitation Standards and at which time the Owner may identify any deficiencies in the Services. If, after inspection, deficiencies are identified, no payment shall be made to Contractor until the deficiencies have been corrected. After the final inspection, if the Services performed conform to the Rehabilitation Standards and the Quotation, City shall request the Owner's signature and approval of the certificate of completion. If the Owner does not sign the certificate of completion and the Rehabilitation Specialist determines and certifies that the Services were completed in accordance with this Agreement and with the Quotation, the City may approve the payment request form without Owner's signature on the certificate of completion.

5.2 Payment. After a certificate of completion is signed by the Owner or a payment request form is approved pursuant to Section 5.1 above, the City shall pay to the Contractor an amount not to exceed the Contract Price for Services completed in compliance with the Quotation and Rehabilitation Standards, on a reimbursement basis and based upon work completed to date and upon the submission and approval of invoices. All invoices shall document and itemize all work completed to date. The invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

6. 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.

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7. Contractor Personnel. Contractor shall provide adequate, experienced personnel capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor 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 Owner. 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, Contractor shall immediately notify the Owner of same and shall, subject to the concurrence of the Owner, 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 and the Owner at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City. Upon completion of the Services, the Rehabilitation Specialist or authorized designee shall perform a final inspection to ensure the Services conform to the Quotation, attached as Exhibit A hereto, and the Rehabilitation Standards.

9. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. Neither the City nor the Owner has any obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific Services set forth in this Agreement or any tools, equipment or material.

10. Warranties. The warranties set forth in this Section shall survive the termination of this Agreement.

10.1 Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and to the highest professional standards in the field. Contractor shall provide a two-year warranty on its Services to the Owner.

10.2 Material and Equipment Warranty. Contractor shall guarantee all materials and equipment furnished for a period of two years from the date of final inspection. Contractor warrants and guarantees for a period of two years from the date of final inspection of the Home that all completed systems are free from all defects due to faulty materials or workmanship. Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event that Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may, after giving 30 days' notice to the Contractor, make such repairs and charge the Contractor the cost thereby incurred. The Owner shall hold the City harmless should the Contractor not return to correct defects covered under this warranty. The City will, in no way, guarantee that any defects due to faulty materials or

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workmanship will be corrected and will not ask any other government agency to cover the cost of correcting such defects.

11. Indemnification. To the fullest extent permitted by law, the Contractor and the Owner 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 Contractor or the Owner or any of their 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 Contractor, Contractor 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 Contractor. 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 Contractor 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 and self-insured retention or deductible portions, 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, the Owner, their agents, representatives, officers, directors, officials and employees, as Additional Insured as specified under the respective coverage sections of this Agreement.

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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. Contractor'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 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, the Owner, their agents, representatives, officials, officers and employees for any claims arising out of the work or services of Contractor. Contractor 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. Contractor 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, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City, the Owner and the Contractor. Contractor shall be responsible for executing any agreements with its subcontractor and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Contractor 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 Contractor's 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

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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 Contractor'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 RFQ number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFQ 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 RFQ 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, the Owner, their 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) Contractor's insurance shall be primary insurance with respect to performance of the Agreement.

(3) All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against the City, the Owner, their agents, representatives, officers, directors, officials and employees for any claims arising out of work or services performed by Contractor 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.

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12.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor 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, the Owner, their agents, representatives, officers, directors, 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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor’s owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor’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, City, the Owner, their 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 Contractor engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate. Confidential information such as the policy premium or proprietary information 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.

D. Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor'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 materially changed without 30 days' prior written notice to the City.

13. Suspension; Termination; Cancellation.

13.1 Suspension of Services. The Owner may suspend the Services or any portion thereof for a period of not more than 90 days or such further time as agreed upon by the Contractor, by written notice to the Contractor and the City, which notice shall fix the date on which work shall be resumed. The Contractor shall resume the Services on the date so fixed in the notice. The City may, at its sole discretion, grant Contractor an increase in the Contract Price or an extension of the Completion Date, or both, directly attributable to any suspension.

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

13.3 Termination 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 Contractor for the undisputed portion of its fee due as of the termination date.

13.4 Termination Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned or in the event that Services are suspended pursuant to Subsection 13.1 above and Contractor fails to resume Services on the date fixed in the notice. In the event of such termination due to work stoppage, the City shall pay the Contractor the undisputed portion of its fee due as of the termination date.

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13.5 Termination for Bankruptcy; Insolvency. This Agreement may be terminated by the City upon ten days' written notice to Contractor in the event the Contractor (A) does not pay its debts when they become due; (B) has filed, or consented by answer or otherwise to, a petition for relief or reorganization and bankruptcy or insolvency law of any jurisdiction; (C) makes an assignment for the benefit of its creditors in lieu of taking advantage of any such bankruptcy or insolvency law; (D) consents to the appointment of custodian, receiver, trustee or other officer with similar powers with respect to any substantial part of its property; or (E) is adjudicated insolvent or takes corporate action for the purpose of any of the foregoing. In the event of such termination for bankruptcy or insolvency, the City shall pay the Contractor the undisputed portion of its fee due as of the termination date.

13.6 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 the Agreement or any extension of the Agreement is in effect, an employee of any other Party to the Agreement in any capacity or a consultant to any other Party of the Agreement with respect to the subject matter of the Agreement.

13.7 Gratuities. The City may, by written notice to the Contractor, 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 Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City or to the Owner 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 Contractor an amount equal to 150% of the gratuity.

13.8 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in the 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 the 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.

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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 others. An employee or agent of one Party shall not be deemed or construed to be the employee or agent of the others for any purpose whatsoever. The Contractor 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. Contractor, 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 Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and in Exhibit A. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor 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. Contractor 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 Contractor 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 of Avondale and County ordinances and regulations, (B) existing and future State and Federal laws, (C) existing and future Occupational Safety and Health Administration standards, (D) the Rehabilitation Standards and (E) the provisions of 24 CFR Part 570, as revised.

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, the Owner and the Contractor.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in the 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, the 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 the Agreement which may remain in effect without the invalid provision or application.

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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 the 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 by Contractor without prior, written permission of the City, signed by the City Manager, and the Owner and no delegation of any duty of Contractor shall be made without prior, written permission of the City, signed by the City Manager, and the Owner. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

14.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the City and the Owner. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. The Contractor shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. The Contractor shall forward executed copies of all subcontracts to the City along with documentation concerning the selection process. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Contractor.

14.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the City or the Owner 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 or the Owner 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 Contractor 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 or the Owner to insist upon the strict performance of this Agreement.

14.11 Attorneys' Fees. In the event any 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.

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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 Contractor any amounts Contractor owes to the Owner or 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 Contractor any amounts Contractor owes to the City or the Owner for delinquent fees, transaction privilege 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 City: City of Avondale
 11465 West Civic Center Drive
 Avondale, Arizona 85323
 Attn: David W. Fitzhugh, City Manager

With copy to: GUST ROSENFELD P.L.C.
 One East Washington, Suite 1600
 Phoenix, Arizona 85004-2553
 Attn: Andrew J. McGuire, Esq.

If to Owner: _____

If to Contractor: _____

 Attn: _____

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 Section. 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 Contractor 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 Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below Contractor'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 Contractor 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 Contractor'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 Contractor'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, Contractor 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 Contractor pursuant to this Agreement. Contractor 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 Contractor or its subcontractors reasonable advance notice of intended audits. Contractor 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 Contractor 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). Contractor'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.

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14.18 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Notice to Proceed, the Quotation and invoices, the documents shall govern in the order listed herein.

14.19 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.

15. Equal Employment Opportunity; Nondiscrimination; Minority Business Enterprise Utilization.

15.1 Equal Employment Opportunity. The Contractor 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, Section 104(b) and Section 109 of Title I of Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, Executive Order 11246 as amended by Executive Order 11375, 11478 and 12086 and as supplemented by Department of Labor regulations (41 CFR Chapter 60), the rules, regulations and relevant orders of the Secretary of Labor and relevant federal regulations including, but not limited to, 24 CFR Part 8, 24 CFR 100.205, 24 CFR 570.487, 24 CFR 570.602 and 24 CFR 570.201.

15.2 Nondiscrimination. The Contractor 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, marital/familial status, or status with regard to public assistance. The Contractor 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 Contractor 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.

15.3 Solicitations; Advertisements. In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

15.4 Labor Union. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representatives of the Contractor's commitment under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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15.5 Information and Reports. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the City, HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

15.6 Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government-funded contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or as otherwise provided by law.

15.7 Subcontracting Provisions. The Contractor shall include the provisions of subsections 15.1 through 15.7 in every subcontract or purchase order, specifically or by reference, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each of its subcontractors or vendors. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

15.8 Women and Minority Owned Business Enterprises. The Contractor 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 Contractor may rely on written representation by businesses regarding their status as minority and women owned business enterprises in lieu of an independent investigation.

15.9 Employment Restrictions.

A. Prohibited Activity. The Contractor 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 Contractor agrees to comply with the applicable requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, the Copeland "Anti-Kickback" Act and all applicable federal, state and local laws

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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 and the Copeland “Anti-Kickback” Act depending upon the size of the Home. Davis-Bacon wages do not apply to single-family home rehabilitation, but if the property contains eight or more units, the Contractor will be required to pay its contractors Davis-Bacon wages. 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 Contractor 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 Contractor of its obligation, if any, to require payment of the higher wage. If applicable, the Contractor shall maintain documentation which demonstrates compliance with this subsection. The Contractor will cause or require to be inserted in full, in all contracts subject to such regulations, provisions meeting the requirements of this subsection.

15.10 “Section 3” Clause. The work to be performed pursuant to this Agreement is subject to the provisions of “Section 3” of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The Parties to this Agreement will comply with the provisions of Section 3 and the regulations issued pursuant thereto by the Secretary of HUD and all applicable rules and orders of HUD issued thereunder prior to execution of this Agreement. The Contractor and Owner certify and agree that no contractual or other disability exists which would prevent compliance with these requirements. The Contractor further agrees to include the following “Section 3” requirements provision 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 Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. ‘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 which are located in, or owned in substantial part residing in, the metropolitan area in which the project is located.”

16. Environmental Conditions.

16.1 Air and Water. The Contractor 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, 33 U.S.C. 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

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

16.2 Flood Disaster Protection. In accordance with the requirements of the Flood Disaster Protection Act of 1973, the Contractor 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).

16.3 Lead-Based Paint. The Contractor agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to 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. Contractor 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. Contractor 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. Contractor shall protect its workers disturbing lead painted surfaces, including, but not limited to the following:

(1) Contact the Inspector. Contractor 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. Contractor shall conduct air quality monitoring when appropriate for the type of activity to determine the level of worker protection required by the Occupational Safety and Health Act (“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. Contractor shall provide personal protective equipment, including a respirator program, as is appropriate to the type of job as required by OSHA.

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

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

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

(7) Cleaning. Contractor 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 contractor 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. Contractor 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 the Occupational Safety and Health Administration regulations at 29 CFR 1910.1200 or 1926.59, as applicable to the work.

16.4 Asbestos. The Contractor 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. Contractor 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:

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A. Abatement. If asbestos are identified during the initial inspection, Contractor 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 Contractor with asbestos-free materials. The Contractor shall agree that if materials containing asbestos are subsequently discovered at any future time to have been included in the construction done by the Contractor or any of its subcontractors or agents, the Contractor shall be liable for all costs related to the abatement of such asbestos and damages or claims against the City notwithstanding any statute of limitations or other legal bar to any claim by the City.

16.5 Historic Preservation. The Contractor 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 50 years old or older or that are included on the Federal, state or local historic property list.

17. Access to Property. Prior to substantial completion, the Owner, with the concurrence of the Contractor, may use any completed or substantially completed portions of the Home, but the Owner shall not reside in the Home during the period that Contractor is performing the Services. Such use shall not constitute an acceptance of such portions of the Services. The Owner shall have the right to enter the Home for the purpose of doing work not covered by this Agreement. This Section shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the Home, or the restoration of any damaged Services except such as may be caused by agents or employees of the Owner.

18. Owner's Responsibilities.

18.1 Sanitary Conditions. If upon initial inspection by the Rehabilitation Specialist or authorized designee, the Home is found to be unsanitary, i.e., animal feces or urine are present, unhealthy indoor air quality, excessive clutter which obstructs inspection, the Owner will be required to remediate the condition of the home. Failure to do so will result in a Code Enforcement Citation and possible ineligibility for the Services.

18.2 Use of Utilities. The Owner shall permit the Contractor to use, at no cost, existing utilities such as light, heat, power, and water necessary to the carrying out and completion of the Services.

18.3 Cooperation. The Owner shall cooperate with the Contractor to facilitate the performance of the Services, including the removal and replacements of rugs, coverings, and furnishings as necessary. The Owner shall abide by the terms of this Agreement and allow the Services to be carried out in accordance with local codes and federal regulations. This includes

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not undertaking, altering or contracting for the services of another Party to complete any of the work specified in the Quotation, attached hereto as Exhibit A, unless the Quotation specifically authorizes the Owner to complete a specified item or supply specified materials.

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

David W. Fitzhugh, City Manager

ATTEST:

Carmen Martinez, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 201_, before me personally appeared David W. Fitzhugh, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the City of Avondale.

Notary Public

(Affix notary seal here)

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“Owner”

_____ ,

Whose address is _____

By: _____

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 201_, before me personally appeared _____
_____, whose identity was proven to me on the basis of satisfactory
evidence to be the person who he/she claims to be, and acknowledged that he/she signed the
above document.

Notary Public

(Affix notary seal here)

EXHIBIT A
TO
SAMPLE NSP REHABILITATION AGREEMENT

[Quotation]

See following page(s).

EXHIBIT B
TO
SAMPLE NSP REHABILITATION AGREEMENT

[Change Orders]

See following pages (to be attached subsequent to execution).

SAMPLE ADOH OWNER-OCCUPIED REHABILITATION AGREEMENT

THIS ADOH OWNER-OCCUPIED REHABILITATION AGREEMENT (this “Agreement”) is made as of _____, 201__, between _____, a(n) _____ (the “Contractor”), _____, whose mailing address is _____ (the “Owner”), and the City of Avondale, an Arizona municipal corporation (the “City”).

RECITALS

A. The National Affordable Housing Act of 1990 created the U.S. Department of Housing and Urban Development (“HUD”) HOME Investment Partnerships Program (“HOME”) to increase the number of families served with decent, safe, sanitary and affordable housing and expand the long-term supply of affordable housing. The Arizona Department of Housing (“ADOH”) administers the State Housing Fund (“SHF”), which includes HOME funds.

B. Title 1 of the Housing and Community Development Act of 1974, as amended, established a Community Development Block Grant (“CDBG”) program for the purpose of developing viable urban communities by providing decent housing and a suitable living environment, expanding economic opportunities and preventing and/or eliminating conditions of slum and blight, principally for persons of low and moderate income.

C. The City has received SHF funds from ADOH to implement the City’s Owner-Occupied Housing Rehabilitation Program (the “Program”) to provide home repairs and improvements that remove code issues as well as health and safety concerns while addressing the overall energy efficiency of homes owned by income-eligible households within the target area. The City also has received CDBG funds, which can be used to provide additional funding for the Program in accordance with the City’s annual action plan.

D. The City issued a Request for Statements of Qualifications, NFS 15-050 “FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List” (the “RFQ”), seeking statements of qualifications from contractors for professional home rehabilitation contracting services. The Contractor submitted a Statement of Qualifications (the “SOQ”) in response to the RFQ.

E. The Owner (i) has satisfied the Program requirements, (ii) has completed an application with the City, including proof of ownership of a single-family home located within the City (the “Home”), and (iii) has been provided with a forgivable loan by the City for repair and rehabilitation assistance of the Home through the Program.

F. The City developed a scope of work for the repair and rehabilitation services on the Home and issued a Request for Quotations to all of the contractors on the FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List who submitted qualified SOQ. Contractor attended a mandatory walk-through on the Home

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and submitted a Quotation in response to the scope of work for the Home (the “Quotation”), attached hereto as Exhibit A and incorporated herein by reference.

G. The City selected the Contractor as the lowest responsible and responsive contractor to perform home repair and rehabilitation services on the Home (i) in accordance with the Quotation, City codes and ordinances, State of Arizona Rehabilitation Standards, Energy Star, International Energy Conservation Code (IECC, 2009 Edition or better), Arizona Governor’s Office of Energy Policy Weatherization Standards, HUD Housing Quality Standards, HUD Uniform Physical Condition Standards and Maricopa HOME Consortium Housing Rehabilitation Standards (collectively, the “Rehabilitation Standards”) and (ii) as more particularly set forth in Section 2 below (the “Services”).

H. The City, the Owner and the Contractor desire to enter into this Agreement for the purpose of (i) establishing the terms and conditions by which the Contractor may provide the Services and (ii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing 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, the Owner and the Contractor hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until the Completion Date as defined herein.

2. Scope of Work. The Contractor shall perform the Services as set forth in this Agreement and as more particularly forth in the Quotation, attached hereto as Exhibit A, and shall provide any and all permits, labor, materials, equipment, supervision, services and taxes necessary to perform the Services as set forth in this Agreement.

2.1 Review of Site and Scope of Work. Contractor shall carefully study and compare all drawings, specifications and instructions set forth in the Quotation. If Contractor discovers any discrepancies, errors, omissions or inconsistencies in the drawings or specifications, or between the drawings and specifications, or discovers any conflicts between existing site conditions and the requirements of the drawings and specifications, the Contractor shall immediately call all such discrepancies to the attention of the City.

2.2 Dimensions. The Contractor shall use, for data and dimensions, figures marked on the drawings in the Quotation in preference to what the drawings may measure to scale; but in the absence of figured dimensions, scale dimensions may be used with the prior, written concurrence of the City. The Contractor shall verify all dimensions shown and check all measurements in connection with any present building or buildings, level or grades, walks, driveways or other existing conditions before executing any work. Contractor shall report any

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errors or inconsistencies to the City immediately. It is the responsibility of the Contractor to contact Arizona Blue Stake and provide Blue Stake, pursuant to ARIZ. REV. STAT. §§ 40-360.21 to 40-360.32, verification of underground utilities on and off the site.

2.3 Energy Efficiency and Energy Star Guidelines. In performing the Services, the Contractor shall use best efforts to include improvements that result in increased energy efficiency of the Home in accordance with the Quotation. Energy efficient improvements must be cost effective, further ensure the long-term affordability of the Home, increase Owner sustainability and improve the overall appeal of the Home and neighborhood by replacing older obsolete products, systems and appliances with Energy Star and WaterSense labeled products.

2.4 Change Orders. Any changes in the Quotation, character or extent of the Services under this Agreement shall be made only by a prior, written Change Order signed by the Contractor and the Owner, and approved in writing by the City's home rehabilitation specialist or authorized designee (the "Rehabilitation Specialist"), setting forth the changes in the Services, the extension of the Completion Date (as hereinafter defined), if any, and any adjustment of the Contractor's compensation. Each Change Order approved and accepted by the parties pursuant to this Agreement shall be attached hereto as Exhibit B and incorporated herein by reference. Only those changes necessary to correct unforeseen issues relating to the Services can be paid for with the SHF funds and the Owner shall be responsible for any remaining charges. Contractor shall be responsible for all costs incurred in performing any work not authorized by the Quotation or an approved and accepted Change Order. Change Orders will not be issued to cover any cost, loss or expense for additional labor or materials required to rectify any error or inconsistency in the drawings and specifications of the Quotation unless Contractor gave prior notification to, and received written approval from, the City.

2.5 Correction of Services. Contractor shall promptly remove from the Home all work rejected by the Owner or agents of the City for failure to comply with this Agreement and the Quotation, whether or not incorporated in the construction. Contractor shall (A) promptly replace and re-execute the Services in accordance with this Agreement and the Quotation without expense to the Owner or the City and (B) bear the expense of repairing or replacing all work of other contractors destroyed or damaged by such removal or replacement. All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work within ten days after receipt of written notice of such rejection, the Owner may remove, or cause to be removed, such work and store materials at the expense of the Contractor.

2.6 Debris and Material Removal. Contractor shall keep the Home clean and orderly during the term of the Agreement and shall remove all debris and construction materials as they accumulate but not less than daily. Unless specified otherwise in the Quotation, materials and equipment that have been removed and replaced as part of the Services belong to the Contractor, and Contractor is responsible for the removal from the Home of such materials and equipment.

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3. Completion of Services. Contractor shall begin the Services on the date specified in the written Notice to Proceed and shall complete the Services within ___ calendar days after the date specified in the Notice to Proceed (the “Completion Date”).

3.1 Extensions. The Completion Date may be extended if (A) at least five business days prior to the Completion Date, the Contractor requests, in writing, to extend the Completion Date, (B) the City approves the extension in writing, as evidenced by the signature of the Rehabilitation Specialist thereon and (C) the Owner approves the extension in writing.

3.2 Liquidated Damages. If the Contractor fails to complete the Services within the Completion Date or any extension of the Completion Date as set forth in subsection 3.1 above, Contractor shall pay to the Owner an amount of \$50.00 per day for each calendar day that occurs between the required Completion Date, or extension thereof, as set forth in subsection 3.1 above, and the actual date the Contractor completes the Services. The Contractor shall not be charged with liquidated damages or any excess costs when (A) the delay in completion of the Services is due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not limited to, acts of God or of the public enemy, acts of the Owner, acts of another contractor in performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather and (B) the Contractor has promptly (within five days after occurrence of the delay event) given written notice of such delay to the Owner and to the City.

4. Compensation. The City shall pay Contractor an aggregate amount not to exceed \$_____.00 for the Services (the “Contract Price”).

5. Procedure for Payment.

5.1 Progress Payments.

A. After Contractor has commenced and completed a portion of the Services, the Contractor shall submit to the City an application for payment consisting of the cost of the Services performed up to the end of the prior month, invoicing the Services performed and materials used. All invoices shall document and itemize all work completed to date. The invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment. Prior to submission of the next application for payment, the Contractor shall make available at the request of the City a statement accounting for the disbursement of funds received under the previous application for purposes of audit. The extent of such statement shall be as agreed upon between the City and Contractor.

B. Following receipt of an application for payment, the Rehabilitation Specialist will conduct a walk-through of the Home to verify that the Services were performed as invoiced and in accordance with the requirements of this Agreement. If deficiencies are identified during or after the inspection, no payment shall be made to Contractor until the deficiencies have been corrected.

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C. Within 30 days after approval of each application for payment, the City shall pay directly to the Contractor the appropriate amount for which application for payment is made, less amounts (i) previously paid by the City, (ii) sufficient to pay expenses the City reasonably expects to incur in correcting deficiencies which are set forth in writing and provided to the Contractor and (iii) any retainage as set forth in Section 5.2 below.

D. The City's progress payment or Owner's occupancy or use of the Home, whether in whole or in part, shall not be deemed as acceptance of any Services not conforming to the requirements of this Agreement.

5.2 Retainage. With respect to the Services, the City shall retain ten percent (10%) of the amount of each application for payment until the final inspection and acceptance of all Services covered by this Agreement.

5.3 Final Payment Request. When Contractor has completed the Services, Contractor shall submit to the City (A) a final payment request form, (B) an invoice of the Services performed and materials used performed up to the end of the last application for payment, (C) a lien waiver waiving and releasing all of Contractor's and any subcontractor's or supplier's lien rights for work, labor and materials provided on the Home and (D) a certificate of completion stating the Services have been completed (collectively, the "Payment Request Packet"). After Contractor submits the Payment Request Packet, City shall perform a final inspection of the Home to confirm that the Services conform to the Rehabilitation Standards and at which time the Owner may identify any deficiencies in the Services. If deficiencies are identified during or after the inspection, no payment shall be made to Contractor until the deficiencies have been corrected. After the final inspection, if the Services performed conform to the Rehabilitation Standards and the Quotation, City shall request the Owner's signature and approval of the certificate of completion. If the Owner does not sign the certificate of completion and the Rehabilitation Specialist determines and certifies that the Services were completed in accordance with this Agreement and with the Quotation, the City may approve the payment request form without Owner's signature on the certificate of completion.

5.4 Final Payment. After a certificate of completion is signed by the Owner or the final payment request form is approved pursuant to Section 5.3 above, the City shall pay to the Contractor the amount of the payment request form including any amounts retained pursuant to Section 5.2 above, with the aggregate amount of payments, including previous applications for payment, not to exceed the Contract Price.

6. 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. Contractor Personnel. Contractor shall provide adequate, experienced personnel capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the

Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor 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 Owner. 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, Contractor shall immediately notify the Owner of same and shall, subject to the concurrence of the Owner, 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 and the Owner at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City. Upon completion of the Services, the Rehabilitation Specialist or authorized designee shall perform a final inspection to ensure the Services conform to the Quotation, attached as Exhibit A hereto, and the Rehabilitation Standards.

9. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. Neither the City nor the Owner has any obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement or any tools, equipment or material.

10. Warranties. The warranties set forth in this Section shall survive the termination of this Agreement.

10.1 Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and to the highest professional standards in the field. Contractor shall provide a two-year warranty on its Services to the Owner.

10.2 Material and Equipment Warranty. Contractor shall guarantee all materials and equipment furnished for a period of two years from the date of final inspection. Contractor warrants and guarantees for a period of two years from the date of final inspection of the Home that all completed systems are free from all defects due to faulty materials or workmanship. Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event that Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may, after giving 30 days' notice to the Contractor, make such repairs and charge the Contractor the cost thereby incurred. The Owner shall hold the City harmless should the Contractor not return to correct defects covered under this warranty. The City will, in no way, guarantee that any defects due to faulty materials or workmanship will be corrected and will not ask any other government agency to cover the cost of correcting such defects.

11. Indemnification. To the fullest extent permitted by law, the Contractor and the Owner 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 Contractor or the Owner or any of their 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 Contractor, Contractor 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 Contractor. 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 Contractor 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 and self-insured retention or deductible portions, 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, the Owner, their agents, representatives, officers, directors, officials and employees, as Additional 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.

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E. Primary Insurance. Contractor'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 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, the Owner, their agents, representatives, officials, officers and employees for any claims arising out of the work or services of Contractor. Contractor 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. Contractor 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, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City, the Owner and the Contractor. Contractor 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, Contractor 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 Contractor's 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

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Agreement expire during the life of this Agreement, it shall be Contractor'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 RFQ number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFQ 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 RFQ 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, the Owner, their agents and representatives 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) Contractor's insurance shall be primary insurance with respect to performance of the Agreement.

(3) All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against the City, the Owner, their agents and representatives for any claims arising out of work or services performed by Contractor 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.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor 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, the Owner, their agents and representatives 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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor'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, City, the Owner, their agents and representatives 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 Contractor engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate. Confidential information such as the policy premium or proprietary information 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.

D. Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor'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.

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

13. Suspension; Termination; Cancellation.

13.1 Suspension of Services. The Owner may suspend the Services or any portion thereof for a period of not more than 90 days or such further time as agreed upon by the Contractor, by written notice to the Contractor and the City, which notice shall fix the date on which work shall be resumed. The Contractor shall resume the Services on the date so fixed in the notice. The City may, at its sole discretion, grant Contractor an increase in the Contract Price or an extension of the Completion Date, or both, directly attributable to any suspension.

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

13.3 Termination 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 Contractor for the undisputed portion of its fee due as of the termination date.

13.4 Termination Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned or in the event that Services are suspended pursuant to Subsection 13.1 above and Contractor fails to resume Services on the date fixed in the notice. In the event of such termination due to work stoppage, the City shall pay the Contractor the undisputed portion of its fee due as of the termination date.

13.5 Termination for Bankruptcy; Insolvency. This Agreement may be terminated by the City upon ten days' written notice to Contractor in the event the Contractor (A) does not pay its debts when they become due; (B) has filed, or consented by answer or otherwise to, a petition for relief or reorganization and bankruptcy or insolvency law of any jurisdiction; (C) makes an assignment for the benefit of its creditors in lieu of taking advantage of any such bankruptcy or insolvency law; (D) consents to the appointment of custodian, receiver, trustee or other officer with similar powers with respect to any substantial part of its property; or (E) is

adjudicated insolvent or takes corporate action for the purpose of any of the foregoing. In the event of such termination for bankruptcy or insolvency, the City shall pay the Contractor the undisputed portion of its fee due as of the termination date.

13.6 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 the Agreement or any extension of the Agreement is in effect, an employee of any other Party to the Agreement in any capacity or a consultant to any other Party of the Agreement with respect to the subject matter of the Agreement.

13.7 Gratuities. The City may, by written notice to the Contractor, 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 Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City or to the Owner 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 Contractor an amount equal to 150% of the gratuity.

13.8 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in the 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 the 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 others. An employee or agent of one Party shall not be deemed or construed to be the employee or agent of the others for any purpose whatsoever. The Contractor acknowledges and agrees that

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the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Contractor, 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 Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and in Exhibit A. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor 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. Contractor 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 Contractor 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 of Avondale and County ordinances and regulations, (B) existing and future State and Federal laws, (C) existing and future Occupational Safety and Health Administration standards, (D) the Rehabilitation Standards, (E) the provisions of 24 CFR Part 92, as revised, (F) the provisions of 24 CFR Part 570, as revised and (G) the provisions contained in the City of Avondale Action Plan and Action Plan Amendments.

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, the Owner and the Contractor.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in the 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, the 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 the 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

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meaning, and no presumption shall be deemed to apply in favor of, or against the Party drafting the 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 by Contractor without prior, written permission of the City, signed by the City Manager, and the Owner and no delegation of any duty of Contractor shall be made without prior, written permission of the City, signed by the City Manager, and the Owner. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

14.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the City and the Owner. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. The Contractor shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. The Contractor shall forward executed copies of all subcontracts to the City along with documentation concerning the selection process. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Contractor.

14.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the City or the Owner 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 or the Owner 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 Contractor 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 or the Owner to insist upon the strict performance of this Agreement.

14.11 Attorneys' Fees. In the event any 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 Contractor any amounts

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Contractor owes to the Owner or 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 Contractor any amounts Contractor owes to the City or the Owner for delinquent fees, transaction privilege 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 City: City of Avondale
 11465 West Civic Center Drive
 Avondale, Arizona 85323
 Attn: David W. Fitzhugh, City Manager

With copy to: GUST ROSENFELD P.L.C.
 One East Washington, Suite 1600
 Phoenix, Arizona 85004-2553
 Attn: Andrew J. McGuire, Esq.

If to Owner: _____

If to Contractor: _____

 Attn: _____

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.

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14.15 Confidentiality of Records. The Contractor 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 Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below Contractor'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 Contractor 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 Contractor'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 Contractor'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, Contractor 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 Contractor pursuant to this Agreement. Contractor 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 Contractor or its subcontractors reasonable advance notice of intended audits. Contractor 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 Contractor 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). Contractor'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 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Notice to Proceed, the Quotation and invoices, the documents shall govern in the order listed herein.

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14.19 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.

15. Equal Employment Opportunity; Nondiscrimination; Minority Business Enterprise Utilization.

15.1 Equal Employment Opportunity. The Contractor 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); Executive Order 12259; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; Executive Order 11063; Executive Order 11246 as amended by Executive Order 11375, 11478 and 12086 and as supplemented by Department of Labor regulations (41 CFR Chapter 60); Section 104(b) and Section 109 of Title I of Housing and Community Development Act of 1974 as amended; and the rules, regulations and relevant orders of the Secretary of Labor and relevant federal regulations including, but not limited to, 24 CFR Part 1, 24 CFR Part 8, 24 CFR Part 100, 24 CFR 570.201, 25 CFR Part 146 and, if applicable, 24 CFR 570.487 and 24 CFR 570.602.

15.2 Nondiscrimination. The Contractor 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, marital/familial status, or status with regard to public assistance. The Contractor 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 Contractor 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.

15.3 Solicitations; Advertisements. In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

15.4 Labor Union. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representatives of the Contractor's commitment under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

15.5 Information and Reports. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the City, HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

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15.6 Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government-funded contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or as otherwise provided by law.

15.7 Subcontracting Provisions. The Contractor shall include the provisions of subsections 15.1 through 15.7 in every subcontract or purchase order, specifically or by reference, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each of its subcontractors or vendors. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

15.8 Women and Minority Owned Business Enterprises. The Contractor 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 Contractor may rely on written representation by businesses regarding their status as minority and women owned business enterprises in lieu of an independent investigation.

15.9 Employment Restrictions.

A. Prohibited Activity. The Contractor 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 Contractor 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

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contains 12 or more units, the Contractor will be required to pay its contractors Davis-Bacon wages and comply with the Contract Work Hours and Safety Standards Act. 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 Contractor 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 Contractor of its obligation, if any, to require payment of the higher wage. If applicable, the Contractor shall maintain documentation which demonstrates compliance with this subsection. The Contractor will cause or require to be inserted in full, in all contracts subject to such regulations, provisions meeting the requirements of this subsection.

15.10 “Section 3” Clause. The work to be performed pursuant to this Agreement is subject to the provisions of “Section 3” of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The Parties to this Agreement will comply with the provisions of Section 3 and the regulations issued pursuant thereto by the Secretary of HUD and all applicable rules and orders of HUD issued thereunder prior to execution of this Agreement. The Contractor and Owner certify and agree that no contractual or other disability exists which would prevent compliance with these requirements. The Contractor further agrees to include the following “Section 3” requirements provision 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 Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. ‘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 which are located in, or owned in substantial part residing in, the metropolitan area in which the project is located.”

16. Environmental Conditions.

16.1 Air and Water. The Contractor 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, 33 U.S.C. 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 CFR Part 50, as amended.

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16.2 Flood Disaster Protection. In accordance with the requirements of the Flood Disaster Protection Act of 1973, the Contractor 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).

16.3 Lead-Based Paint. The Contractor agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to 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. Contractor 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. Contractor 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. Contractor shall protect its workers disturbing lead painted surfaces, including, but not limited to the following:

(1) Contact the Inspector. Contractor 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. Contractor shall conduct air quality monitoring when appropriate for the type of activity to determine the level of worker protection required by the Occupational Safety and Health Act ("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. Contractor shall provide personal protective equipment, including a respirator program, as is appropriate to the type of job as required by OSHA.

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

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

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

(7) Cleaning. Contractor 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 contractor 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. Contractor 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 the Occupational Safety and Health Administration regulations at 29 CFR 1910.1200 or 1926.59, as applicable to the work.

16.4 Asbestos. The Contractor 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. Contractor 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:

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A. Abatement. If asbestos are identified during the initial inspection, Contractor 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 Contractor with asbestos-free materials. The Contractor shall agree that if materials containing asbestos are subsequently discovered at any future time to have been included in the construction done by the Contractor or any of its subcontractors or agents, the Contractor shall be liable for all costs related to the abatement of such asbestos and damages or claims against the City notwithstanding any statute of limitations or other legal bar to any claim by the City.

16.5 Weatherization. Contractor shall cause a pre-construction energy audit and a post-construction compliance inspection to be performed by a weatherization professional certified by the Building Performance Institute. In addition, Contractor shall cause all weatherization work to be performed by a weatherization professional certified by the Building Performance Institute.

16.6 Historic Preservation. The Contractor 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 50 years old or older or that are included on the Federal, state or local historic property list.

17. Access to Property. Prior to substantial completion, the Owner, with the concurrence of the Contractor, may use any completed or substantially completed portions of the Home, but the Owner shall not reside in the Home during the period that Contractor is performing the Services. Such use shall not constitute an acceptance of such portions of the Services. The Owner shall have the right to enter the Home for the purpose of doing work not covered by this Agreement. This Section shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the Home, or the restoration of any damaged Services except such as may be caused by agents or employees of the Owner.

18. Owner's Responsibilities.

18.1 Sanitary Conditions. If upon initial inspection by the Rehabilitation Specialist or authorized designee, the Home is found to be unsanitary, i.e., animal feces or urine are present, unhealthy indoor air quality, excessive clutter which obstructs inspection, the Owner will be required to remediate the condition of the home. Failure to do so will result in a Code Enforcement Citation and possible ineligibility for the Services.

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18.2 Use of Utilities. The Owner shall permit the Contractor to use, at no cost, existing utilities such as light, heat, power, and water necessary to the carrying out and completion of the Services.

18.3 Cooperation. The Owner shall cooperate with the Contractor to facilitate the performance of the Services, including the removal and replacements of rugs, coverings, and furnishings as necessary. The Owner shall abide by the terms of this Agreement and allow the Services to be carried out in accordance with local codes and federal regulations. This includes not undertaking, altering or contracting for the services of another Party to complete any of the work specified in the Quotation, attached hereto as Exhibit A, unless the Quotation specifically authorizes the Owner to complete a specified item or supply specified materials.

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

David W. Fitzhugh, City Manager

ATTEST:

Carmen Martinez, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 201_, before me personally appeared David W. Fitzhugh, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the City of Avondale.

Notary Public

(Affix notary seal here)

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“Owner”

_____,

Whose address is _____

By: _____

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 201_, before me personally appeared _____
_____, whose identity was proven to me on the basis of satisfactory
evidence to be the person who he/she claims to be, and acknowledged that he/she signed the
above document.

Notary Public

(Affix notary seal here)

EXHIBIT A
TO
SAMPLE ADOH OWNER-OCCUPIED REHABILITATION AGREEMENT

[Quotation]

See following page(s).

EXHIBIT B
TO
SAMPLE ADOH OWNER-OCCUPIED REHABILITATION AGREEMENT

[Change Orders]

See following pages (to be attached subsequent to execution).

SAMPLE CONSORTIUM OWNER-OCCUPIED REHABILITATION AGREEMENT

THIS CONSORTIUM OWNER-OCCUPIED REHABILITATION AGREEMENT (this “Agreement”) is made as of _____, 201__, between _____, a(n) _____ (the “Contractor”), _____, whose mailing address is _____ (the “Owner”), and the City of Avondale, an Arizona municipal corporation (the “City”).

RECITALS

A. The National Affordable Housing Act of 1990 created the U.S. Department of Housing and Urban Development (“HUD”) HOME Investment Partnerships Program (“HOME”) to increase the number of families served with decent, safe, sanitary and affordable housing and expand the long-term supply of affordable housing. The Maricopa County HOME Consortium (the “Consortium”) receives such HOME funds from HUD and administers the funds to member communities.

B. Title 1 of the Housing and Community Development Act of 1974, as amended, established a Community Development Block Grant (“CDBG”) program for the purpose of developing viable urban communities by providing decent housing and a suitable living environment, expanding economic opportunities and preventing and/or eliminating conditions of slum and blight, principally for persons of low and moderate income.

C. The City has received HOME funds from the Consortium to implement the City’s Owner-Occupied Housing Rehabilitation Program (the “Program”) to provide home repairs and improvements that remove code issues as well as health and safety concerns while addressing the overall energy efficiency of homes owned by income-eligible households within the target area. The City also has received CDBG funds, which can be used to provide additional funding for the Program in accordance with the City’s annual action plan.

D. The City issued a Request for Statements of Qualifications, NFS 15-050 “FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List” (the “RFQ”), seeking statements of qualifications from contractors for professional home rehabilitation contracting services. The Contractor submitted a Statement of Qualifications (the “SOQ”) in response to the RFQ.

E. The Owner (i) has satisfied the Program requirements, (ii) has completed an application with the City, including proof of ownership of a single-family home located within the City (the “Home”), and (iii) has been provided with a forgivable loan by the City for repair and rehabilitation assistance of the Home through the Program.

F. The City developed a scope of work for the repair and rehabilitation services on the Home and issued a Request for Quotations to all of the contractors on the FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List who submitted qualified SOQ. Contractor attended a mandatory walk-through on the Home

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and submitted a Quotation in response to the scope of work for the Home (the “Quotation”), attached hereto as Exhibit A and incorporated herein by reference.

G. The City selected the Contractor as the lowest responsible and responsive contractor to perform home repair and rehabilitation services on the Home (i) in accordance with the Quotation, City codes and ordinances, State of Arizona Rehabilitation Standards, Energy Star, International Energy Conservation Code (IECC, 2009 Edition or better), Arizona Governor’s Office of Energy Policy Weatherization Standards, HUD Housing Quality Standards, HUD Uniform Physical Condition Standards and Maricopa HOME Consortium Housing Rehabilitation Standards (collectively, the “Rehabilitation Standards”) and (ii) as more particularly set forth in Section 2 below (the “Services”).

H. The City, the Owner and the Contractor desire to enter into this Agreement for the purpose of (i) establishing the terms and conditions by which the Contractor may provide the Services and (ii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing 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, the Owner and the Contractor hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until the Completion Date as defined herein.

2. Scope of Work. The Contractor shall perform the Services as set forth in this Agreement and as more particularly forth in the Quotation, attached hereto as Exhibit A, and shall provide any and all permits, labor, materials, equipment, supervision, services and taxes necessary to perform the Services as set forth in this Agreement.

2.1 Review of Site and Scope of Work. Contractor shall carefully study and compare all drawings, specifications and instructions set forth in the Quotation. If Contractor discovers any discrepancies, errors, omissions or inconsistencies in the drawings or specifications, or between the drawings and specifications, or discovers any conflicts between existing site conditions and the requirements of the drawings and specifications, the Contractor shall immediately call all such discrepancies to the attention of the City.

2.2 Dimensions. The Contractor shall use, for data and dimensions, figures marked on the drawings in the Quotation in preference to what the drawings may measure to scale; but in the absence of figured dimensions, scale dimensions may be used with the prior, written concurrence of the City. The Contractor shall verify all dimensions shown and check all measurements in connection with any present building or buildings, level or grades, walks, driveways or other existing conditions before executing any work. Contractor shall report any

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errors or inconsistencies to the City immediately. It is the responsibility of the Contractor to contact Arizona Blue Stake and provide Blue Stake, pursuant to ARIZ. REV. STAT. §§ 40-360.21 to 40-360.32, verification of underground utilities on and off the site.

2.3 Energy Efficiency and Energy Star Guidelines. In performing the Services, the Contractor shall use best efforts to include improvements that result in increased energy efficiency of the Home in accordance with the Quotation. Energy efficient improvements must be cost effective, further ensure the long-term affordability of the Home, increase Owner sustainability and improve the overall appeal of the Home and neighborhood by replacing older obsolete products, systems and appliances with Energy Star and WaterSense labeled products.

2.4 Change Orders. Any changes in the Quotation, character or extent of the Services under this Agreement shall be made only by a prior, written Change Order signed by the Contractor and the Owner, and approved in writing by the City's home rehabilitation specialist or authorized designee (the "Rehabilitation Specialist"), setting forth the changes in the Services, the extension of the Completion Date (as hereinafter defined), if any, and any adjustment of the Contractor's compensation. Each Change Order approved and accepted by the parties pursuant to this Agreement shall be attached hereto as Exhibit B and incorporated herein by reference. Only those changes necessary to correct unforeseen issues relating to the Services can be paid for with the Consortium funds and the Owner shall be responsible for any remaining charges. Contractor shall be responsible for all costs incurred in performing any work not authorized by the Quotation or an approved and accepted Change Order. Change Orders will not be issued to cover any cost, loss or expense for additional labor or materials required to rectify any error or inconsistency in the drawings and specifications of the Quotation unless Contractor gave prior notification to, and received written approval from, the City.

2.5 Correction of Services. Contractor shall promptly remove from the Home all work rejected by the Owner or agents of the City for failure to comply with this Agreement and the Quotation, whether or not incorporated in the construction. Contractor shall (A) promptly replace and re-execute the Services in accordance with this Agreement and the Quotation without expense to the Owner or the City and (B) bear the expense of repairing or replacing all work of other contractors destroyed or damaged by such removal or replacement. All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work within ten days after receipt of written notice of such rejection, the Owner may remove, or cause to be removed, such work and store materials at the expense of the Contractor.

2.6 Debris and Material Removal. Contractor shall keep the Home clean and orderly during the term of the Agreement and shall remove all debris and construction materials as they accumulate but not less than daily. Unless specified otherwise in the Quotation, materials and equipment that have been removed and replaced as part of the Services belong to the Contractor, and Contractor is responsible for the removal from the Home of such materials and equipment.

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3. Completion of Services. Contractor shall begin the Services on the date specified in the written Notice to Proceed and shall complete the Services within ___ calendar days after the date specified in the Notice to Proceed (the “Completion Date”).

3.1 Extensions. The Completion Date may be extended if (A) at least five business days prior to the Completion Date, the Contractor requests, in writing, to extend the Completion Date, (B) the City approves the extension in writing, as evidenced by the signature of the Rehabilitation Specialist thereon and (C) the Owner approves the extension in writing.

3.2 Liquidated Damages. If the Contractor fails to complete the Services within the Completion Date or any extension of the Completion Date as set forth in subsection 3.1 above, Contractor shall pay to the Owner an amount of \$50.00 per day for each calendar day that occurs between the required Completion Date, or extension thereof, as set forth in subsection 3.1 above, and the actual date the Contractor completes the Services. The Contractor shall not be charged with liquidated damages or any excess costs when (A) the delay in completion of the Services is due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not limited to, acts of God or of the public enemy, acts of the Owner, acts of another contractor in performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather and (B) the Contractor has promptly (within five days after occurrence of the delay event) given written notice of such delay to the Owner and to the City.

4. Compensation. The City shall pay Contractor an aggregate amount not to exceed \$_____.00 for the Services (the “Contract Price”).

5. Procedure for Payment.

5.1 Progress Payments.

A. After Contractor has commenced and completed a portion of the Services, the Contractor shall submit to the City an application for payment consisting of the cost of the Services performed up to the end of the prior month, invoicing the Services performed and materials used. All invoices shall document and itemize all work completed to date. The invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment. Prior to submission of the next application for payment, the Contractor shall make available at the request of the City a statement accounting for the disbursement of funds received under the previous application for purposes of audit. The extent of such statement shall be as agreed upon between the City and Contractor.

B. Following receipt of an application for payment, the Rehabilitation Specialist will conduct a walk-through of the Home to verify that the Services were performed as invoiced and in accordance with the requirements of this Agreement. If deficiencies are identified during or after the inspection, no payment shall be made to Contractor until the deficiencies have been corrected.

C. Within 30 days after approval of each application for payment, the City shall pay directly to the Contractor the appropriate amount for which application for payment is made, less amounts (i) previously paid by the City, (ii) sufficient to pay expenses the City reasonably expects to incur in correcting deficiencies which are set forth in writing and provided to the Contractor and (iii) any retainage as set forth in Section 5.2 below.

D. The City's progress payment or Owner's occupancy or use of the Home, whether in whole or in part, shall not be deemed as acceptance of any Services not conforming to the requirements of this Agreement.

5.2 Retainage. With respect to the Services, the City shall retain ten percent (10%) of the amount of each application for payment until the final inspection and acceptance of all Services covered by this Agreement.

5.3 Final Payment Request. When Contractor has completed the Services, Contractor shall submit to the City (A) a final payment request form, (B) an invoice of the Services performed and materials used performed up to the end of the last application for payment, (C) a lien waiver waiving and releasing all of Contractor's and any subcontractor's or supplier's lien rights for work, labor and materials provided on the Home and (D) a certificate of completion stating the Services have been completed (collectively, the "Payment Request Packet"). After Contractor submits the Payment Request Packet, City shall perform a final inspection of the Home to confirm that the Services conform to the Rehabilitation Standards and at which time the Owner may identify any deficiencies in the Services. If deficiencies are identified during or after the inspection, no payment shall be made to Contractor until the deficiencies have been corrected. After the final inspection, if the Services performed conform to the Rehabilitation Standards and the Quotation, City shall request the Owner's signature and approval of the certificate of completion. If the Owner does not sign the certificate of completion and the Rehabilitation Specialist determines and certifies that the Services were completed in accordance with this Agreement and with the Quotation, the City may approve the payment request form without Owner's signature on the certificate of completion.

5.4 Final Payment. After a certificate of completion is signed by the Owner or the final payment request form is approved pursuant to Section 5.3 above, the City shall pay to the Contractor the amount of the payment request form including any amounts retained pursuant to Section 5.2 above, with the aggregate amount of payments, including previous applications for payment, not to exceed the Contract Price.

6. 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. Contractor Personnel. Contractor shall provide adequate, experienced personnel capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the

Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor 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 Owner. 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, Contractor shall immediately notify the Owner of same and shall, subject to the concurrence of the Owner, 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 and the Owner at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City. Upon completion of the Services, the Rehabilitation Specialist or authorized designee shall perform a final inspection to ensure the Services conform to the Quotation, attached as Exhibit A hereto, and the Rehabilitation Standards.

9. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. Neither the City nor the Owner has any obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement or any tools, equipment or material.

10. Warranties. The warranties set forth in this Section shall survive the termination of this Agreement.

10.1 Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and to the highest professional standards in the field. Contractor shall provide a two-year warranty on its Services to the Owner.

10.2 Material and Equipment Warranty. Contractor shall guarantee all materials and equipment furnished for a period of two years from the date of final inspection. Contractor warrants and guarantees for a period of two years from the date of final inspection of the Home that all completed systems are free from all defects due to faulty materials or workmanship. Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event that Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may, after giving 30 days' notice to the Contractor, make such repairs and charge the Contractor the cost thereby incurred. The Owner shall hold the City harmless should the Contractor not return to correct defects covered under this warranty. The City will, in no way, guarantee that any defects due to faulty materials or workmanship will be corrected and will not ask any other government agency to cover the cost of correcting such defects.

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11. Indemnification. To the fullest extent permitted by law, the Contractor and the Owner 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 Contractor or the Owner or any of their 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 Contractor, Contractor 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 Contractor. 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 Contractor 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 and self-insured retention or deductible portions, 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, the Owner, their agents, representatives, officers, directors, officials and employees, as Additional 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.

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E. Primary Insurance. Contractor'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 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, the Owner, their agents, representatives, officials, officers and employees for any claims arising out of the work or services of Contractor. Contractor 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. Contractor 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, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City, the Owner and the Contractor. Contractor 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, Contractor 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 Contractor's 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

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Agreement expire during the life of this Agreement, it shall be Contractor'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 RFQ number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFQ 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 RFQ 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, the Owner, their agents and representatives 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) Contractor's insurance shall be primary insurance with respect to performance of the Agreement.

(3) All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against the City, the Owner, their agents and representatives for any claims arising out of work or services performed by Contractor 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.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor 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

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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, the Owner, their agents and representatives 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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor'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, City, the Owner, their agents and representatives 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 Contractor engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate. Confidential information such as the policy premium or proprietary information 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.

D. Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor'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.

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

13. Suspension; Termination; Cancellation.

13.1 Suspension of Services. The Owner may suspend the Services or any portion thereof for a period of not more than 90 days or such further time as agreed upon by the Contractor, by written notice to the Contractor and the City, which notice shall fix the date on which work shall be resumed. The Contractor shall resume the Services on the date so fixed in the notice. The City may, at its sole discretion, grant Contractor an increase in the Contract Price or an extension of the Completion Date, or both, directly attributable to any suspension.

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

13.3 Termination 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 Contractor for the undisputed portion of its fee due as of the termination date.

13.4 Termination Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned or in the event that Services are suspended pursuant to Subsection 13.1 above and Contractor fails to resume Services on the date fixed in the notice. In the event of such termination due to work stoppage, the City shall pay the Contractor the undisputed portion of its fee due as of the termination date.

13.5 Termination for Bankruptcy; Insolvency. This Agreement may be terminated by the City upon ten days' written notice to Contractor in the event the Contractor (A) does not pay its debts when they become due; (B) has filed, or consented by answer or otherwise to, a petition for relief or reorganization and bankruptcy or insolvency law of any jurisdiction; (C) makes an assignment for the benefit of its creditors in lieu of taking advantage of any such bankruptcy or insolvency law; (D) consents to the appointment of custodian, receiver, trustee or other officer with similar powers with respect to any substantial part of its property; or (E) is

adjudicated insolvent or takes corporate action for the purpose of any of the foregoing. In the event of such termination for bankruptcy or insolvency, the City shall pay the Contractor the undisputed portion of its fee due as of the termination date.

13.6 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 the Agreement or any extension of the Agreement is in effect, an employee of any other Party to the Agreement in any capacity or a consultant to any other Party of the Agreement with respect to the subject matter of the Agreement.

13.7 Gratuities. The City may, by written notice to the Contractor, 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 Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City or to the Owner 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 Contractor an amount equal to 150% of the gratuity.

13.8 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in the 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 the 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 others. An employee or agent of one Party shall not be deemed or construed to be the employee or agent of the others for any purpose whatsoever. The Contractor acknowledges and agrees that

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the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Contractor, 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 Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and in Exhibit A. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor 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. Contractor 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 Contractor 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 of Avondale and County ordinances and regulations, (B) existing and future State and Federal laws, (C) existing and future Occupational Safety and Health Administration standards, (D) the Rehabilitation Standards, (E) the provisions of 24 CFR Part 92, HOME, as revised, (F) the provisions of 24 CFR Part 570, as revised and (G) the provisions contained in the City of Avondale Action Plan and Action Plan Amendments.

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, the Owner and the Contractor.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in the 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, the 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 the 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

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meaning, and no presumption shall be deemed to apply in favor of, or against the Party drafting the 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 by Contractor without prior, written permission of the City, signed by the City Manager, and the Owner and no delegation of any duty of Contractor shall be made without prior, written permission of the City, signed by the City Manager, and the Owner. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

14.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the City and the Owner. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. The Contractor shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. The Contractor shall forward executed copies of all subcontracts to the City along with documentation concerning the selection process. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Contractor.

14.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the City or the Owner 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 or the Owner 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 Contractor 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 or the Owner to insist upon the strict performance of this Agreement.

14.11 Attorneys' Fees. In the event any 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 Contractor any amounts

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Contractor owes to the Owner or 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 Contractor any amounts Contractor owes to the City or the Owner for delinquent fees, transaction privilege 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 City: City of Avondale
 11465 West Civic Center Drive
 Avondale, Arizona 85323
 Attn: David W. Fitzhugh, City Manager

With copy to: GUST ROSENFELD P.L.C.
 One East Washington, Suite 1600
 Phoenix, Arizona 85004-2553
 Attn: Andrew J. McGuire, Esq.

If to Owner: _____

If to Contractor: _____

 Attn: _____

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.

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14.15 Confidentiality of Records. The Contractor 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 Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below Contractor'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 Contractor 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 Contractor'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 Contractor'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, Contractor 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 Contractor pursuant to this Agreement. Contractor 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 Contractor or its subcontractors reasonable advance notice of intended audits. Contractor 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 Contractor 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). Contractor'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 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Notice to Proceed, the Quotation and invoices, the documents shall govern in the order listed herein.

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14.19 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.

15. Equal Employment Opportunity; Nondiscrimination; Minority Business Enterprise Utilization.

15.1 Equal Employment Opportunity. The Contractor 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); Executive Order 12259; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; Executive Order 11063; Executive Order 11246 as amended by Executive Order 11375, 11478 and 12086 and as supplemented by Department of Labor regulations (41 CFR Chapter 60); Section 104(b) and Section 109 of Title I of Housing and Community Development Act of 1974 as amended; and the rules, regulations and relevant orders of the Secretary of Labor and relevant federal regulations including, but not limited to, 24 CFR Part 1, 24 CFR Part 8, 24 CFR Part 100, 24 CFR 570.201, 25 CFR Part 146 and, if applicable, 24 CFR 570.487 and 24 CFR 570.602.

15.2 Nondiscrimination. The Contractor 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, marital/familial status, or status with regard to public assistance. The Contractor 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 Contractor 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.

15.3 Solicitations; Advertisements. In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

15.4 Labor Union. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representatives of the Contractor's commitment under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

15.5 Information and Reports. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the City, HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

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15.6 Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government-funded contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or as otherwise provided by law.

15.7 Subcontracting Provisions. The Contractor shall include the provisions of subsections 15.1 through 15.7 in every subcontract or purchase order, specifically or by reference, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each of its subcontractors or vendors. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

15.8 Women and Minority Owned Business Enterprises. The Contractor 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 Contractor may rely on written representation by businesses regarding their status as minority and women owned business enterprises in lieu of an independent investigation.

15.9 Employment Restrictions.

A. Prohibited Activity. The Contractor 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 Contractor 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

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contains 12 or more units, the Contractor will be required to pay its contractors Davis-Bacon wages and comply with the Contract Work Hours and Safety Standards Act. 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 Contractor 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 Contractor of its obligation, if any, to require payment of the higher wage. If applicable, the Contractor shall maintain documentation which demonstrates compliance with this subsection. The Contractor will cause or require to be inserted in full, in all contracts subject to such regulations, provisions meeting the requirements of this subsection.

15.10 “Section 3” Clause. The work to be performed pursuant to this Agreement is subject to the provisions of “Section 3” of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The Parties to this Agreement will comply with the provisions of Section 3 and the regulations issued pursuant thereto by the Secretary of HUD and all applicable rules and orders of HUD issued thereunder prior to execution of this Agreement. The Contractor and Owner certify and agree that no contractual or other disability exists which would prevent compliance with these requirements. The Contractor further agrees to include the following “Section 3” requirements provision 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 Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. ‘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 which are located in, or owned in substantial part residing in, the metropolitan area in which the project is located.”

16. Environmental Conditions.

16.1 Air and Water. The Contractor 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, 33 U.S.C. 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 CFR Part 50, as amended.

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16.2 Flood Disaster Protection. In accordance with the requirements of the Flood Disaster Protection Act of 1973, the Contractor 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).

16.3 Lead-Based Paint. The Contractor agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to 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. Contractor 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. Contractor 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. Contractor shall protect its workers disturbing lead painted surfaces, including, but not limited to the following:

(1) Contact the Inspector. Contractor 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. Contractor shall conduct air quality monitoring when appropriate for the type of activity to determine the level of worker protection required by the Occupational Safety and Health Act ("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. Contractor shall provide personal protective equipment, including a respirator program, as is appropriate to the type of job as required by OSHA.

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

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

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

(7) Cleaning. Contractor 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 contractor 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. Contractor 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 the Occupational Safety and Health Administration regulations at 29 CFR 1910.1200 or 1926.59, as applicable to the work.

16.4 Asbestos. The Contractor 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. Contractor 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:

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A. Abatement. If asbestos are identified during the initial inspection, Contractor 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 Contractor with asbestos-free materials. The Contractor shall agree that if materials containing asbestos are subsequently discovered at any future time to have been included in the construction done by the Contractor or any of its subcontractors or agents, the Contractor shall be liable for all costs related to the abatement of such asbestos and damages or claims against the City notwithstanding any statute of limitations or other legal bar to any claim by the City.

16.5 Weatherization. Contractor shall cause a pre-construction energy audit and a post-construction compliance inspection to be performed by a weatherization professional certified by the Building Performance Institute. In addition, Contractor shall cause all weatherization work to be performed by a weatherization professional certified by the Building Performance Institute.

16.6 Historic Preservation. The Contractor 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 50 years old or older or that are included on the Federal, state or local historic property list.

17. Access to Property. Prior to substantial completion, the Owner, with the concurrence of the Contractor, may use any completed or substantially completed portions of the Home, but the Owner shall not reside in the Home during the period that Contractor is performing the Services. Such use shall not constitute an acceptance of such portions of the Services. The Owner shall have the right to enter the Home for the purpose of doing work not covered by this Agreement. This Section shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the Home, or the restoration of any damaged Services except such as may be caused by agents or employees of the Owner.

18. Owner's Responsibilities.

18.1 Sanitary Conditions. If upon initial inspection by the Rehabilitation Specialist or authorized designee, the Home is found to be unsanitary, i.e., animal feces or urine are present, unhealthy indoor air quality, excessive clutter which obstructs inspection, the Owner will be required to remediate the condition of the home. Failure to do so will result in a Code Enforcement Citation and possible ineligibility for the Services.

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“Owner”

_____ ,

Whose address is _____

By: _____

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 201_, before me personally appeared _____
_____, whose identity was proven to me on the basis of satisfactory
evidence to be the person who he/she claims to be, and acknowledged that he/she signed the
above document.

Notary Public

(Affix notary seal here)

EXHIBIT A
TO
SAMPLE CONSORTIUM OWNER-OCCUPIED REHABILITATION AGREEMENT

[Quotation]

See following page(s).

EXHIBIT B
TO
SAMPLE CONSORTIUM OWNER-OCCUPIED REHABILITATION AGREEMENT

[Change Orders]

See following pages (to be attached subsequent to execution).

SAMPLE CDBG REHABILITATION AGREEMENT

THIS CDBG REHABILITATION AGREEMENT (this “Agreement”) is made as of _____, 201____, between _____, a(n) _____ (the “Contractor”), _____, whose mailing address is _____ (the “Owner”), and the City of Avondale, an Arizona municipal corporation (the “City”).

RECITALS

A. Title 1 of the Housing and Community Development Act of 1974, as amended, established a Community Development Block Grant (“CDBG”) program for the purpose of developing viable urban communities by providing decent housing and a suitable living environment, expanding economic opportunities and preventing and/or eliminating conditions of slum and blight, principally for persons of low and moderate income.

B. The City has received CDBG funds from the U.S. Department of Housing and Urban Development (“HUD”) to implement the City’s Emergency Home Repair Program (the “Program”) to provide immediate repair of a specific item or items required to ensure the health, safety and welfare of the occupants of homes owned by income-eligible households within the target area.

C. The City issued a Request for Statements of Qualifications, NFS 15-050 “FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List” (the “RFQ”), seeking statements of qualifications from contractors for professional home rehabilitation contracting services. The Contractor submitted a Statement of Qualifications (the “SOQ”) in response to the RFQ.

D. The Owner (i) has satisfied the Program requirements, (ii) has completed an application with the City, including proof of ownership of a single-family home located within the City (the “Home”), and (iii) has been provided a grant from the City for rehabilitation of the Home through the Program.

E. The City developed a scope of work for the repair and rehabilitation services on the Home and issued a Request for Quotations to all of the contractors on the FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List who submitted qualified SOQ. Contractor attended a mandatory walk-through on the Home and submitted a Quotation in response to the scope of work for the Home (the “Quotation”), attached hereto as Exhibit A and incorporated herein by reference.

F. The City selected the Contractor as the lowest responsible and responsive contractor to perform home repair and rehabilitation services on the Home (i) in accordance with the Quotation, City codes and ordinances, Energy Star, International Energy Conservation Code (IECC, 2009 Edition or better), U.S. Department of Housing and Urban Development (“HUD”) Housing Quality Standards and Maricopa HOME Consortium Housing Rehabilitation Standards

(collectively, the “Rehabilitation Standards”) and (ii) as more particularly set forth in Section 2 below (the “Services”).

G. The City, the Owner and the Contractor desire to enter into this Agreement for the purpose of (i) establishing the terms and conditions by which the Contractor may provide the Services and (ii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing 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, the Owner and the Contractor hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until the Completion Date as defined herein.

2. Scope of Work. The Contractor shall perform the Services as set forth in this Agreement and as more particularly forth in the Quotation, attached hereto as Exhibit A, and shall provide any and all permits, labor, materials, equipment, supervision, services and taxes necessary to perform the Services as set forth in this Agreement.

2.1 Review of Site and Scope of Work. Contractor shall carefully study and compare all drawings, specifications and instructions set forth in the Quotation. If Contractor discovers any discrepancies, errors, omissions or inconsistencies in the drawings or specifications, or between the drawings and specifications, or discovers any conflicts between existing site conditions and the requirements of the drawings and specifications, the Contractor shall immediately call all such discrepancies to the attention of the City.

2.2 Dimensions. The Contractor shall use, for data and dimensions, figures marked on the drawings in the Quotation in preference to what the drawings may measure to scale; but in the absence of figured dimensions, scale dimensions may be used with the prior, written concurrence of the City. The Contractor shall verify all dimensions shown and check all measurements in connection with any present building or buildings, level or grades, walks, driveways or other existing conditions before executing any work. Contractor shall report any errors or inconsistencies to the City immediately. It is the responsibility of the Contractor to contact Arizona Blue Stake and provide Blue Stake, pursuant to ARIZ. REV. STAT. §§ 40-360.21 to 40-360.32, verification of underground utilities on and off the site.

2.3 Energy Efficiency and Energy Star Guidelines. In performing the Services, the Contractor shall use best efforts to include improvements that result in increased energy efficiency of the Home in accordance with the Quotation. Energy efficient improvements must be cost effective, further ensure the long-term affordability of the Home, increase Owner

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sustainability and improve the overall appeal of the Home and neighborhood by replacing older obsolete products, systems and appliances with Energy Star and WaterSense labeled products.

2.4 Change Orders. Any changes in the Quotation, character or extent of the Services under this Agreement shall be made only by a prior, written Change Order signed by the Contractor and the Owner, and approved in writing by the City's home rehabilitation specialist or authorized designee (the "Rehabilitation Specialist"), setting forth the changes in the Services, the extension of the Completion Date (as hereinafter defined), if any, and any adjustment of the Contractor's compensation. Each Change Order approved and accepted by the parties pursuant to this Agreement shall be attached hereto as Exhibit B and incorporated herein by reference. Only those changes necessary to correct unforeseen issues relating to the Services can be paid for with the CDBG funds and the Owner shall be responsible for any remaining charges. Contractor shall be responsible for all costs incurred in performing any work not authorized by the Quotation or an approved and accepted Change Order. Change Orders will not be issued to cover any cost, loss or expense for additional labor or materials required to rectify any error or inconsistency in the drawings and specifications of the Quotation unless Contractor gave prior notification to, and received written approval from, the City.

2.5 Correction of Services. Contractor shall promptly remove from the Home all work rejected by the Owner or agents of the City for failure to comply with this Agreement and the Quotation, whether or not incorporated in the construction. Contractor shall (A) promptly replace and re-execute the Services in accordance with this Agreement and the Quotation without expense to the Owner or the City and (B) bear the expense of repairing or replacing all work of other contractors destroyed or damaged by such removal or replacement. All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work within ten days after receipt of written notice of such rejection, the Owner may remove, or cause to be removed, such work and store materials at the expense of the Contractor.

2.6 Debris and Material Removal. Contractor shall keep the Home clean and orderly during the term of the Agreement and shall remove all debris and construction materials as they accumulate but not less than daily. Unless specified otherwise in the Quotation, materials and equipment that have been removed and replaced as part of the Services belong to the Contractor, and Contractor is responsible for the removal from the Home of such materials and equipment.

3. Completion of Services. Contractor shall begin the Services on the date specified in the written Notice to Proceed and shall complete the Services within ___ calendar days after the date specified in the Notice to Proceed (the "Completion Date").

3.1 Extensions. The Completion Date may be extended if (A) at least five business days prior to the Completion Date, the Contractor requests, in writing, to extend the Completion Date, (B) the City approves the extension in writing, as evidenced by the signature of the Rehabilitation Specialist thereon and (C) the Owner approves the extension in writing.

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3.2 Liquidated Damages. If the Contractor fails to complete the Services within the Completion Date or any extension of the Completion Date as set forth in subsection 3.1 above, Contractor shall pay to the Owner an amount of \$50.00 per day for each calendar day that occurs between the required Completion Date, or extension thereof, as set forth in subsection 3.1 above, and the actual date the Contractor completes the Services. The Contractor shall not be charged with liquidated damages or any excess costs when (A) the delay in completion of the Services is due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not limited to, acts of God or of the public enemy, acts of the Owner, acts of another contractor in performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather and (B) the Contractor has promptly (within five days after occurrence of the delay event) given written notice of such delay to the Owner and to the City.

4. Compensation. The City shall pay Contractor an aggregate amount not to exceed \$_____00 for the Services (the "Contract Price").

5. Procedure for Payment.

5.1 Progress Payments.

A. After Contractor has commenced and completed a portion of the Services, the Contractor shall submit to the City an application for payment consisting of the cost of the Services performed up to the end of the prior month, invoicing the Services performed and materials used. All invoices shall document and itemize all work completed to date. The invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment. Prior to submission of the next application for payment, the Contractor shall make available at the request of the City a statement accounting for the disbursement of funds received under the previous application for purposes of audit. The extent of such statement shall be as agreed upon between the City and Contractor.

B. Following receipt of an application for payment, the Rehabilitation Specialist will conduct a walk-through of the Home to verify that the Services were performed as invoiced and in accordance with the requirements of this Agreement. If deficiencies are identified during or after the inspection, no payment shall be made to Contractor until the deficiencies have been corrected.

C. Within 30 days after approval of each application for payment, the City shall pay directly to the Contractor the appropriate amount for which application for payment is made, less amounts (i) previously paid by the City, (ii) sufficient to pay expenses the City reasonably expects to incur in correcting deficiencies which are set forth in writing and provided to the Contractor and (iii) any retainage as set forth in Section 5.2 below.

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D. The City's progress payment or Owner's occupancy or use of the Home, whether in whole or in part, shall not be deemed as acceptance of any Services not conforming to the requirements of this Agreement.

5.2 Retainage. With respect to the Services, the City shall retain ten percent (10%) of the amount of each application for payment until the final inspection and acceptance of all Services covered by this Agreement.

5.3 Final Payment Request. When Contractor has completed the Services, Contractor shall submit to the City (A) a final payment request form, (B) an invoice of the Services performed and materials used performed up to the end of the last application for payment, (C) a lien waiver waiving and releasing all of Contractor's and any subcontractor's or supplier's lien rights for work, labor and materials provided on the Home and (D) a certificate of completion stating the Services have been completed (collectively, the "Payment Request Packet"). After Contractor submits the Payment Request Packet, City shall perform a final inspection of the Home to confirm that the Services conform to the Rehabilitation Standards and at which time the Owner may identify any deficiencies in the Services. If deficiencies are identified during or after the inspection, no payment shall be made to Contractor until the deficiencies have been corrected. After the final inspection, if the Services performed conform to the Rehabilitation Standards and the Quotation, City shall request the Owner's signature and approval of the certificate of completion. If the Owner does not sign the certificate of completion and the Rehabilitation Specialist determines and certifies that the Services were completed in accordance with this Agreement and with the Quotation, the City may approve the payment request form without Owner's signature on the certificate of completion.

5.4 Final Payment. After a certificate of completion is signed by the Owner or the final payment request form is approved pursuant to Section 5.3 above, the City shall pay to the Contractor the amount of the payment request form including any amounts retained pursuant to Section 5.2 above, with the aggregate amount of payments, including previous applications for payment, not to exceed the Contract Price.

6. 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. Contractor Personnel. Contractor shall provide adequate, experienced personnel capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor 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 Owner. 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, Contractor shall immediately notify the Owner of same and shall, subject to the concurrence of the Owner, 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 and the Owner at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City. Upon completion of the Services, the Rehabilitation Specialist or authorized designee shall perform a final inspection to ensure the Services conform to the Quotation, attached as Exhibit A hereto, and the Rehabilitation Standards.

9. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. Neither the City nor the Owner has any obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement or any tools, equipment or material.

10. Warranties. The warranties set forth in this Section shall survive the termination of this Agreement.

10.1 Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and to the highest professional standards in the field. Contractor shall provide a two-year warranty on its Services to the Owner.

10.2 Material and Equipment Warranty. Contractor shall guarantee all materials and equipment furnished for a period of two years from the date of final inspection. Contractor warrants and guarantees for a period of two years from the date of final inspection of the Home that all completed systems are free from all defects due to faulty materials or workmanship. Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event that Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may, after giving 30 days' notice to the Contractor, make such repairs and charge the Contractor the cost thereby incurred. The Owner shall hold the City harmless should the Contractor not return to correct defects covered under this warranty. The City will, in no way, guarantee that any defects due to faulty materials or workmanship will be corrected and will not ask any other government agency to cover the cost of correcting such defects.

11. Indemnification. To the fullest extent permitted by law, the Contractor and the Owner 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 Contractor or the Owner or

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any of their 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 Contractor, Contractor 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 Contractor. 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 Contractor 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 and self-insured retention or deductible portions, 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, the Owner, their agents, representatives, officers, directors, officials and employees, as Additional 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. Contractor'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

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by submission of annual Certificates of Insurance 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, the Owner, their agents, representatives, officials, officers and employees for any claims arising out of the work or services of Contractor. Contractor 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. Contractor 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, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City, the Owner and the Contractor. Contractor 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, Contractor 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 Contractor's 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 Contractor'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 RFQ number and title of this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFQ 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 RFQ number and title or a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded.

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Certificates of insurance and declaration page(s) shall specifically include the following provisions

(1) The City, the Owner, their agents and representatives 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) Contractor’s insurance shall be primary insurance with respect to performance of the Agreement.

(3) All policies, except for Professional Liability, including Workers’ Compensation, waive rights of recovery (subrogation) against the City, the Owner, their agents and representatives for any claims arising out of work or services performed by Contractor 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.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor 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, the Owner, their agents and representatives 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

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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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor’s owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor’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, City, the Owner, their agents and representatives 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 Contractor engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate. Confidential information such as the policy premium or proprietary information 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.

D. Workers’ Compensation Insurance. Contractor shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor’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 materially changed without 30 days’ prior written notice to the City.

13. Suspension; Termination; Cancellation.

13.1 Suspension of Services. The Owner may suspend the Services or any portion thereof for a period of not more than 90 days or such further time as agreed upon by the Contractor, by written notice to the Contractor and the City, which notice shall fix the date on which work shall be resumed. The Contractor shall resume the Services on the date so fixed in

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the notice. The City may, at its sole discretion, grant Contractor an increase in the Contract Price or an extension of the Completion Date, or both, directly attributable to any suspension.

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

13.3 Termination 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 Contractor for the undisputed portion of its fee due as of the termination date.

13.4 Termination Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned or in the event that Services are suspended pursuant to Subsection 13.1 above and Contractor fails to resume Services on the date fixed in the notice. In the event of such termination due to work stoppage, the City shall pay the Contractor the undisputed portion of its fee due as of the termination date.

13.5 Termination for Bankruptcy; Insolvency. This Agreement may be terminated by the City upon ten days' written notice to Contractor in the event the Contractor (A) does not pay its debts when they become due; (B) has filed, or consented by answer or otherwise to, a petition for relief or reorganization and bankruptcy or insolvency law of any jurisdiction; (C) makes an assignment for the benefit of its creditors in lieu of taking advantage of any such bankruptcy or insolvency law; (D) consents to the appointment of custodian, receiver, trustee or other officer with similar powers with respect to any substantial part of its property; or (E) is adjudicated insolvent or takes corporate action for the purpose of any of the foregoing. In the event of such termination for bankruptcy or insolvency, the City shall pay the Contractor the undisputed portion of its fee due as of the termination date.

13.6 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 the Agreement or any extension of the

Agreement is in effect, an employee of any other Party to the Agreement in any capacity or a consultant to any other Party of the Agreement with respect to the subject matter of the Agreement.

13.7 Gratuities. The City may, by written notice to the Contractor, 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 Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City or to the Owner 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 Contractor an amount equal to 150% of the gratuity.

13.8 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in the 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 the 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 others. An employee or agent of one Party shall not be deemed or construed to be the employee or agent of the others for any purpose whatsoever. The Contractor 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. Contractor, 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 Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and in Exhibit A. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor do not intend to nor will they combine business operations under this Agreement.

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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. Contractor 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 Contractor 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 of Avondale and County ordinances and regulations, (B) existing and future State and Federal laws, (C) existing and future Occupational Safety and Health Administration standards, (D) the Rehabilitation Standards, (E) the provisions of 24 CFR Part 570, as revised, (F) the provisions of 24 CFR Part 92, HOME, as revised and (G) the provisions contained in the City of Avondale Consolidated Plan, Annual Action Plan and any Action Plan Amendments.

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, the Owner and the Contractor.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in the 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, the 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 the 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 the 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 by Contractor without prior, written permission of the City, signed by the City Manager, and the Owner and no delegation of any duty of Contractor shall be made without prior, written permission of the City, signed by the City Manager, and the Owner. Any

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attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

14.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the City and the Owner. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. The Contractor shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. The Contractor shall forward executed copies of all subcontracts to the City along with documentation concerning the selection process. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Contractor.

14.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the City or the Owner 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 or the Owner 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 Contractor 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 or the Owner to insist upon the strict performance of this Agreement.

14.11 Attorneys' Fees. In the event any 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 Contractor any amounts Contractor owes to the Owner or 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 Contractor any amounts Contractor owes to the City or the Owner for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

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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 City: City of Avondale
 11465 West Civic Center Drive
 Avondale, Arizona 85323
 Attn: David W. Fitzhugh, City Manager

With copy to: GUST ROSENFELD P.L.C.
 One East Washington, Suite 1600
 Phoenix, Arizona 85004-2553
 Attn: Andrew J. McGuire, Esq.

If to Owner: _____

If to Contractor: _____

 Attn: _____

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 Contractor 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 Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below Contractor'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 Contractor 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 Contractor'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 Contractor'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, Contractor 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 Contractor pursuant to this Agreement. Contractor 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 Contractor or its subcontractors reasonable advance notice of intended audits. Contractor 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 Contractor 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). Contractor'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 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Notice to Proceed, the Quotation and invoices, the documents shall govern in the order listed herein.

14.19 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.

15. Equal Employment Opportunity; Nondiscrimination; Minority Business Enterprise Utilization.

15.1 Equal Employment Opportunity. The Contractor 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

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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 as supplemented by Department of Labor regulations (41 CFR Chapter 60); if applicable, Section 104(b) and Section 109 of Title I of Housing and Community Development Act of 1974 as amended; and the rules, regulations and relevant orders of the Secretary of Labor and relevant federal regulations including, but not limited to, 24 CFR Part 1, 24 CFR Part 6, 24 CFR Part 8, 24 CFR Part 100, 24 CFR Part 107, 24 CFR 570.201, 24 CFR Part 146, 24 CFR 570.487 and 24 CFR 570.602.

15.2 Nondiscrimination. The Contractor 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, marital/familial status, or status with regard to public assistance. The Contractor 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 Contractor 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.

15.3 Solicitations; Advertisements. In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

15.4 Labor Union. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representatives of the Contractor's commitment under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

15.5 Information and Reports. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the City, HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

15.6 Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government-funded contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or as otherwise provided by law.

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15.7 Subcontracting Provisions. The Contractor shall include the provisions of subsections 15.1 through 15.7 in every subcontract or purchase order, specifically or by reference, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each of its subcontractors or vendors. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

15.8 Women and Minority Owned Business Enterprises. The Contractor 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 Contractor may rely on written representation by businesses regarding their status as minority and women owned business enterprises in lieu of an independent investigation.

15.9 Employment Restrictions.

A. Prohibited Activity. The Contractor 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 Contractor 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 Contractor 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 Contractor agrees to comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of

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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 Contractor of its obligation, if any, to require payment of the higher wage. If applicable, the Contractor shall maintain documentation which demonstrates compliance with this subsection. The Contractor will cause or require to be inserted in full, in all contracts subject to such regulations, provisions meeting the requirements of this subsection.

15.10 “Section 3” Clause. The work to be performed pursuant to this Agreement is subject to the provisions of “Section 3” of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The Parties to this Agreement will comply with the provisions of Section 3 and the regulations issued pursuant thereto by the Secretary of HUD and all applicable rules and orders of HUD issued thereunder prior to execution of this Agreement. The Contractor and Owner certify and agree that no contractual or other disability exists which would prevent compliance with these requirements. The Contractor further agrees to include the following “Section 3” requirements provision 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 Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. ‘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 which are located in, or owned in substantial part residing in, the metropolitan area in which the project is located.”

16. Environmental Conditions.

16.1 Air and Water. The Contractor 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, 33 U.S.C. 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 CFR Part 50, as amended.

16.2 Flood Disaster Protection. In accordance with the requirements of the Flood Disaster Protection Act of 1973, the Contractor 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).

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16.3 Lead-Based Paint. The Contractor 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. Contractor 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. Contractor 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. Contractor shall protect its workers disturbing lead painted surfaces, including, but not limited to the following:

(1) Contact the Inspector. Contractor 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. Contractor shall conduct air quality monitoring when appropriate for the type of activity to determine the level of worker protection required by the Occupational Safety and Health Act ("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. Contractor shall provide personal protective equipment, including a respirator program, as is appropriate to the type of job as required by OSHA.

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

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

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

SECTION E

(7) Cleaning. Contractor 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 contractor 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. Contractor 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 the Occupational Safety and Health Administration regulations at 29 CFR 1910.1200 or 1926.59, as applicable to the work.

16.4 Asbestos. The Contractor 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. Contractor 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, Contractor 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 Contractor with asbestos-free materials. The Contractor shall agree that if materials containing asbestos are subsequently discovered at any future time to have been included

in the construction done by the Contractor or any of its subcontractors or agents, the Contractor shall be liable for all costs related to the abatement of such asbestos and damages or claims against the City notwithstanding any statute of limitations or other legal bar to any claim by the City.

16.5 Historic Preservation. The Contractor 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 50 years old or older or that are included on the Federal, state or local historic property list.

17. Access to Property. Prior to substantial completion, the Owner, with the concurrence of the Contractor, may use any completed or substantially completed portions of the Home, but the Owner shall not reside in the Home during the period that Contractor is performing the Services. Such use shall not constitute an acceptance of such portions of the Services. The Owner shall have the right to enter the Home for the purpose of doing work not covered by this Agreement. This Section shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the Home, or the restoration of any damaged Services except such as may be caused by agents or employees of the Owner.

18. Owner's Responsibilities.

18.1 Sanitary Conditions. If upon initial inspection by the Rehabilitation Specialist or authorized designee, the Home is found to be unsanitary, i.e., animal feces or urine are present, unhealthy indoor air quality, excessive clutter which obstructs inspection, the Owner will be required to remediate the condition of the home. Failure to do so will result in a Code Enforcement Citation and possible ineligibility for the Services.

18.2 Use of Utilities. The Owner shall permit the Contractor to use, at no cost, existing utilities such as light, heat, power, and water necessary to the carrying out and completion of the Services.

18.3 Cooperation. The Owner shall cooperate with the Contractor to facilitate the performance of the Services, including the removal and replacements of rugs, coverings, and furnishings as necessary. The Owner shall abide by the terms of this Agreement and allow the Services to be carried out in accordance with local codes and federal regulations. This includes not undertaking, altering or contracting for the services of another Party to complete any of the work specified in the Quotation, attached hereto as Exhibit A, unless the Quotation specifically authorizes the Owner to complete a specified item or supply specified materials.

[SIGNATURES ON FOLLOWING PAGES]

CITY OF AVONDALE
NEIGHBORHOOD & FAMILY SERVICES DEPARTMENT
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SECTION E

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

David W. Fitzhugh, City Manager

ATTEST:

Carmen Martinez, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 201_, before me personally appeared David W. Fitzhugh, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the City of Avondale.

Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGES]

SECTION E

“Owner”

_____ ,

Whose address is _____

By: _____

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 201_, before me personally appeared _____
_____, whose identity was proven to me on the basis of satisfactory
evidence to be the person who he/she claims to be, and acknowledged that he/she signed the
above document.

Notary Public

(Affix notary seal here)

EXHIBIT A
TO
SAMPLE CDBG REHABILITATION AGREEMENT

[Quotation]

See following page(s).

**EXHIBIT B
TO
SAMPLE CDBG REHABILITATION AGREEMENT**

[Change Orders]

See following pages (to be attached subsequent to execution).

SAMPLE DEMOLITION AGREEMENT

THIS DEMOLITION AGREEMENT (this “Agreement”) is made as of _____, 201__, between _____, a(n) _____ (the “Contractor”), and the City of Avondale, an Arizona municipal corporation (the “City”).

RECITALS

A. [For CDBG Demolition] Title 1 of the Housing and Community Development Act of 1974, as amended, established a Community Development Block Grant (“CDBG”) program for the purpose of developing viable urban communities by providing decent housing and a suitable living environment, expanding economic opportunities and preventing and/or eliminating conditions of slum and blight, principally for persons of low and moderate income.

[For NSP Demolition] Title III of Division B of the Housing and Economic Recovery Act of 2008 (Public Law 110-289) established the Neighborhood Stabilization Program (“NSP”) for the purpose of assisting in the redevelopment of abandoned and foreclosed homes. In 2010, Section 1497 of the Wall Street and Consumer Protection Act of 2010, a/k/a the “Dodd-Frank Act” (Public Law 111-203, approved July 21, 2010) provided for an additional allocation (third round) of funding for NSP. Except where provided for otherwise, these amounts are distributed based on funding formulas for such amounts established by the Secretary of the U.S. Department of Housing and Urban Development (“HUD”) in accordance with the Housing and Economic Recovery Act of 2008 and unless otherwise stated, the grants are to be considered Community Development Block Grant (“CDBG”) funds.

B. [For CDBG Demolition] The City has received CDBG funds from the U.S. Department of Housing and Urban Development (“HUD”) to implement the City’s CDBG-funded programs in accordance with its annual action plan.

[For NSP Demolition] The City has received NSP funds from HUD and has generated program income from such NSP funds to implement NSP-eligible activities.

C. The City issued a Request for Statements of Qualifications, NFS 15-050 “FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List” (the “RFQ”), seeking statements of qualifications from contractors for professional home rehabilitation contracting and demolition services. The Contractor submitted a Statement of Qualifications (the “SOQ”) in response to the RFQ.

D. The City developed a scope of work for hazard testing and abatement, demolition and removal services on the single-family home located at _____, Avondale, Arizona 85323 (the “Home”) and issued a Request for Quotations to all of the contractors on the FY 2015/2016 – FY 2019/2020 Housing Rehabilitation and Demolition Comprehensive Prequalified Contractors List who submitted qualified SOQ for demolition projects. Contractor attended a mandatory walk-through on the Home and submitted a Quotation in response to the

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scope of work for the Home (the “Quotation”), attached hereto as Exhibit A and incorporated herein by reference.

E. The City selected the Contractor as the lowest responsible and responsive contractor to perform hazard testing and abatement, demolition and removal services on the Home in accordance with the Reference Standards (as defined in Section 2.1 below) and as more particularly set forth in Section 2 below (the “Services”).

F. The City and the Contractor desire to enter into this Agreement for the purpose of (i) establishing the terms and conditions by which the Contractor may provide the Services and (ii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing 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 Contractor hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until the Completion Date as defined herein.

2. Scope of Work. The Contractor shall perform the Services as set forth in this Agreement and as more particularly forth in the Quotation, attached hereto as Exhibit A, and shall provide any and all permits, labor, materials, equipment, supervision, services and taxes necessary to perform the Services as set forth in this Agreement.

2.1 Reference Standards. The Contractor shall perform the Services in accordance with the (A) Quotation; (B) City codes and ordinances; (C) the “Uniform Standard Specifications for Public Works Construction,” current edition as of the date of award of this Agreement and the Uniform Standard Details for Public Works Construction,” current edition as of the date of this Agreement, each of which are sponsored and distributed by the Maricopa Association of Governments (“MAG”) (collectively, the “MAG Specifications”); (D) any amendments or supplements to the MAG Specifications adopted by the City; and (E) the City Supplement to the MAG Uniform Standard Specifications and Details for Public Works Construction, dated April, 2008 (the “MAG Supplement”), each of which are incorporated herein by reference and collectively referred to herein as the “Reference Standards.” In the event of a conflict between the MAG Specifications and the MAG Supplement, the MAG Supplement shall prevail.

2.2 Inspection, Safety and Compliance. Contractor must inform itself fully of the conditions relating to the Services and the employment of labor thereon. Failure to do so will not relieve the Contractor of its obligation to furnish all material and labor necessary to carry out the provisions of this Agreement. Insofar as possible the Contractor, in carrying out its work,

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must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor. Contractor affirms that it (A) has inspected the Home and jobsite, (B) has reviewed the Agreement thoroughly and (C) is not relying on any opinions or representations of City. To the extent applicable, it is the responsibility of the Contractor to contact Arizona Blue Stake and provide Blue Stake, pursuant to ARIZ. REV. STAT. §§ 40-360.21 to 40-360.32, verification of underground utilities on and off the site.

2.3 Change Orders. Any changes in the Quotation, character or extent of the Services under this Agreement shall be made only by a prior, written Change Order signed by the Contractor and approved in writing by the City's home rehabilitation specialist or authorized designee (the "Rehabilitation Specialist"), setting forth the changes in the Services, the extension of the Completion Date (as hereinafter defined), if any, and any adjustment of the Contractor's compensation. Each Change Order approved and accepted by the parties pursuant to this Agreement shall be attached hereto as Exhibit B and incorporated herein by reference. Contractor shall be responsible for all costs incurred in performing any work not authorized by the Quotation or an approved and accepted Change Order. Change Orders will not be issued to cover any cost, loss or expense for additional labor or materials required to rectify any error or inconsistency in the drawings and specifications of the Quotation unless Contractor gave prior notification to, and received written approval from, the City.

2.4 Correction of Services. Contractor shall (A) promptly replace and re-execute the Services in accordance with this Agreement and the Quotation without expense to the City and (B) bear the expense of repairing or replacing all work of other contractors destroyed or damaged by such removal or replacement. All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work within ten days after receipt of written notice of such rejection, the City may remove, or cause to be removed, such work and store materials at the expense of the Contractor.

3. Completion of Services. Contractor shall begin the Services on the date specified in the written Notice to Proceed and shall complete the Services within ____ calendar days after the date specified in the Notice to Proceed (the "Completion Date").

3.1 Extensions. The Completion Date may be extended if (A) at least five business days prior to the Completion Date, the Contractor requests, in writing, to extend the Completion Date, (B) the City approves the extension in writing, as evidenced by the signature of the Rehabilitation Specialist thereon and (C) the City approves the extension in writing.

3.2 Liquidated Damages. If the Contractor fails to complete the Services within the Completion Date or any extension of the Completion Date as set forth in subsection 3.1 above, Contractor shall pay to the City an amount of \$50.00 per day for each calendar day that occurs between the required Completion Date, or extension thereof, as set forth in subsection 3.1 above, and the actual date the Contractor completes the Services. The Contractor shall not be charged with liquidated damages or any excess costs when (A) the delay in completion of the Services is due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not limited to, acts of God or of the public enemy, acts of the City,

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acts of another contractor in performance of a contract with the City, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather and (B) the Contractor has promptly (within five days after occurrence of the delay event) given written notice of such delay to the City.

4. Compensation. The City shall pay Contractor an aggregate amount not to exceed \$_____ for the Services (the "Contract Price").

5. Payments. The City shall pay the Contractor monthly, 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. All invoices shall include a record of time expended and work performed in sufficient detail to justify payment

6. 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. Contractor Personnel. Contractor shall provide adequate, experienced personnel capable of and devoted to the successful completion of the Services to be performed under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor 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, Contractor 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 Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City. Upon completion of the Services, the Rehabilitation Specialist or authorized designee shall perform a final inspection to ensure the Services conform to the Quotation, attached as Exhibit A hereto, and the Reference Standards.

9. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. The City does not have an obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement or any tools, equipment or material.

10. Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and to the highest professional standards in the field. The warranty set forth in this Section shall survive the termination of this Agreement.

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11. Indemnification. To the fullest extent permitted by law, the Contractor 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 Contractor, 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 Contractor, Contractor 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 Contractor. 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 Contractor 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 and self-insured retention or deductible portions, 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 and its agents, representatives, officers, directors, officials and employees, as Additional 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.

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E. Primary Insurance. Contractor'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 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 and its agents and representatives for any claims arising out of the work or services of Contractor. Contractor 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. Contractor 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, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City and the Contractor. Contractor 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, Contractor 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 Contractor's 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

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Agreement expire during the life of this Agreement, it shall be Contractor'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 RFQ number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFQ 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 RFQ 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 and representatives 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) Contractor's insurance shall be primary insurance with respect to performance of the Agreement.

(3) All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against the City, its agents and representatives for any claims arising out of work or services performed by Contractor 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.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor 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

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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 and representatives 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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor'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, City, its agents and representatives 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 Contractor engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate. Confidential information such as the policy premium or proprietary information 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.

D. Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor'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 materially changed without 30 days' prior written notice to the City.

13. Suspension; Termination; Cancellation.

13.1 Suspension of Services. The City may suspend the Services or any portion thereof for a period of not more than 90 days or such further time as agreed upon by the Contractor, by written notice to the Contractor, which notice shall fix the date on which work shall be resumed. The Contractor shall resume the Services on the date so fixed in the notice. The City may, at its sole discretion, grant Contractor an increase in the Contract Price or an extension of the Completion Date, or both, directly attributable to any suspension.

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

13.3 Termination 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 Contractor for the undisputed portion of its fee due as of the termination date.

13.4 Termination Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned or in the event that Services are suspended pursuant to Subsection 13.1 above and Contractor fails to resume Services on the date fixed in the notice. In the event of such termination due to work stoppage, the City shall pay the Contractor the undisputed portion of its fee due as of the termination date.

13.5 Termination for Bankruptcy; Insolvency. This Agreement may be terminated by the City upon ten days' written notice to Contractor in the event the Contractor (A) does not pay its debts when they become due; (B) has filed, or consented by answer or otherwise to, a petition for relief or reorganization and bankruptcy or insolvency law of any jurisdiction; (C) makes an assignment for the benefit of its creditors in lieu of taking advantage of any such bankruptcy or insolvency law; (D) consents to the appointment of custodian, receiver, trustee or other officer with similar powers with respect to any substantial part of its property; or (E) is

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adjudicated insolvent or takes corporate action for the purpose of any of the foregoing. In the event of such termination for bankruptcy or insolvency, the City shall pay the Contractor the undisputed portion of its fee due as of the termination date.

13.6 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 the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

13.7 Gratuities. The City may, by written notice to the Contractor, 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 Contractor or any agent or representative of the Contractor 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 Contractor an amount equal to 150% of the gratuity.

13.8 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in the 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 the 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 Contractor 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. Contractor 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 Contractor acknowledges and agrees that

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the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Contractor, 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 Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and in Exhibit A. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor 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. Contractor 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 Contractor 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, (C) existing and future Occupational Safety and Health Administration standards (and) (D) the Reference Standards [Add the following for CDBG Demolition:] (E) the provisions of 24 CFR Part 92, as revised, (F) the provisions of 24 CFR Part 570, as revised, (G) 40 CFR Part 61, Subpart M (asbestos) and (H) the provisions contained in the City of Avondale Action Plan and Action Plan Amendments. [Add the following for NSP Demolition:] (E) the provisions of 24 CFR Part 92, as revised, (F) the provisions of 24 CFR Part 570, as revised and (G) 40 CFR Part 61, Subpart M (asbestos).

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 Contractor.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in the 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, the 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 the 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 the 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 by Contractor without prior, written permission of the City, signed by the City Manager, and the Owner and no delegation of any duty of Contractor shall be made without prior, written permission of the City, signed by the City Manager, and the Owner. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

14.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. The Contractor shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. The Contractor shall forward executed copies of all subcontracts to the City along with documentation concerning the selection process. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Contractor.

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 Contractor 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.

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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 Contractor any amounts Contractor owes 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 Contractor any amounts Contractor owes to the City for delinquent fees, transaction privilege 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 City: City of Avondale
 11465 West Civic Center Drive
 Avondale, Arizona 85323
 Attn: David W. Fitzhugh, City Manager

With copy to: GUST ROSENFELD P.L.C.
 One East Washington Street, Suite 1600
 Phoenix, Arizona 85004-2553
 Attn: Andrew J. McGuire, Esq.

If to Contractor: _____

 Attn: _____

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 Contractor 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 Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below Contractor'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 Contractor 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 Contractor'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 Contractor'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, Contractor 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 Contractor pursuant to this Agreement. Contractor 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 Contractor or its subcontractors reasonable advance notice of intended audits. Contractor 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 Contractor 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). Contractor'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 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Notice to Proceed, the Quotation and invoices, the documents shall govern in the order listed herein.

SECTION F

14.19 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.

[Sections 15 and 16 for NSP and CDBG Demolition]

15. Equal Employment Opportunity; Nondiscrimination; Minority Business Enterprise Utilization.

15.1 Equal Employment Opportunity. The Contractor 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 as supplemented by Department of Labor regulations (41 CFR Chapter 60); if applicable, Section 104(b) and Section 109 of Title I of Housing and Community Development Act of 1974 as amended; and the rules, regulations and relevant orders of the Secretary of Labor and relevant federal regulations including, but not limited to, 24 CFR Part 1, 24 CFR Part 6, 24 CFR Part 8, 24 CFR Part 100, 24 CFR Part 107, 24 CFR 570.201, 24 CFR Part 146, 24 CFR 570.487 and 24 CFR 570.602.

15.2 Nondiscrimination. The Contractor 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, marital/familial status, or status with regard to public assistance. The Contractor 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 Contractor 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.

15.3 Solicitations; Advertisements. In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

15.4 Labor Union. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representatives of the Contractor's commitment under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

15.5 Information and Reports. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and

orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the City, HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

15.6 Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government-funded contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or as otherwise provided by law.

15.7 Subcontracting Provisions. The Contractor shall include the provisions of subsections 15.1 through 15.7 in every subcontract or purchase order, specifically or by reference, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each of its subcontractors or vendors. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

15.8 Women and Minority Owned Business Enterprises. The Contractor 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 Contractor may rely on written representation by businesses regarding their status as minority and women owned business enterprises in lieu of an independent investigation.

15.9 Employment Restrictions.

A. Prohibited Activity. The Contractor 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 Contractor 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

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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 nature of the Services and the size of the Home. Davis-Bacon wages do not apply to single-family home demolition alone, but if further work is intended that will result in the construction, alteration or repair of a public building or public work at that location, even if by a separate agreement, the Contractor will be required to pay its contractors Davis-Bacon wages. Davis-Bacon wages do not apply to single-family home rehabilitation (including asbestos removal), but if the property contains 12 or more units, the Contractor 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 Contractor 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 Contractor of its obligation, if any, to require payment of the higher wage. If applicable, the Contractor shall maintain documentation which demonstrates compliance with this subsection. The Contractor will cause or require to be inserted in full, in all contracts subject to such regulations, provisions meeting the requirements of this subsection.

15.10 “Section 3” Clause. The work to be performed pursuant to this Agreement is subject to the provisions of “Section 3” of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The parties to this Agreement will comply with the provisions of Section 3 and the regulations issued pursuant thereto by the Secretary of HUD and all applicable rules and orders of HUD issued thereunder prior to execution of this Agreement. The Contractor certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements. The Contractor further agrees to include the following “Section 3” requirements provision 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 Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. ‘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 which are located in, or owned in substantial part residing in, the metropolitan area in which the project is located.”

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16. Environmental Conditions.

16.1 Air and Water. The Contractor 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, 33 U.S.C. 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 CFR Part 50, as amended.

16.2 Lead-Based Paint. The Contractor agrees that any demolition 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. Contractor 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. Protection of Workers. Contractor shall protect its workers disturbing lead painted surfaces, including, but not limited to the following:

(1) Contact the Inspector. Contractor shall contact the inspector for the 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. Contractor shall conduct air quality monitoring when appropriate for the type of activity to determine the level of worker protection required by the Occupational Safety and Health Act (“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. Contractor shall provide personal protective equipment, including a respirator program, as is appropriate to the type of job as required by OSHA.

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

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

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

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(7) Cleaning. Contractor 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 contractor shall ensure that specialized cleaning is adequate to meet clearance standards adopted by HUD and local or state Departments of Health.

B. Removal of Paint. Contractor 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 the Occupational Safety and Health Administration regulations at 29 CFR 1910.1200 or 1926.59, as applicable to the work.

16.4 Asbestos. The Contractor agrees that any demolition of residential structures with assistance provided under this Agreement shall be subject to OSHA regulations at 29 CFR Part 1926, as amended, Maricopa County standards and regulations and EPA regulations. Contractor shall not begin the demolition and removal portion of the Services until all abatement has occurred. Abatement contractors must be certified. Contractor and its subcontractors 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. Survey. Completing a Comprehensive Building Asbestos Survey according to ASTM E2356 - 04e1 Standard Practice for Comprehensive Building Asbestos Surveys in conformance with the Asbestos Hazard Emergency Response Act (“AHERA”) and all applicable local and state regulations. Survey personnel shall be a currently certified AHERA-accredited asbestos building inspector.

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B. Notification Form. If “threshold” amounts of friable asbestos are identified in the reports listed in item A, preparing and submitting a 10-day NESHAP notification form to the Maricopa County Air Quality Control Department and abiding by review timelines therein prior to starting abatement or demolition.

C. Removal. Removing Presumed Asbestos-Containing Material (PACM) in accordance with EPA, NESHAP standards 40 CFR Parts 61.145, 61.150 and Exhibit “A”, OSHA standards 29 CFR 1926.1101 and Maricopa County Air Pollution Control Regulations and all applicable local, state and federal regulations.

D. Disposal. Disposing of abated materials in accordance with all applicable local, state and federal laws.

E. Utilities. Disconnecting and capping or removing all utilities lines including electricity, phone, cable, gas, water and sewer according to City standards.

F. Records. Maintaining NESHAP Waste Disposal Records for the transport and disposal of regulated asbestos and submit records as required by Arizona Department of Environmental Quality and Maricopa County Air Quality Department.

16.5 Historic Preservation. The Contractor 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 50 years old or older or that are included on the Federal, state or local historic property list.

16.6 Environmental Review Procedures. The Contractor agrees to comply with all environmental review laws applicable to the Services as set forth in 24 CFR 58.5, as amended.

[SIGNATURES ON FOLLOWING PAGES]

SECTION F

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

David W. Fitzhugh, City Manager

ATTEST:

Carmen Martinez, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 201_, before me personally appeared David W. Fitzhugh, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the City of Avondale.

Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

EXHIBIT A
TO
SAMPLE DEMOLITION AGREEMENT

[Quotation]

See following pages.

EXHIBIT B
TO
SAMPLE DEMOLITION AGREEMENT

[Change Orders]

See following page(s) (to be attached subsequent to execution).