



City Clerk Document No. _____

City Council Meeting Date: June 15, 2023

**CITY OF CHANDLER SERVICES AGREEMENT
HEAT RELIEF SERVICES
CITY OF CHANDLER AGREEMENT NO. NR3-952-4604**

THIS AGREEMENT (Agreement) is made and entered into by and between the City of Chandler, an Arizona municipal corporation (City), and Resurrection Street Ministry Incorporated, an Arizona Corporation (Contractor), (City and Contractor may individually be referred to as Party and collectively referred to as Parties) and made _____, 2023 (Effective Date).

RECITALS

A. City proposes to provide heat relief services as more fully described in Exhibit A, which is attached to and made a part of this Agreement by this reference.

B. Contractor is ready, willing, and able to provide the services described in Exhibit A for the compensation and fees set forth and as described in Exhibit B, which is attached to and made a part of this Agreement by this reference.

C. City desires to contract with the Contractor to provide these services under the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual promises contained in this Agreement, City and Contractor agree as follows:

SECTION I: DEFINITIONS

For purposes of this Agreement, the following definitions apply:

Agreement means the legal agreement executed between the City and the Contractor

City means the City of Chandler, Arizona

Contractor means the individual, partnership, or corporation named in the Agreement

Days means calendar days

May, Should means something that is not mandatory but permissible

Shall, Will, Must means a mandatory requirement

SECTION II: CONTRACTOR'S SERVICES

Contractor must perform the services described in Exhibit A to the City's satisfaction within the terms and conditions of this Agreement and within the care and skill that a person who provides similar services in Chandler, Arizona exercises under similar conditions. All work or services

furnished by Contractor under this Agreement must be performed in a skilled and workmanlike manner. Unless authorized by the City in writing, all fixtures, furnishings, and equipment furnished by Contractor as part of the work or services under this Agreement must be new, or the latest model, and of the most suitable grade and quality for the intended purpose of the work or service.

SECTION III: PERIOD OF SERVICE

Contractor must perform the services described in Exhibit A for the term of this Agreement.

The term of the Agreement is one year, and begins on June 15, 2023 and ends on June 14, 2024 unless sooner terminated in accordance with the provisions of this Agreement. The City and the Contractor may mutually agree to extend the Agreement for up to four additional terms of one year each, or portions thereof. The City reserves the right, at its sole discretion, to extend the Agreement for up to 60 days beyond the expiration of any extension term.

SECTION IV: PAYMENT OF COMPENSATION AND FEES

4.1 Unless amended in writing by the Parties, Contractor's compensation and fees as more fully described in Exhibit B for performance of the services approved and accepted by the City under this Agreement must not exceed \$454,312. Contractor must submit requests for payment for services approved and accepted during the previous billing period and must include, as applicable, detailed invoices and receipts, a narrative description of the tasks accomplished during the billing period, a list of any deliverables submitted, and any subcontractor's or supplier's actual requests for payment plus similar narrative and listing of their work. Payment for those services negotiated as a lump sum will be made in accordance with the percentage of the work completed during the preceding billing period. Services negotiated as a not-to-exceed fee will be paid in accordance with the work completed on the service during the preceding month. All requests for payment must be submitted to the City for review and approval. The City will make payment for approved and accepted services within 30 days of the City's receipt of the request for payment.

4.2 Applicable Taxes. The Contractor will pay all applicable taxes. The City is subject to all applicable state and local transaction privilege taxes. To the extent any state and local transaction privilege taxes apply to sales made under the terms of this Agreement, it is the responsibility of the Contractor to collect and remit all applicable taxes to the proper taxing jurisdiction of authority.

4.3 Tax Indemnification. The Contractor and all subcontractors will pay all Federal, state, and local taxes applicable to its operation and any persons employed by the Contractor. The Contractor will and require all subcontractors to hold the City harmless from any responsibility for taxes, damages, and interest, if applicable, contributions required under Federal, state, and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security, and Worker's Compensation.

4.4 All prices offered herein shall be firm against any increase for the initial term of the Agreement. Prior to commencement of subsequent renewal terms, the City may approve a fully documented request for a price adjustment. The City shall determine whether any requested price increases for extension terms is acceptable to the City. If the City approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon by the Parties a written Agreement Amendment shall be approved and executed by the Parties.

SECTION V: GENERAL CONDITIONS

5.1 Records/Audit. Records of the Contractor's direct personnel payroll, reimbursable expenses pertaining to this Agreement and records of accounts between the City and Contractor must be kept on the basis of generally accepted accounting principles and must be made available to the City and its auditors for up to three years following the City's final acceptance of the services under this Agreement. The City, its authorized representative, or any federal agency, reserves the right to audit Contractor's records to verify the accuracy and appropriateness of all cost and pricing data, including data used to negotiate this Agreement and any amendments. The City reserves the right to decrease the total amount of Agreement price or payments made under this Agreement or request reimbursement from the Contractor following final contract payment on this Agreement if, upon audit of the Contractor's records, the audit discloses the Contractor has provided false, misleading, or inaccurate cost and pricing data. The Contractor will include a similar provision in all of its contracts with subcontractors providing services under the Agreement Documents to ensure that the City, its authorized representative, or the appropriate federal agency, has access to the subcontractors' records to verify the accuracy of all cost and pricing data. The City reserves the right to decrease Contract price or payments made on this Agreement or request reimbursement from the Contractor following final payment on this Agreement if the above provision is not included in subcontractor agreements, and one or more subcontractors refuse to allow the City to audit their records to verify the accuracy and appropriateness of all cost and pricing data. If, following an audit of this Agreement, the audit discloses the Contractor has provided false, misleading, or inaccurate cost and pricing data, and the cost discrepancies exceed 1% of the total Agreement billings, the Contractor will be liable for reimbursement of the reasonable, actual cost of the audit.

5.2 Alteration in Character of Work. Whenever an alteration in the character of work results in a substantial change in this Agreement, thereby materially increasing or decreasing the scope of services, cost of performance, or Project schedule, the work will be performed as directed by the City. However, before any modified work is started, a written amendment must be approved and executed by the City and the Contractor. Such amendment must not be effective until approved by the City. Additions to, modifications, or deletions from this Agreement as provided herein may be made, and the compensation to be paid to the Contractor may accordingly be adjusted by mutual agreement of the Parties. It is distinctly understood and agreed that no claim for extra work done or materials furnished by the Contractor will be allowed by the City except as provided herein, nor must the Contractor do any work or furnish any materials not covered by this Agreement unless such work is first authorized in writing. Any such work or materials furnished by the Contractor without prior written authorization will be at Contractor's own risk, cost, and expense, and Contractor hereby agrees that without written authorization Contractor will make no claim for compensation for such work or materials furnished.

5.3 Termination for Convenience. The City and the Contractor hereby agree to the full performance of the covenants contained herein, except that the City reserves the right, at its discretion and without cause, to terminate or abandon any service provided for in this Agreement, or abandon any portion of the Project for which services have been performed by the Contractor. In the event the City abandons or suspends the services, or any part of the services as provided in this Agreement, the City will notify the Contractor in writing and immediately after receiving such notice, the Contractor must discontinue advancing the work specified under this Agreement. Upon such termination, abandonment, or suspension, the

Contractor must deliver to the City all drawings, plans, specifications, special provisions, estimates and other work entirely or partially completed, together with all unused materials supplied by the City. The Contractor must appraise the work Contractor has completed and submit Contractor's appraisal to the City for evaluation. The City may inspect the Contractor's work to appraise the work completed. The Contractor will receive compensation in full for services performed to the date of such termination. The fee shall be paid in accordance with Section IV of this Agreement, and as mutually agreed upon by the Contractor and the City. If there is no mutual agreement on payment, the final determination will be made in accordance with the Disputes provision in this Agreement. However, in no event may the payment exceed the payment set forth in this Agreement nor as amended in accordance with Alteration in Character of Work. The City will make the final payment within 60 days after the Contractor has delivered the last of the partially completed items and the Parties agree on the final payment. If the City is found to have improperly terminated the Agreement for cause or default, the termination will be converted to a termination for convenience in accordance with the provisions of this Agreement.

5.4 Termination for Cause. The City may terminate this Agreement for Cause upon the occurrence of any one or more of the following events: in the event that (a) the Contractor fails to perform pursuant to the terms of this Agreement, (b) the Contractor is adjudged a bankrupt or insolvent, (c) the Contractor makes a general assignment for the benefit of creditors, (d) a trustee or receiver is appointed for Contractor or for any of Contractor's property (e) the Contractor files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws, (f) the Contractor disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or (g) the Contractor fails to cure default within the time requested. Where Agreement has been so terminated by City, the termination will not affect any rights of City against Contractor then existing or which may thereafter accrue.

5.5 Indemnification. The Contractor (Indemnitor) must indemnify, defend, save and hold harmless the City and its officers, officials, agents and employees (Indemnatee) from any and all claims, actions, liabilities, damages, losses or expenses (including court costs, attorneys' fees and costs of claim processing, investigation and litigation) (Claims) caused or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of the Contractor or any of its owners, officers, directors, agents, employees, or subcontractors in connection with this Agreement. This indemnity includes any claim or amount arising out of or recovered under workers' compensation law or on account of the failure of the Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Contractor must indemnify Indemnatee from and against any and all Claims, except those arising solely from Indemnatee's own negligent or willful acts or omissions. The Contractor is responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Agreement, the Contractor agrees to waive all rights of subrogation against Indemnatee for losses arising from or related to this Agreement. The obligations of the Contractor under this provision survive the termination or expiration of this Agreement.

5.6 Insurance Requirements. Contractor must procure insurance under the terms and conditions and for the amounts of coverage set forth in Exhibit C against claims that may arise from or relate to performance of the work under this Agreement by Contractor and its agents, representatives, employees, and subcontractors. Contractor and any subcontractors must maintain this insurance until all of their obligations have been discharged, including any

warranty periods under this Agreement. These insurance requirements are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The City in no way warrants that the minimum limits stated in Exhibit C are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Agreement by the Contractor, the Contractor's agents, representatives, employees, or subcontractors. Contractor is free to purchase such additional insurance as may be determined necessary.

5.7 Cooperation and Further Documentation. The Contractor agrees to provide the City such other duly executed documents as may be reasonably requested by the City to implement the intent of this Agreement.

5.8 Notices. Unless otherwise provided, notice under this Agreement must be in writing and will be deemed to have been duly given and received either (a) on the date of service if personally served on the party to whom notice is to be given, or (b) on the date notice is sent if by electronic mail, or (c) on the third day after the date of the postmark of deposit by first class United States mail, registered or certified, postage prepaid and properly addressed as follows:

For the City

Name: Christina Pryor, CPPO
 Title: Procurement and Supply Senior Manager
 Address: 175 S. Arizona Ave., 3rd Floor
Chandler, AZ 85225
 Phone: 480-782-2403
 Email: christina.pryor@chandleraz.gov

For the Contractor

Name: Jeff Williams
 Title: Operations Director
 Address: 1135 E. Main St.
Mesa, AZ 85203
 Phone: 530-218-6424
 Email: Jeffery_williams2022@outlook.com

5.9 Successors and Assigns. City and Contractor each bind itself, its partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns, and legal representatives of such other party in respect to all covenants of this Agreement. Neither the City nor the Contractor may assign, sublet, or transfer its interest in this Agreement without the written consent of the other party. In no event may any contractual relation be created between any third party and the City.

5.10 Disputes. In any dispute arising out of an interpretation of this Agreement or the duties required not disposed of by agreement between the Contractor and the City, the final determination at the administrative level will be made by the City Purchasing and Materials Manager.

5.11 Completeness and Accuracy of Contractor's Work. The Contractor must be responsible for the completeness and accuracy of Contractor's services, data, and other work prepared or compiled under Contractor's obligation under this Agreement and must correct, at Contractor's expense, all willful or negligent errors, omissions, or acts that may be discovered. The fact that the City has accepted or approved the Contractor's work will in no way relieve the Contractor of any of Contractor's responsibilities.

5.12 Withholding Payment. The City reserves the right to withhold funds from the Contractor's payments up to the amount equal to the claims the City may have against the Contractor until such time that a settlement on those claims has been reached.

5.13 City's Right of Cancellation. The Parties acknowledge that this Agreement is subject to cancellation by the City under the provisions of Section 38-511, Arizona Revised Statutes (A.R.S.).

5.14 Independent Contractor. For this Agreement the Contractor constitutes an independent contractor. Any provisions in this Agreement that may appear to give the City the right to direct the Contractor as to the details of accomplishing the work or to exercise a measure of control over the work means that the Contractor must follow the wishes of the City as to the results of the work only. These results must comply with all applicable laws and ordinances.

5.15 Project Staffing. Prior to the start of any work under this Agreement, the Contractor must assign to the City the key personnel that will be involved in performing services prescribed in the Agreement. The City may acknowledge its acceptance of such personnel to perform services under this Agreement. At any time hereafter that the Contractor desires to change key personnel while performing under the Agreement, the Contractor must submit the qualifications of the new personnel to the City for prior approval. The Contractor will maintain an adequate and competent staff of qualified persons, as may be determined by the City, throughout the performance of this Agreement to ensure acceptable and timely completion of the Scope of Services. If the City objects, with reasonable cause, to any of the Contractor's staff, the Contractor must take prompt corrective action acceptable to the City and, if required, remove such personnel from the Project and replace with new personnel agreed to by the City.

5.16 Subcontractors. Prior to beginning the work, the Contractor must furnish the City for approval the names of subcontractors to be used under this Agreement. Any subsequent changes are subject to the City's written prior approval.

5.17 Force Majeure. If either party is delayed or prevented from the performance of any act required under this Agreement by reason of acts of God or other cause beyond the control and without fault of the Party (financial inability excepted), performance of that act may be excused, but only for the period of the delay, if the Party provides written notice to the other Party within ten days of such act. The time for performance of the act may be extended for a period equivalent to the period of delay from the date written notice is received by the other Party.

5.18 Compliance with Laws. Contractor understands, acknowledges, and agrees to comply with the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. All services performed by Contractor must also comply with all applicable City of Chandler codes, ordinances, and requirements. Contractor agrees to permit the City to verify Contractor's compliance.

5.19 No Israel Boycott. By entering into this Agreement, Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of the Agreement, not to engage in a boycott of Israel as defined by state statute.

5.20 Legal Worker Requirements. A.R.S. § 41-4401 prohibits the City from awarding a contract to any contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees

and their compliance with§ 23-214, subsection A. A breach of this warranty will be deemed a material breach of the Agreement and may be subject to penalties up to and including termination of the Agreement. City retains the legal right to inspect the papers of any Contractor's or subcontractor's employee who provides services under this Agreement to ensure that the Contractor and subcontractors comply with the warranty under this provision.

5.21 Lawful Presence Requirement. A.R.S. §§ 1-501 and 1-502 prohibit the City from awarding a contract to any natural person who cannot establish that such person is lawfully present in the United States. To establish lawful presence, a person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. This requirement does not apply to business organizations such as corporations, partnerships, or limited liability companies.

5.22 Forced Labor of Ethnic Uyghurs Prohibited. By entering into this Agreement, Contractor certifies and agrees Contractor does not currently use and will not use for the term of this Agreement: (i) the forced labor of ethnic Uyghurs in the People's Republic of China; or (ii) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or (iii) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

5.23 Covenant Against Contingent Fees. Contractor warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of the Chandler City Council, or any City employee has any interest, financially, or otherwise, in Contractor's firm. For breach or violation of this warrant, the City may annul this Agreement without liability or, at its discretion, to deduct from the Agreement price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

5.24 Non-Waiver Provision. The failure of either Party to enforce any of the provisions of this Agreement or to require performance of the other Party of any of the provisions hereof must not be construed to be a waiver of such provisions, nor must it affect the validity of this Agreement or any part thereof, or the right of either Party to thereafter enforce each and every provision.

5.25 Disclosure of Information Adverse to the City's Interests. To evaluate and avoid potential conflicts of interest, the Contractor must provide written notice to the City, as set forth in this Section, of any work or services performed by the Contractor for third parties that may involve or be associated with any real property or personal property owned or leased by the City. Such notice must be given seven business days prior to commencement of the services by the Contractor for a third party, or seven business days prior to an adverse action as defined below. Written notice and disclosure must be sent to the City's Purchasing and Materials Manager. An adverse action under this Agreement includes, but is not limited to: (a) using data as defined in the Agreement acquired in connection with this Agreement to assist a third party in pursuing administrative or judicial action against the City; or (b) testifying or providing evidence on behalf of any person in connection with an administrative or judicial action against the City; or (c) using data to produce income for the Contractor or its employees independently of performing the services under this Agreement, without the prior written consent of the City. Contractor

represents that except for those persons, entities, and projects identified to the City, the services performed by the Contractor under this Agreement are not expected to create an interest with any person, entity, or third-party project that is or may be adverse to the City's interests. Contractor's failure to provide a written notice and disclosure of the information as set forth in this Section constitute a material breach of this Agreement.

5.26 Data Confidentiality and Data Security. As used in the Agreement, data means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by, obtained by, or transmitted to the Contractor or its subcontractors in the performance of this Agreement. The Parties agree that all data, regardless of form, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the Contractor or its subcontractors in connection with the Contractor's or its subcontractor's performance of this Agreement is confidential and proprietary information belonging to the City. Except as specifically provided in this Agreement, Contractor or its subcontractors must not divulge data to any third party without the City's prior written consent. Contractor or its subcontractors must not use the data for any purposes except to perform the services required under this Agreement. These prohibitions do not apply to the following data provided to the Contractor or its subcontractors have first given the required notice to the City: (a) data which was known to the Contractor or its subcontractors prior to its performance under this Agreement unless such data was acquired in connection with work performed for the City; or (b) data which was acquired by the Contractor or its subcontractors in its performance under this Agreement and which was disclosed to the Contractor or its subcontractors by a third party, who to the best of the Contractor's or its subcontractors knowledge and belief, had the legal right to make such disclosure and the Contractor or its subcontractors are not otherwise required to hold such data in confidence; or (c) data which is required to be disclosed by virtue of law, regulation, or court order, to which the Contractor or its subcontractors are subject. In the event the Contractor or its subcontractors are required or requested to disclose data to a third party, or any other information to which the Contractor or its subcontractors became privy as a result of any other contract with the City, the Contractor must first notify the City as set forth in this Section of the request or demand for the data. The Contractor or its subcontractors must give the City sufficient facts so that the City can be given an opportunity to first give its consent or take such action that the City may deem appropriate to protect such data or other information from disclosure. Unless prohibited by law, within ten calendar days after completion or termination of services under this Agreement, the Contractor or its subcontractors must promptly deliver, as set forth in this Section, a copy of all data to the City. All data must continue to be subject to the confidentiality agreements of this Agreement. Contractor or its subcontractors assume all liability to maintain the confidentiality of the data in its possession and agrees to compensate the City if any of the provisions of this Section are violated by the Contractor, its employees, agents or subcontractors. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. Contractor agrees that the requirements of this Section must be incorporated into all subcontracts entered into by Contractor. A violation of this Section may result in immediate termination of this Agreement without notice.

5.27 Personal Identifying Information-Data Security. Personal identifying information, financial account information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times by Contractor and any of its subcontractors. At a

minimum, Contractor must encrypt or password-protect electronic files. This includes data saved to laptop computers, computerized devices, or removable storage devices. When personal identifying information, financial account information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed. In the event that data collected or obtained by Contractor or its subcontractors in connection with this Agreement is believed to have been compromised, Contractor or its subcontractors must immediately notify the City contact. Contractor agrees to reimburse the City for any costs incurred by the City to investigate potential breaches of this data and, where applicable, the cost of notifying individuals who may be impacted by the breach. Contractor agrees that the requirements of this Section must be incorporated into all subcontracts entered into by Contractor. It is further agreed that a violation of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice. The obligations of Contractor or its subcontractors under this Section must survive the termination of this Agreement.

5.28 Jurisdiction and Venue. This Agreement is made under, and must be construed in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions thereof. Any action to enforce any provision of this Agreement or to obtain any remedy with respect hereto must be brought in the courts located in Maricopa County, Arizona, and for this purpose, each Party hereby expressly and irrevocably consents to the jurisdiction and venue of such court.

5.29 Survival. All warranties, representations, and indemnifications by the Contractor must survive the completion or termination of this Agreement.

5.30 Modification. Except as expressly provided herein to the contrary, no supplement, modification, or amendment of any term of this Agreement will be deemed binding or effective unless in writing and signed by the Parties.

5.31 Severability. If any provision of this Agreement or the application to any person or circumstance may be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application will not be affected and will be enforceable to the fullest extent permitted by law.

5.32 Integration. This Agreement contains the full agreement of the Parties. Any prior or contemporaneous written or oral agreement between the Parties regarding the subject matter is merged and superseded.

5.33 Time is of the Essence. Time of each of the terms, covenants, and conditions of this Agreement is hereby expressly made of the essence.

5.34 Date of Performance. If the date of performance of any obligation or the last day of any time period provided for should fall on a Saturday, Sunday, or holiday for the City, the obligation will be due and owing, and the time period will expire, on the first day after which is not a Saturday, Sunday or legal City holiday. Except as may otherwise be set forth in this Agreement, any performance provided for herein will be timely made if completed no later

than 5:00 p.m. (Chandler time) on the day of performance.

5.35 Delivery. All prices are F.O.B. Destination and include all delivery and unloading at the specified destinations. The Contractor will retain title and control of all goods until they are delivered and accepted by the City. All risk of transportation and all related charges will be the responsibility of the Contractor. All claims for visible or concealed damage will be filed by the Contractor. The City will notify the Contractor promptly of any damaged goods and will assist the Contractor in arranging for inspection.

5.36 Third Party Beneficiary. Nothing under this Agreement will be construed to give any rights or benefits in the Agreement to anyone other than the City and the Contractor, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of City and the Contractor and not for the benefit of any other party.

5.37 Conflict in Language. All work performed must conform to all applicable City of Chandler codes, ordinances, and requirements as outlined in this Agreement. If there is a conflict in interpretation between provisions in this Agreement and those in the Exhibits, the provisions in this Agreement prevail.

5.38 Document/Information Release. Documents and materials released to the Contractor, which are identified by the City as sensitive and confidential, are the City's property. The document/material must be issued by and returned to the City upon completion of the services under this Agreement. Contractor's secondary distribution, disclosure, copying, or duplication in any manner is prohibited without the City's prior written approval. The document/material must be kept secure at all times. This directive applies to all City documents, whether in photographic, printed, or electronic data format.

5.39 Exhibits. The following exhibits are made a part of this Agreement and are incorporated by reference:

- Exhibit A - Project Description/Scope of Services
- Exhibit B - Compensation and Fees
- Exhibit C - Insurance Requirements
- Exhibit D - Special Conditions
- Exhibit E - Funding Source Requirements

5.40 Special Conditions. As part of the services Contractor provides under this Agreement, Contractor agrees to comply with and fully perform the special terms and conditions set forth in Exhibit D, which is attached to and made a part of this Agreement.

5.41 Cooperative Use of Agreement. In addition to the City of Chandler and with approval of the Contractor, this Agreement may be extended for use by other municipalities, school districts and government agencies of the State. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

If required to provide services on a school district property at least five times during a month, the Contractor will submit a full set of fingerprints to the school of each person or employee

who may provide such service. The District will conduct a fingerprint check in accordance with A.R.S. 41-1750 and Public Law 92-544 of all Contractors, subcontractors or vendors and their employees for which fingerprints are submitted to the District. Additionally, the Contractor will comply with the governing body fingerprinting policies of each individual school district/public entity. The Contractor, sub-contractors, vendors and their employees will not provide services on school district properties until authorized by the District.

Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The City will not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.

5.42 Non-Discrimination and Anti-Harassment Laws. Contractor must comply with all applicable City, state, and federal non-discrimination and anti-harassment laws, rules, and regulations.

5.43 Licenses and Permits. Beginning with the Effective Date and for the full term of this Agreement, Contractor must maintain all applicable City, state, and federal licenses and permits required to fully perform Contractor's services under this Agreement.

5.44 Warranties. Contractor must furnish a one-year warranty on all work and services performed under this Agreement. Contractor must furnish, or cause to be furnished, a two-year warranty on all fixtures, furnishings, and equipment furnished by Contractor, subcontractors, or suppliers under this Agreement. Any defects in design, workmanship, or materials that do not comply with this Agreement must be corrected by Contractor (including, but not limited to, all parts and labor) at Contractor's sole cost and expense. All written warranties and redlines for as-built conditions must be delivered to the City on or before the City's final acceptance of Contractor's services under this Agreement.

5.45 Emergency Purchases. City reserves the rights to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the Contractor.

5.46 Non-Exclusive Agreement. This agreement is for the sole convenience of the City of Chandler. The City reserves the right to obtain like goods or services from another source when necessary.

5.47 Budget Approval Into Next Fiscal Year. This Agreement will commence on the Effective Date and continue in full force and effect until it is terminated or expires in accordance with the provisions of this Agreement. The Parties recognize that the continuation of this Agreement after the close of the City's fiscal year, which ends on June 30 of each year, is subject to the City Council's approval of a budget that includes an appropriation for this item as expenditure. The City does not represent that this budget item will be actually adopted. This determination is solely made by the City Council at the time Council adopts the budget.

This Agreement shall be in full force and effect only when it has been approved and executed by the duly authorized City officials.

FOR THE CITY

FOR THE CONTRACTOR

By: _____

By: Bill Berry_____

Its: Mayor

Its: Executive Directot_____

APPROVED AS TO FORM:

By: _____
City Attorney
DMG

ATTEST:

By: _____
City Clerk

EXHIBIT A SCOPE OF SERVICES

SCOPE OF SERVICES FOR THE CITY OF CHANDLER

COOLING STATIONS

The Contractor will provide cooling stations that will consist of air-conditioned facilities (or areas within facilities) that has been designated as a location where people can stop in during designated hours to cool off and avoid additional exposure. Examples may include public facilities such as libraries and community centers, non-profit organizations, houses of worship, businesses, etc. Water must be available.

Service Levels and Requirements

- Approximately 10 cooling stations in the City of Chandler should be available 7 days per week, from 10 am – 6 pm.
- The Contractor is responsible for onboarding the cooling stations and providing ongoing coordination of services to include supplying water and other supplies as scheduled/needed.
- Cooling Station should be clearly marked and accessible. Street signage (ex/ A-Frame) must be posted when cooling station is open.

SCOPE OF SERVICES FOR THE CITY OF MESA

DAY RESPITE CENTER

Air-conditioned facility that has been designated as a location where people experiencing homelessness and other vulnerable populations can go to avoid heat exposure for an extended period and receive other ancillary services such as food, space to rest, outreach and navigation services, etc.

Service Levels and Requirements

- One Day Respite Center will be provided at 1135 E. Main Street, Mesa, AZ.
- The site will have the capacity to serve 100 people per day.
- The site will be open Monday – Saturday, 9:00 am through 6:00 pm.
- The Contractor is required to develop and implement a good neighbor plan to minimize negative impact on the surrounding community. Security is an eligible expense for this service.
- The Contractor is required to provide cleaning and sanitation procedures to prevent the spread of disease.

COOLING STATIONS

The Contractor will provide cooling stations that will consist of air-conditioned facilities (or areas within facilities) that has been designated as a location where people can stop in during designated hours to cool off and avoid additional exposure. Examples may include public facilities such as libraries and community centers, non-profit organizations, houses of worship, businesses, etc. Water must be available.

Service Levels and Requirements

- Approximately 10 cooling stations in the City of Mesa should be available 7 days per week, from 10 am – 6 pm.

- The Contractor is responsible for onboarding the cooling stations and providing ongoing coordination of services to include supplying water and other supplies as scheduled/needed.
- Cooling Station should be clearly marked and accessible. Street signage (ex/ A-Frame) must be posted when cooling station is open.

Shower/Laundry Services

The Contractor will provide on-site laundry services and mobile shower services at the Day Respite Center to people experiencing homelessness. Services should be easily accessible to people seeking heat relief.

Service Levels

- A schedule for a stationary laundry facility will be agreed upon between the City Mesa and the Contractor.
- A schedule for a mobile shower trailer will be agreed upon between the City Mesa and the Contractor.

SCOPE OF SERVICES GENERAL REQUIREMENTS

GENERAL REQUIREMENTS FOR ALL ACTIVITIES

- Services must be easily accessible to people experiencing homelessness.
- The Contractor is required to develop and implement marketing strategies to ensure potential participants are aware of how to access services. This should include signage, flyers, media (TV, radio, newspaper, social), etc.
- The Contractor is required to implement measures preventing negative community impact at service sites.
- The Contractor is required to communicate and coordinate with partner agencies providing various activities, and supply signage, water, etc.

SERVICE PERIOD

Heat relief activities will be provided from June 15, 2023, through September 30, 2023. Adjustments to this schedule based on reasonable business needs may be proposed and considered.

REPORTING REQUIREMENTS

- During the term of the agreement, the Contractor will submit monthly performance reports to include both client and program specific data. Monthly reports are due no later than the seventh day of the following month. Reporting templates will be provided by the contracting agency.
- Sample Client Data:
 - A. Name
 - B. Birthdate
 - C. Race/Ethnicity
 - D. Income
 - E. Housing/Homeless status
 - F. Last known zip code
- Sample Program Data:
 - A. Number of service hours provided by activity
 - B. Number of staff hours by activity

C. Number of water bottles, meals, other supplies provided

- Weekly utilization reports will be required. The format will be agreed upon between the City and the Contractor.
- Any additional reports as required by the funding sources.

BUDGET

- Heat Relief Activities will be supported through American Rescue and Planning Act (ARPA) funds and must be spent in compliance with ARPA regulations. The final CFDA Number for the ARPA Fiscal Recovery program is 21.027.
- Funds will be provided on a cost reimbursement basis following receipt of complete requests for payments and accompanying program reports.

**EXHIBIT B
COMPENSATION AND FEES**

**HEAT RELIEF
PROGRAM BUDGET**

(A) Cost Component	(B) Chandler Costs	(C) Mesa Costs	(D) Other Costs (Leverage)	(E) Total Costs	(F) Total Chandler/ Mesa Costs
Salaries/Wages	\$ 15,708.00	\$ 137,644.00		\$ 153,352.00	\$ 153,352.00
Employee Related Expenses	\$ 2,430.00	\$ 11,190.00		\$ 13,620.00	\$ 13,620.00
				\$ -	\$ -
				\$ -	\$ -
TOTAL PERSONNEL	\$ 18,138.00	\$ 148,834.00	\$ -	\$ 166,972.00	\$ 166,972.00
Professional Expenses	\$ -	\$ 100,231.00		\$ 100,231.00	\$ 100,231.00
Phone/Communications				\$ -	\$ -
Client Expenses	\$ 15,250.00	\$ 15,250.00	\$ 50,000.00	\$ 80,500.00	\$ 30,500.00
Materials/Supplies	\$ 5,532.00	\$ 10,200.00	\$ 8,000.00	\$ 23,732.00	\$ 15,732.00
Travel/Mileage	\$ 5,310.00	\$ 5,310.00	\$ 5,500.00	\$ 16,120.00	\$ 10,620.00
Indirect Costs	\$ 8,534.00	\$ 19,914.00	\$ 12,000.00	\$ 40,448.00	\$ 28,448.00
Other - Equipment	\$ 14,532.00	\$ 62,200.00		\$ 76,732.00	\$ 76,732.00
Other - Space	\$ 1,500.00	\$ 23,577.00		\$ 25,077.00	\$ 25,077.00
				\$ -	\$ -
TOTAL OPERATIONS	\$ 50,658.00	\$ 236,682.00	\$ 75,500.00	\$ 362,840.00	\$ 287,340.00
TOTAL BUDGET	\$ 68,796.00	\$ 385,516.00	\$ 75,500.00	\$ 529,812.00	\$ 454,312.00

BUDGET NARRATIVE TEMPLATE

SALARIES/WAGES, EMPLOYEE RELATED EXPENSES

TBH, Heat Relief Director

Responsibilities will include managing operations and logistics for Day Respite Center as well as educating staff and volunteers, completing reports, stats, and all compliances needed to meet and exceed grant requirements. This position will also produce an end of season brief including an operations manual that can be shared with both cities outlining standard operating procedures and best practices to meet current needs and potential future trends.

Total Program Cost:

- \$27 per hour, 8 hours per day for 25 weeks = \$27,000

Total Chandler Cost:

- .30 FTE at \$27 pr hour for 25 weeks = \$8,100

Total Mesa Cost:

- .70 FTE at \$27 per hour for 25 weeks = \$18,900

Employee Related Expenses (ERE) are calculated at 30% of program cost and are charged commensurate salary.

TBH, Heat Relief Manager

Responsibilities will include assisting with the management and logistics for Day Respite Center as well as educating staff and volunteers, completing reports, stats, and all compliances needed to meet and exceed grant requirements. This position will also produce an end of season brief including an operations manual that can be shared with both cities outlining standard operating procedures and best practices to meet current needs and potential future trends.

Total Program Cost:

- \$20 per hour for 23 weeks = \$18,400

Total Mesa Cost:

- 1 FTE at \$20 per hour for 25 weeks = \$18,400

Employee Related Expenses (ERE) are calculated at 30% of program cost and divided equally

TBH, Respite Center Staff

The Respite Center staff will monitor and maintain all operations at the Respite Center. As part of their operation, the Respite Center staff will assist in providing meals, hydration through water, supplies for clients, any additional resources for clients. Additionally, the Respite Center staff will assist in maintaining safety and keep up with cleaning standards.

Total Program Cost:

- \$16 per hour for 5,796 staffing hours = \$92,736

Total Mesa Cost:

- 100% cost at \$16 per hour for 5,796 staffing hours = \$92,736

TBH, Heat Relief Driver

Drivers will transport water and other supplies to hydration and cooling stations, as well as drive the mobile heat relief van throughout the community on excessive heat days.

Total Program Cost:

- Cooling Station Driver @ \$9,775 + Mobile Relief Driver @ \$5,440 = \$15,215

Cooling Station Driver – 1 PTE @ \$17 per hour for 25 hours per week for 23 weeks = \$9,775

Total Chandler Cost:

- 1 PTE \$17 per hour for 25 hours per week for 23 weeks = \$4,888

Total Mesa Cost:

- 1 PTE \$17 per hour for 25 hours per week for 23 weeks = \$4,888

Mobile Relief Driver – 2 PTE @ \$17 per hour x 20 extreme heat days x 8 hours/day = \$5,440

Total Chandler Cost:

- 1 PTE @ 17 per hour x 20 extreme heat days x 8 hours/day = \$2,720

Total Mesa Cost:

- 1 PTE @ 17 per hour x 20 extreme heat days x 8 hours/day = \$2,720

PROFESSIONAL EXPENSES

Off Duty Police Officer:

Off-duty City of Mesa Police Officers will provide security services inside the Mesa Respite Center to establish and maintain a safe experience for customers. Hours may be altered based on need.

Total Program Cost:

- \$66.91 per hour for 9 hours per day, for 7 days a week for 19 weeks = \$80,091

Total Mesa Cost:

- 1 FTE - \$66.91 per hour for 9 hours per day, for 7 days a week for 19 weeks = \$80,091

Security:

Provides on-site security to monitor activity outside the center, provides bag checks prior to entry to the center, established relationships with neighboring businesses to address center related concerns.

Total Program Cost:

- \$20 per hour for 6 hours per day, for 7 days a week for 21 weeks = \$17,640

Total Mesa Cost:

- 1 FTE - \$20 per hour for 6 hours per day, for 7 days a week for 21 weeks = \$17,640

Professional Barber:

Provides haircuts to participants at the Respite Center to help them remain cool.

Total Program Cost:

- \$2,500

Total Mesa Cost:

- Fee for service - \$2,500

PHONE/COMMUNICATIONS

CLIENT EXPENSES

Supplies:

Provide supplies for mobile services on Extreme Heat days.

Total Program Cost:

- \$4,000

Total Chandler Cost:

- 50% of \$10,000 = \$2,000

Total Mesa Cost:

- 50% of \$10,000 = \$2,000

Water Purchase:

Assists in the purchase of water when donations do not meet the required amount.

Total Program Cost:

- \$30,500

Total Chandler Cost:

- 30% of \$31,500 = \$9,150

Total Mesa Cost:

- 70% of \$31,500 = \$21,350

MATERIALS/SUPPLIES

Marketing:

Provides informational materials about how to access heat relief services.

Total Program Cost:

- \$4,000

Total Chandler Cost:

- 20% of total program cost = \$800

Total Mesa Cost:

- 80% of total program cost = \$3,200

Signage:

Provides public signage to indicate where residents can receive services.

Total Program Cost:

- 20 A-Frame signs @ \$130/sign = \$2,600

Total Chandler Cost:

- 10 signs = \$1,300

Total Mesa Cost:

- 10 signs = \$1,300

Personal Protection Equipment (PPE):

Provides equipment to assist in the prevention of COVID-19.

Total Program Cost:

- \$5,232

Total Chandler Cost:

- 52% of \$5,232 = \$2,732

Total Mesa Cost:

- 48% of \$5,232 = \$2,500

Janitorial Supplies:

Provides cleaning supplies and other necessary supplies to provide a safe clean environment at the Respite Center.

Total Program Cost:

- \$2,500

Total Mesa Cost:

- 100% of \$2,500 = \$2,500

TRAVEL

Mileage:

Mileage is estimated at \$0.65 a mile for transportation of goods from hydration stations and mobile services.

Total Program Cost:

- \$10,620

Total Chandler Cost:

- 50% of \$10,620 = \$5,310

Total Mesa Cost:

- 50% of \$10,620 = \$5,310

INDIRECT COSTS

Administrative:

Administrative functions to provide operations and reporting requirements which are required by funding source.

Total Program Cost:

- \$28,448

Total Chandler Cost:

- 30% of \$11,035 = \$8,534

Total Mesa Cost:

- 70% of \$11,035 = \$19,914

OTHER - EQUIPMENT

Shower Trailer:

Purchase of a shower trailer to provide space for program participants to shower.

\$49,000 delivered with updates to trailer

Total Program Cost:

- 81.6% of \$49,000 = \$40,000

Total Mesa Cost:

- 81.6% of \$49,000 = \$40,000

Coolers:

Purchase of 10 electric water coolers to provide cold water to program participants.

Total Program Cost:

- \$21,000

Total Chandler Cost:

- 50% of \$20,000 = \$10,500

Total Mesa Cost:

- 50% of \$20,000 = \$10,500

Tables, Chairs and Cots:

Purchase of tables and chairs to provide program participants.

Total Program Cost:

- Tables: \$80 per table for 10 tables = \$800
- Chairs: \$20 per chair for 40 chairs = \$800
- Cots: \$60 per cot for 50 cots = \$8,000

Total Mesa Cost:

- Tables: \$80 per table for 10 tables = \$800
- Chairs: \$20 per chair for 40 chairs = \$800
- Cots: \$60 per cot for 50 cots = \$8,000

Lockers and Bike Racks/Locks:

Provide a safe space for clients to store their belongings.

Total Program Cost:

- \$800

Total Mesa Cost:

- 100 % of \$800 = \$800

OTHER - SPACE

Operations – Rent/Building Maintenance:

Rent, maintenance and repairs associated with the operation of the program.

Rent is calculated at \$3,500 per month equally \$807.70 per week for 23 weeks.

Total Program Cost:

\$25,077

Total Mesa Cost:

100% of \$30,077 = \$25,077

EXHIBIT C INSURANCE

INSURANCE

General.

- A. At the same time as execution of this Agreement, the Contractor shall furnish the City a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to City. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.
- B. The Contractor and any of its subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.
- D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect Contractor from liabilities that might arise out of the performance of the Agreement services under this Agreement by Contractor, its agents, representatives, employees, subcontractors, and the Contractor is free to purchase any additional insurance as may be determined necessary.
- E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the Contractor from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- F. Use of Subcontractors: If any work is subcontracted in any way, the Contractor shall execute a written contract with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the Contractor in this Agreement. The Contractor is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

Minimum Scope and Limits of Insurance. The Contractor shall provide coverage with limits of liability not less than those stated below.

- A. *Commercial General Liability-Occurrence Form.* Contractor must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized

to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

- B. *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles*
Vehicle Liability: Contractor must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on Contractor owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
- C. *Workers Compensation and Employers Liability Insurance:* Contractor must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.

Additional Policy Provisions Required.

- A. *Self-Insured Retentions or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.
1. The Contractor's insurance must contain broad form contractual liability coverage.
 2. The Contractor's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the Contractor and must not contribute to it.
 3. The Contractor's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 4. Coverage provided by the Contractor must not be limited to the liability assumed under the indemnification provisions of this Agreement.
 5. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the Contractor for the City.
 6. The Contractor, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of three years following completion and acceptance of the

Work. The Contractor must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this three year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.

7. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement.

B. *Insurance Cancellation During Term of Contract/Agreement.*

1. If any of the required policies expire during the life of this Contract/Agreement, the Contractor must forward renewal or replacement Certificates to the City within ten days after the renewal date containing all the required insurance provisions.
2. Each insurance policy required by the insurance provisions of this Contract/Agreement shall provide the required coverage and shall not be suspended, voided or canceled except after 30 days prior written notice has been given to the City, except when cancellation is for non-payment of premium, then ten days prior notice may be given. Such notice shall be sent directly to Chandler Law-Risk Management Department, Post Office Box 4008, Mailstop 628, Chandler, Arizona 85225. If any insurance company refuses to provide the required notice, the Contractor or its insurance broker shall notify the City of any cancellation, suspension, non-renewal of any insurance within seven days of receipt of insurers' notification to that effect.

A. *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:

1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the Contractor including the City's general supervision of the Contractor; Products and Completed operations of the Contractor; and automobiles owned, leased, hired, or borrowed by the Contractor.
2. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Agreement.

EXHIBIT D TO AGREEMENT SPECIAL CONDITIONS

Contractor and Subcontractor Worker Background Screening. Contractor agrees that all contract workers and subcontractors (collectively "Contract Worker(s)") that Contractor furnishes to City under this Agreement will be subject to background and security checks and screening as set forth in this Section (collectively "Background Screening") at Contractor's sole cost and expense. As part of the Background Screening, Contractor must provide to a person designated by the City the name(s), address(es), and phone number(s) of all Contract Workers who will provide any services under this Agreement. All Contract Workers must comply with these Background Screening requirements. All Contract Workers must be able to provide proof of the legal right to work in the United States. The Background Screening provided by Contractor must comply with all applicable laws, rules, and regulations. Contractor further agrees that the Background Screening required in this Section is necessary to preserve and protect public health, safety, and welfare. The Background Screening requirements set forth in this Section are the minimum requirements for this Agreement. City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of Contractor's services under this Agreement or Contractor's failure to comply with this Section. Therefore, in addition to the specific measures set forth below, Contractor and its Contract Workers must take such other reasonable, prudent, and necessary measures to further preserve and protect public health, safety, and welfare when providing services under this Agreement.

Background Screening Requirements and Criteria. Before offering or scheduling any services under this Agreement, Contractor agrees that all Contract Workers, including the Contractor, if the Contractor is an individual or sole proprietorship, must have successfully passed a Background Screening in accordance with this Section. Contractor warrants that no person will be permitted to substitute for a Contract Worker who has satisfied the Background Screening requirements until the proposed substitute has also satisfied the Background Screening requirements in this Section. For review and approval, Contractor must submit to a person designated by the City proof of a completed Background Screening for each Contract Worker over the age of 18 performing services under this Agreement no fewer than two (2) weeks before the proposed start date of such Contract Worker's services. The Background Screening must have been completed within the 12-month period preceding the Contract Worker's start date under this Agreement and must include the results of a national criminal databased check with source verification, and a sex offender database search. A fingerprint clearance card may be required depending on the scope of work.

Additional City Rights Regarding Security Inquiries. In addition to the foregoing, City reserves the rights but not the obligations to: (1) have a Contract Worker be required to provide fingerprints, and execute such other documentation as may be necessary to obtain criminal justice information pursuant to A.R.S. § 41-1750(G)(4); (2) act on newly acquired information whether or not such information should have been previously discovered; (3) unilaterally change its standards and criteria relative to the acceptability of Contract Workers; and (4) object, at any time and for any reason, to a Contract Worker performing work (including supervision and oversight) under this Agreement.

Contractor Certification. By executing this Agreement, Contractor certifies that Contractor has read and understands the Background Screening requirements and criteria in this Section and will fully comply with such requirements. Contractor further certifies that any Background Screening information to be furnished to City related to Contractor or its Contract Workers will be complete, current, and accurate. A Contract Worker rejected for work under this Agreement will not be proposed to perform work under other City contracts or engagements without City's prior written approval.

Terms of This Section Applicable to all of Contractor's Contracts and Subcontracts. Contractor must include the terms of this Section for Contract Worker Background Screening in all contracts and subcontracts for services furnished under this Agreement including, but not limited to, supervision and oversight services.

Materiality of Background Screening Requirements: Indemnity. The Background Screening requirements of this Section are material to City's entry into this Agreement and any breach of this Section by Contractor will be deemed a material breach of this Agreement. In addition to the indemnity provisions set forth in this Agreement, Contractor must defend, indemnify, and hold harmless City for any and all Claims arising out of this Background Screening Section including, but not limited to, the disqualification of a Contract Worker by Contractor or City for failure to satisfy this Section.

Continuing Duty, Audit. Contractor's obligations and requirements that Contract Workers satisfy this Background Screening Section will continue throughout the entire term of this Agreement. Contractor must notify City immediately of any change to a Background Screening of a Contract Worker previously accepted by City. Contractor must maintain all records and documents related to all Background Screenings and City reserves the right to audit Contractor's compliance with this Section under the terms of this Agreement.

EXHIBIT E

FUNDING SOURCE REQUIREMENTS

1. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS:

(a) The Contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in [paragraphs \(b\)\(1\) through \(5\)](#) of this section.

2. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689):

a. A contract award must not be made to parties listed on the government wide Excluded Parties List System (EPLS) in the System for Award Management (SAM), in accordance with OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." The EPLS in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

b. The City may, by written notice to the Contractor, immediately terminate this Contract if the City determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. If the Contractor becomes suspended or debarred, the Contractor must immediately notify the City. Contractors must not make any award or permit any award (sub-recipient or vendor) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549.

c. The Contractor certifies to the best of its knowledge and belief, that is and its subcontractors:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

3. BYRD ANTI-LOBBYING CERTIFICATION (31 U.S.C. 1352):

In all contracts in excess of \$100,000 the Contractor hereby certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.

(2) Each Contractor tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization or influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.

(3) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. Such disclosures are forwarded from tier to tier up to the non-Federal award.

4. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

Applicable to all contracts in excess of \$150,000. The Contractor will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the City, the U.S. Department of Housing and Urban Development, and the San Francisco Regional Office of the Environmental Protection Agency (EPA).

5. PROCUREMENT OF RECOVERED MATERIALS:

a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor must procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable time period; (2) fail to meet reasonable performance standards, which will be determined the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item, or (3) are only available at an unreasonable price.

b) Paragraph (a) of this clause will apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

6. CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR 2014):

a. This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

b. The Contractor must inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

c. The Contractor will insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

7. DRUG-FREE WORKPLACE ACT OF 1988:

The Contractor must comply with drug-free workplace requirements in Subpart B of 2 CFR § 2429, which adopts the government-wide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

8. ENERGY EFFICIENCY:

The Contractor will observe all mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.).

9. PREFERENCE FOR DOMESTIC PROCUREMENT:

Pursuant to 2 C.F.R. 200.322, to the greatest extent practicable, Contractor will purchase, acquire, or use goods, products or materials produced in the United States (including but not limited to iron, aluminum, steel, cement and other manufactured products).

10. EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION (24 CFR 5.105):

The Contractor will carry out its responsibilities in compliance with the Fair Housing Act ([42 U.S.C. 3601-19](#)) and implementing regulations at [24 CFR part 100 et seq.](#); Executive Order 11063, as amended by Executive Order 12259 ([3 CFR](#), 1959-1963 Comp., p. 652 and [3 CFR](#), 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at [24 CFR part 107](#); the Civil Rights Act of 1964 and the Title VIII of the Civil Rights Act of 1968 in order to affirmatively further fair housing; Executive Order 11063, as amended by Executive Order 12259; Title VI of the Civil Rights Act of 1964 (42 USC 2000d) (nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part 1; the Age Discrimination Act of 1975 (42 USC 6101-07) and implementing regulations at 24 CFR part 146; Section 504 of the Rehabilitation Act of 1973 (19 USC 794) and implementing regulations at 24 CFR part 8; Arizona Executive Order 2009-09, et seq., as amended, and Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 ([3 CFR](#), 1964-1965 Comp., p. 339; [3 CFR](#), 1966-1970 Comp., p. 684; [3 CFR](#), 1966-1970 Comp., p. 803; [3 CFR](#), 1978 Comp., p. 230; and [3 CFR](#), 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at [41 CFR chapter 60](#); the Americans With Disabilities Act of 1990 (42 U.S.C. §§ 12101, et seq.); Executive Order 11625, as amended by Executive Order 12007 ([3 CFR](#), 1971-1975 Comp., p. 616 and [3 CFR](#), 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 ([3 CFR](#), 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 ([3 CFR](#), 1977 Comp., p. 393 and [3 CFR](#), 1987 Comp., p. 245) (Women's Business Enterprise).

11. MINIMUM WAGE REQUIREMENTS

The Contractor warrants that it shall pay all of its employees who are engaged in either performing work or providing services under the terms of this Agreement not less than the minimum wage specified under Section 206(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §§ 201, et seq.), by law and regulation, and, as applicable, Executive Order 13658, as amended, and as specified by Arizona law.

12. RECOGNITION OF COUNTY SUPPORT

The Contractor shall give recognition to the County and the funding source for its support when it publishes materials or releases public information that is paid for in whole or in part with funds received under this Agreement.

13. DISABILITY REQUIREMENTS

The Contractor agrees that any electronic or information technology offered under this Agreement shall comply with A.R.S. §§41-2531 and 41-2532 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

14. EQUAL EMPLOYMENT OPPORTUNITY

(a) The Contractor shall not discriminate against any employee or applicant for employment because of race, age, disability, color, religion, sex, sexual identity, gender identity, or national origin.

(b) The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, disability, color, religion, sex sexual identity, gender identity, or national origin. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

15. IMMIGRATION LAWS AND REGULATIONS (Federal Immigration and Nationality Act)

(a) The Contractor understands and acknowledges the applicability of the Immigration Reform and Control Act of 1986 (IRCA). The Contractor agrees to comply with the IRCA in performing under this Agreement and to permit the City or Maricopa County to reasonably inspect personnel records to verify such compliance, to the extent required by law.

(b) By entering into this Agreement, the Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other federal immigration laws and regulations related to the immigration status of its employees. The Contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the City or Maricopa County upon request. These warranties shall remain in effect through the term of the Agreement. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act for all employees performing work under the Agreement. I-9 forms are available for download at USCIS.GOV.

(c) The City or Maricopa County may request verification of compliance for any employee or subcontractor performing work under the Agreement. Should the City or Maricopa County suspect or find that the Partners or any of its subcontractors are not in compliance, then the City may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Agreement for default, and suspension or debarment (or both) of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor or their subcontractors.