

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
CITY OF SAN LUIS and
TOWN OF WELLTON
for
CDBG ADMINISTRATIVE SERVICES**

THIS CONTRACT made and entered into as of the _____ day of _____ 2022, by and between Town of Wellton, hereinafter called the CONTRACTOR, and the City of San Luis, hereinafter called the GRANTEE.

WITNESSETH:

WHEREAS, the GRANTEE is in receipt of a Community Development Block Grant from the Arizona Department of Housing, CDBG Contract for FY 2022-2023; and

WHEREAS, the GRANTEE desires technical assistance in implementing and administering said grant; and

WHEREAS, the CONTRACTOR is agreeable to providing such assistance;

NOW, THEREFORE, the parties do mutually agree as follows:

A. PURPOSE:

The purpose of this Contract is to authorize the CONTRACTOR to provide administrative services to the GRANTEE for an Arizona Department of Housing, Community Development Block Grant (CDBG) contracts for FY 2022-2023. Services to be provided are detailed in the Scope of Work but will generally include services under the Arizona Department of Housing's CDBG program requirements.

B. SCOPE OF WORK

CONTRACTOR agrees to provide the following: Oversight & Review of all documents/correspondence to the Arizona Department of Housing (ADOH) prepared by the GRANTEE.

GRANTEE agrees to the following:

1. Ensure availability of staff assistance as needed to assist with review and oversight of documents and construction.
2. Ensure maintenance of original grant files, record-keeping and financial records and ensure availability of accounting services as needed to process Contract disbursement and reimbursement of funds.
3. Conduct an audit in compliance with the Single Audit Act and in conjunction with the GRANTEE annual audit; forward the audit report to the Arizona Department of Housing within 30 days of completion and resolve all audit findings, if applicable.

C. TERM OF AGREEMENT

Activities under this Agreement shall commence on or about April 1, 2022 and shall be completed on or about August 1, 2023. The term of the Agreement may be extended upon mutual agreement and may be mutually increased upon negotiations with the GRANTEE and approved by the local governing body. Any increase with regards to the contract period or MAJOR changes in the scope of work determined by the GRANTEE MAY result in an increase in the contract amount. The GRANTEE is responsible for paying

TOWN OF WELLTON at a rate of \$125.00 per hour for extension time caused by GRANTEE or additional services not covered in the original Scope of Work.

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

D. AMOUNT AND METHOD OF COMPENSATION

The GRANTEE shall pay the CONTRACTOR for staff time and expenses, as allowable from the Arizona Department of Housing for CDBG administration. CONTRACTOR shall submit necessary request for payment of time and expenditure to the Arizona Department of Housing with similar invoice to the GRANTEE for payment. Payments shall be made upon proper submission of an invoice documenting the services performed by the CONTRACTOR.

E. TERMS AND CONDITIONS

Pre-award Activities

The CONTRACTOR is to provide administrative services, which are exempt from environmental requirements. Pre-award activities completed by the CONTRACTOR shall be in compliance with all regulations governing the typical implementation of CDBG projects and the GRANTEE shall incur no financial obligations to the CONTRACTOR should such activities be deemed unacceptable by CDBG. Pre-award activities completed by the CONTRACTOR as a part of this Contract will become obligations of the GRANTEE only upon execution of the Agreement with the Arizona Department of Housing. If for any reason the GRANTEE does not execute an Agreement for funding of this grant, the GRANTEE will have no obligation to the CONTRACTOR under this Contract.

Termination of Contract

1. CONTRACTOR and GRANTEE may terminate this Agreement if either Party believes that continuation will not produce beneficial results.
2. In the event any action, suit, or proceeding is brought for failure to observe any of the terms, covenants, or provisions of this Agreement, the prevailing party shall be entitled to recover, as part of such action or proceeding, all litigation and collection expenses, including but not limited to witness fees, court costs, and reasonable attorney's fees.
3. This Agreement contains the entire Agreement between the parties, and no oral or written statement, promises, or inducements made by either party or agent of either party that is not contained in this written Agreement shall be valid or binding; and this Agreement may not be enlarged, modified, or altered except in writing signed by parties and endorsed hereon.
4. This Agreement shall terminate upon completion of the Project, payment of all fees due herein, upon closeout of the project with Arizona Department of Housing.

Termination of Contract for Cause

If, for any reason, the CONTRACTOR shall fail to fulfill in a timely and proper manner his/her obligations under this Contract, or if the CONTRACTOR shall violate any of the covenants, agreements, or stipulations of this Contract, the GRANTEE shall thereupon have the right to terminate the Contract by giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, drawings, maps, models, photographs and reports prepared by the CONTRACTOR under this Contract shall, at the option of the GRANTEE, become GRANTEE'S property and the CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. The CONTRACTOR will not accept liability for loss of funding due to project delays.

Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the GRANTEE for damages sustained by the GRANTEE by virtue of any breach of the Contract by the CONTRACTOR, and the GRANTEE may withhold any payments to the CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due the GRANTEE from the CONTRACTOR is determined.

Termination for Convenience of the GRANTEE

The GRANTEE may terminate this Contract at any time by giving at least ten (10) days notice in writing to the CONTRACTOR. If the Contract is terminated by the GRANTEE as provided herein, the CONTRACTOR will be paid for the time expended and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the CONTRACTOR, Paragraph 1 hereof relative to termination shall apply.

Changes

The GRANTEE may, from time to time, request changes in the scope of the services of the CONTRACTOR to be performed hereunder. Such changes, including any increase or decrease in the amount of the CONTRACTOR's compensation, which are mutually agreed upon by and between the GRANTEE and the CONTRACTOR, shall be incorporated in written amendments to this Contract.

Indemnification

To the extent permitted by law, the CONTRACTOR and GRANTEE agree to defend, indemnify and hold harmless each other and their agents, officials, employees, and subsidiaries from and against any and all claims, actions, demands, liabilities, damage, cost and expense of whatsoever character, whether direct or indirect, or consequential, including loss or damage to property of either party heretofore or of their persons and for the injury or debt to any or all persons caused by or attributable to the negligence, willful acts or fault of the CONTRACTOR and GRANTEE, their employees or agents.

Arbitration

In the event of any controversy which may arise out of this Agreement, the parties hereto agree to abide by a required arbitration as is set forth in the Arizona Revised Statutes §12-133.

All notice or demand upon any party to this Agreement shall be in writing and shall be delivered in person or sent by certified mail, return receipt requested, addressed as follows:

CONTRACTOR

Richard Marsh
Town Manager
Town of Wellton
P.O. Box 67
Wellton, AZ 85356

GRANTEE

Jenny Torres
Economic Development Manager
City of San Luis
P.O. Box 1175
San Luis, AZ 85349

Miscellaneous Provisions

In case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained therein.

Personnel

1. The CONTRACTOR represents that he/she has, or will secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any Contractual relationship with the GRANTEE.
2. All of the services required hereunder will be performed by the CONTRACTOR or under his/her supervision and all personnel engaged in the work shall be fully qualified, authorized and permitted for such work under State and Local law to perform such services.
3. None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the GRANTEE. Any work or services subcontracted hereunder shall be specified by written Contract or agreement and shall be subject to each provision of this Contract.

Certification for Contracts, Grants, Loans and Cooperative Agreements

The CONTRACTOR 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 any Federal Contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Federal Contract, grant, loan or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instruction.
3. The CONTRACTOR shall require that the language of this Certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

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

Assignability

The CONTRACTOR shall not assign any interest on this Contract and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the GRANTEE thereto: Provided, however, that claims for money by the CONTRACTOR from the GRANTEE under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the GRANTEE.

Reports and Information

The CONTRACTOR, at such times and in such forms as the GRANTEE may require, shall furnish the GRANTEE such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

Records and Audits (Maintenance and Retention)

The CONTRACTOR shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the GRANTEE to assure proper accounting for all project funds, both Federal and non-Federal shares. These records will be retained for five years after the expiration of this Contract unless permission to destroy them is granted in writing by the GRANTEE.

Records and Audits (Availability)

Legible copies of any and all records maintained by the CONTRACTOR shall be made available, upon request, to the GRANTEE, the Arizona Department of Housing, the Office of the Inspector General (HUD), and any other body authorized by the GRANTEE.

Findings Confidential

All of the reports, information, data, etc., prepared or assembled by the CONTRACTOR under this Contract are confidential and the CONTRACTOR agrees that they shall not be made available to any individual or organization without the prior written approval of the GRANTEE, or as required by the Arizona Public Records Law.

Copyright

No report, plan, drawing or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the CONTRACTOR.

All reports, maps and other documents completed as a part of this Contract, other than documents exclusively for internal use by the GRANTEE, or by the Arizona Department of Housing, shall carry the following notation on the front cover or title page, together with the date (month and year) the document was prepared: "City of San Luis".

Compliance with Local Laws

The CONTRACTOR shall comply with all applicable laws, ordinances and codes of the State and local governments, and the CONTRACTOR shall save the GRANTEE harmless with respect to any damages arising from any tort done by the CONTRACTOR or his representatives in performing any of the work embraced by this Contract.

Equal Employment Opportunity

During the performance of this Contract, the CONTRACTOR agrees as follows:

1. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, familial status, religious affiliation or handicap. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, national origin, familial status, religious affiliation or handicap. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or 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 GRANTEE setting forth the provisions of this non-discrimination clause.
2. The CONTRACTOR will, in all solicitation or advertisements for employees placed by or on behalf of the CONTRACTOR for the GRANTEE, state that all qualified applicants will receive consideration for employment without regard to race, creed, sex, color, national origin, familial status, religious affiliation or handicap.
3. The CONTRACTOR will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to Contracts or subcontracts for standard commercial supplies or raw materials.
4. The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the GRANTEE's Department of Housing and/or Community Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the CONTRACTOR's non-compliance with any provision of this Agreement or with any of such 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 Contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The CONTRACTOR will include the provisions of the subparagraphs 12 (a) through (f) in every subcontract or purchase order 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 provision will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the GRANTEE's Department of Housing and/or Community Development may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the GRANTEE's Department of Housing and/or Community Development, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity funded in whole or in part with funds made available under this title.

Section 503 Handicapped (if \$2,500 or Over) Affirmative Action for Handicapped Workers

1. The CONTRACTOR will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The CONTRACTOR agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
2. The CONTRACTOR agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
3. In the event of the CONTRACTOR's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
4. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the Contracting officer. Such notices shall state the CONTRACTOR's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
5. The CONTRACTOR will notify each labor union or representative of workers with which it has a collective bargaining agreement or other Contract understanding, that the CONTRACTOR is bound by the terms of Section 503 of Rehabilitation Act of 1973 and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
6. The CONTRACTOR will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

Interest of Members of a GRANTEE Governing Body

No member of the Governing body of the GRANTEE and no other officer, employee, or agent of the GRANTEE who exercises any functions or responsibilities in connection with the planning and carrying

out of the program, shall have any personal financial interest, direct, or indirect, in this Contract; and the CONTRACTOR shall take appropriate steps to assure compliance.

Interest of Other Local Public Officials

No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the CONTRACTOR shall take appropriate steps to assure compliance.

Interest of CONTRACTOR and Employees

The CONTRACTOR covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. The CONTRACTOR further covenants that no person having any such interest shall be employed in the performance of this Contract.

Handicapped Access

In performing all construction CONTRACTOR agrees to comply with "The American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable By, the Physically Handicapped." CONTRACTOR represents that he/she understands said standard specifications and same are incorporated herein by this reference.

Clean Air Act, Clean Water Act

The CONTRACTOR shall comply with all provisions requiring compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738 and EPA regulations, 40 CFR Part 15 which prohibit the use of non-exempt Federal Contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provision requires reporting of violations to the USFPA Assistant Administrator for Enforcement.

Fly Ash Certification

This Agreement is subject to the provisions of the Solid Waste Recovery Act, as amended by the Resource Conservation and Recovery Act of 1976, which requires that as a recipient of federal funds, the GRANTEE use procurement policies that encourage the purchase of items composed of the highest percentage of recovered materials practicable. On January 28, 1983, the Environmental Protection Agency (EPA) issued guidelines in the Federal Register, which required that construction design and material specifications must not exclude or restrict concrete and cement that contain fly ash.

In order to insure compliance, the CONTRACTOR shall certify that the percentage of fly ash in the concrete or cement is consistent with the amounts required by the specifications and in the guidelines. The fly ash certification is incorporated into this Contract by reference.

Federal Labor Standards Provisions

This project and therefore this agreement are subject to the Federal Labor Standards Provisions, Davis-Bacon Act of 1931, Contract Work Hours and Safety Standards Act of 1962, Copeland Act of 1934 and the Fair Labor Standards Act of 1939.

The CONTRACTOR agrees to comply with the Federal Labor Standards Provisions (HUD Form 4010 [2-83]), which is incorporated by reference herein. The CONTRACTOR shall supply information to the GRANTEE as necessary for monitoring of compliance to include, but not be limited to, inclusion of Labor Standard Forms included in the bid package, on-site inspections, investigations and/or enforcement by the GRANTEE.

(SIGNATURES ON FOLLOWING PAGES)

IN WITNESS WHEREOF, the CONTRACTOR and the GRANTEE do hereby execute this Contract as of the date first above written.

TOWN OF WELLTON

CITY OF SAN LUIS

Cecilia McCollough
Mayor

Gerardo Sanchez
Mayor

ATTEST:

Richard Marsh, Town Manager

APPROVED AS TO FORM: The undersigned attorney has determined that this agreement is in proper form and within the powers and authority granted to Yuma County under the laws of the State of Arizona.

Andrew McGuire, Town Attorney

APPROVED AS TO FORM: The undersigned attorney has determined that this agreement is in proper form and within the powers and authority granted to the City of San Luis, Arizona under the laws of the State of Arizona.

Kay Marion Macuil, City Attorney