

INTERGOVERNMENTAL AGREEMENT
FOR SERVICES BETWEEN
MARICOPA COUNTY
ADMINISTERED BY ITS
HUMAN SERVICES DEPARTMENT
AND
THE CITY OF MESA

Agreement Amount: \$5,500,000

Agreement Start Date: August 1, 2021

Agreement Termination Date: September 30, 2021

Agreement Number: C-22-22-161-X-00

CFDA Number: 21.023 Emergency Rental Assistance Program

DUNS #: 020141404

1.0 PARTIES

This financial Intergovernmental Agreement ("Agreement") is between the City of Mesa ("Subrecipient") and Maricopa County ("County") administered by its Human Services Department, ("Department"), and pertains to rental assistance for COVID-impacted residents of the City of Mesa and its unincorporated areas. The County and the Subrecipient collectively are referred to as the "Parties" and individually as the "Party."

2.0 PURPOSE

The County shall provide Subrecipient with U.S. Department of Treasury Emergency Rental Assistance (ERA) 1.0 funds for the provision of ERA 1.0 activities.

3.0 TERM OF AGREEMENT

3.1 The term of this Agreement is from August 1, 2021, through September 30, 2021.

3.2 This Agreement may be extended for one (1) six-month term, provided the Subrecipient is in compliance with the terms and conditions of this Agreement and the extension is contained in an Amendment as provided in Section 4.0 below.

3.3 This Agreement shall be effective upon approval and signature by both Parties.

4.0 AMENDMENTS

Any changes to this Agreement shall be effective only in a written amendment signed by both Parties.

5.0 ADMINISTRATIVE CHANGE ORDERS

5.1 The Chairman of the Board of Supervisors is authorized upon the recommendation of the Human Services Department Director and Legal Counsel to make changes within the general scope of the Agreement on behalf of the County through Administrative Change Orders. The Subrecipient's City Manager, or his designee, is authorized to approve and sign Administrative Change Orders on behalf of Subrecipient. Administrative Changes shall be approved by both Parties and fully executed by the Chairman of the Board of Supervisors and Subrecipient. Administrative Change Orders may address any of the following areas:

5.1.1 Modifications to the project timeline if the last day of the project timeline is within the Agreement term;

5.1.2 Modifications to Budget line items if the Agreement Amount remains unchanged;

- 5.1.3 Modifications required by federal, state, or County regulations, ordinances, or policies; and
- 5.1.4 Modifications to Administrative requirements such as changes in reporting periods, frequency of reports, or report formats required by the U.S. Department of Treasury or local regulations, policies, or requirements.

6.0 FUNDING

- 6.1 The County shall provide the Subrecipient with \$5,500,000 in Catalog of Federal Domestic Assistance (CFDA) 21.023, American Rescue Plan Act Emergency Rental Assistance provided to the County through the U.S. Department of Treasury.
- 6.2 Funding expenditures are:
 - 6.2.1 A maximum of \$5,000,000 to be spent to provide rental assistance to eligible residents; and
 - 6.2.2 A maximum amount of \$500,000 of funds for administrative costs.

7.0 AVAILABILITY OF FUNDS

- 7.1 This Agreement and the Parties' obligations under it shall become effective when funds assigned for the purpose of compensating the Subrecipient are available to the County for disbursement. The County shall be the sole authority in determining the availability of funds under this Agreement, and the County shall keep the Subrecipient fully informed as to the availability of funds.
- 7.2 If any action is taken by any federal, state, local agency, or any other agency or instrumentality other than the Parties to amend, suspend, or terminate its fiscal obligation under or provided in connection with this Agreement, then the Parties may amend, suspend, or terminate this Agreement. In the event of termination, the Parties shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services were performed in accordance with the provisions of this Agreement. The Parties shall give written notice of their intent to suspend performance or intent to terminate this Agreement under this section at least ten (10) calendar days in advance.

8.0 RESPONSIBILITIES OF ORGANIZATIONS

- 8.1 The County Shall:
 - 8.1.1 Review invoices submitted by the Subrecipient and reimburse the Subrecipient for rental and utility assistance to eligible households.
 - 8.1.2 Report to the U.S. Department of Treasury on the Subrecipient's use of funds.
- 8.2 The Subrecipient shall:
 - 8.2.1 Provide rental and utility assistance to qualifying households of the City of Mesa and its unincorporated areas. Services are to assist with stabilization of the households' immediate basic needs:
 - 8.2.1.1 Provide rental and utility financial assistance services to income-eligible households who are unable to meet their basic housing needs with their own income or resources and are experiencing an economic hardship as a result of the COVID-19 pandemic.
 - 8.2.1.1.1 Utility assistance is limited to gas, electric, water, trash, and sewer.
 - 8.2.1.2 The Subrecipient shall track and report rental assistance and utility assistance expenditures separately.

- 8.2.2 Determine Eligibility:
 - 8.2.2.1 Eligible applicants must demonstrate a reduction or loss of income or increased expenses due to COVID and provide a documented COVID impact occurring not before April 1, 2020.
 - 8.2.2.2 Utilizing the Area Median Income (80%) to determine eligibility for assistance.
 - 8.2.2.3 Eligible applicants must have an existing lease agreement.
 - 8.2.2.4 Eligible applicants must have rent and/or utilities owed, which is verified by either the landlord or property management company or the applicable utility company in writing.
 - 8.2.2.5 The Subrecipient shall determine eligibility in accordance with ERA 1.0 guidance and regulations established by the U.S. Department of Treasury.
- 8.2.3 Process applications for financial assistance to include:
 - 8.2.3.1 Emergency Rental and Utility Assistance: Allow payments for up to 15 months of rent and utilities owed for months not before April 1, 2020:
 - 8.2.3.1.1 Rental assistance may include utility payments when utilities are included in rent.
 - 8.2.3.1.2 Rental and utility assistance may include any fees that are on the account.
 - 8.2.3.1.3 The Subrecipient shall prioritize and process applications in accordance with ERA guidance and regulations established by the U.S. Department of Treasury.
- 8.2.4 Process rental and utility assistance payments:
 - 8.2.4.1 For approved households receiving rental and/or utility assistance payments, the Subrecipient or its designee shall process checks payable and/or electronic funds transfers (EFT) in accordance with applicable ERA guidance and regulations established by the U.S. Department of Treasury.
- 8.2.5 Service Requirements:
 - 8.2.5.1 The Subrecipient shall adhere to the following service requirements:
 - 8.2.5.1.1 Determine eligibility for households applying for ERA 1.0;
 - 8.2.5.1.2 Utilize a case management database to record services provided to households; and
 - 8.2.5.1.3 Maintain files and confidential information on each household, whether paper-based or electronic, in a secure manner.
- 8.2.6 Program Standards/Guides:
 - 8.2.6.1 The Subrecipient shall:
 - 8.2.6.1.1 Ensure that no more than \$500,000 under this agreement is expended on administration, including case management;
 - 8.2.6.1.2 Ensure staff and volunteers do not provide direct services to individuals until all appropriate Background Checks and Fingerprint clearances have been completed with satisfactory results and ensure

- that procedures are in place if the results are unsatisfactory;
- 8.2.6.1.3 Provide staff and volunteers with supervision, training, equipment, materials, and supplies necessary to perform contracted services;
- 8.2.6.1.4 Maintain documentation that verifies staff have received relevant training required to assist households;
- 8.2.6.1.5 Maintain documentation that key staff have either received appropriate training or hold appropriate certification/licensure in accordance with their roles, responsibilities, and job descriptions;
- 8.2.6.1.6 Ensure that staff and volunteers do not have any conflicts of interest in the provision of services and management of programs; and
- 8.2.6.1.7 Reimburse the County for authorized payments that do not meet the requirements under this Agreement, and ERA 1.0 service requirements, program standards, or program guidelines.
- 8.2.7 Procedures for service provision:
 - 8.2.7.1 The Subrecipient shall employ procedures for intake and processing ERA 1.0 that are responsive to the needs of households in crisis.
 - 8.2.7.2 The Subrecipient shall document each individual's or household's COVID-19 crisis reasons and services provided.
 - 8.2.7.3 The Subrecipient shall obtain all hard copy or electronic documents needed to verify household eligibility for assistance and document such eligibility in the household's case file.
- 8.2.8 Grievance Procedure:

The Subrecipient shall establish a system through which households may file complaints or grievances regarding any work completed under this Agreement or may appeal an eligibility decision made by the Subrecipient.
- 8.2.9 Reporting
 - 8.2.9.1 The Subrecipient shall submit monthly reports identifying all required information for the ERA Monthly Reports including total number of participating households and the total amount of ERA funds expended.
 - 8.2.9.2 Monthly reports shall be due no later than 10 days after the end of the reporting month.
 - 8.2.9.3 The Subrecipient shall submit Quarterly Reports which shall include all data components and measures for Reporting Modules A through G described in Emergency Rental Assistance Program: Reporting Guidance version 1 (dated June 30,2021).
 - 8.2.9.4 Quarterly Reports will be due no later than 25 days after the end of the reporting quarter.
 - 8.2.9.5 The Subrecipient shall ensure the report information included in the submitted Monthly and Quarterly Reports pursuant to this Agreement meets the standards set by the U.S. Treasury for ERA Quarterly Reporting.

8.2.10 Compliance

The Subrecipient shall be responsible for compliance with federal, state, and County requirements as they relate to the federal American Rescue Plan Act Emergency Rental Assistance funding requirements.

9.0 COMPENSATION

- 9.1 The County shall provide financial assistance in an amount not to exceed the amount listed on page 1 of this Agreement and subject to the terms of this Agreement and availability of funds.
- 9.2 Subject to the availability and authorization of funds for the explicit purposes set forth in this Agreement, the County will pay the Subrecipient compensation for services rendered as indicated in the following subsections.
- 9.3 The Subrecipient shall be reimbursed utilizing Catalog of Federal Domestic Assistance (CFDA) Number 27.023
- 9.4 The County shall reimburse the Subrecipient on a net 0 payments standard.

10.0 METHOD OF PAYMENT

- 10.1 The Subrecipient agrees to submit monthly reimbursement requests to the County.
- 10.2 The County agrees to reimburse the Subrecipient for actual allowable costs incurred, following submittal by the Subrecipient of an itemized statement of actual allowable expenditures incurred, supported by back-up documentation such as invoices and copies of checks showing payment of invoices.
 - 10.2.1 Invoiced expenditures must be separated between rental and utility assistance provided.
 - 10.2.2 Invoiced expenditures must be separated between administrative and assistance provided.
- 10.3 The Subrecipient shall submit to the County a Request for Reimbursement of all expenditures within the same fiscal year in which the expenditures are incurred. The fiscal year runs July 1st through June 30th and all Requests for Reimbursement shall be submitted no later than July 30th for the preceding fiscal year.
- 10.4 The Subrecipient shall submit invoices for services and for costs incurred to hsdfinance@maricopa.gov.
- 10.5 Reimbursement by the County is not to be construed as final in the event that the Department of the Treasury disallows reimbursement for the activity or any portion thereof.

11.0 DISALLOWED COSTS

- 11.1 The applicable cost principles set forth in the Code of Federal Regulations, 48 C.F.R., Chapter 1, Subchapter E, Part 31 including later amendments and editions on file with the Arizona Secretary of State and incorporated by this reference, shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under Agreement provisions that provide for the reimbursement of costs. Those costs that are specifically defined as unallowable in 48 C.F.R., Chapter 1, Subchapter E, Part 31 therein will not be submitted for reimbursement by the Subrecipient and may not be reimbursed with County funds.
- 11.2 The Subrecipient shall follow cost principles as outlined in Office of Management and Budget (OMB) Uniform Guidance, 2 C.F.R. §§ 200, et seq.

12.0 FINAL REIMBURSEMENT UPON CONTRACT TERMINATION

- 12.1 Prior to termination of this Agreement, at the date identified on page 1 of this Agreement, or as may be amended, the Subrecipient shall submit the final reimbursement request.
 - 12.1.1 This request shall be submitted no later than 30 calendar days after the termination date except as noted immediately below.
 - 12.1.2 If the termination date is between June 10 and June 30, then the final reimbursement request shall be submitted by July 10th.
 - 12.1.3 The final progress report, and any other required reports that may be applicable, such as the program income report, shall be submitted with the final reimbursement request.

13.0 TERMINATION

- 13.1 Under A.R.S. § 38-511, the Parties may cancel this Agreement without penalty or further obligation within three years after execution of this Agreement, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of a Party is at any time while this Agreement or any extension of this Agreement is in effect, is or becomes an employee or agent of any other Party to this Agreement in any capacity or consultant to any other Party to this Agreement with respect to the subject matter of this Agreement. Additionally, pursuant to A.R.S. § 38-511, a Party may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of the Party from any other Party to this Agreement arising as the result of this Agreement. A cancellation notice made under this Subparagraph shall be effective when the recipient receives a written notice of cancellation unless the notice specifies a later date.
- 13.2 Either Party may terminate this Agreement at any time by giving the other Party at least sixty (60) calendar days prior notice in writing (unless terminated by a Party under the Availability of Funds provision). The notice shall be given by either personal delivery or registered or certified mail, postage prepaid and return receipt requested, to the persons at the addresses set forth in Section 14 of this Agreement.
- 13.3 A Party has the right to terminate this Agreement upon twenty-four (24) hour notice when the it deems the health or welfare of the service recipients are endangered or when the other Party's noncompliance jeopardizes funding source financial participation. If not terminated by one of the above methods, then this Agreement will terminate upon the expiration of the Term of this Agreement stated on page 1 of this Agreement.
- 13.4 In accordance with 2 C.F.R. §§ 200, *et seq.*, the County may suspend or terminate this Agreement if the Subrecipient violates any material term or condition of this Agreement or if the Subrecipient fails to maintain a good-faith effort to carry out the purpose of this Agreement.
- 13.5 The Parties may terminate this Agreement for convenience in accordance with 2 C.F.R. § 200. The Parties shall agree upon the termination conditions including the effective date of the termination. The Party initiating the termination shall notify the other Parties in writing stating the reasons for such termination.

14.0 NOTICES

Notifications and communications concerning this Agreement shall be directed to the following:

Subrecipient:
 Mary Brandon, Deputy Director
 City of Mesa Community Services and
 Housing Authority
 (480) 644-5852
Mary.Brandon@mesaaz.gov
 20 East Main Street
 Mesa, AZ 85201

Maricopa County:
 Jacqueline Edwards, Deputy Director
 Maricopa County Human Services
 Department
 (602) 506-4812
Jacqueline.Edwards@maricopa.gov
 234 N. Central Avenue 3rd Floor
 Phoenix, AZ 85004

15.0 EMPLOYMENT DISCLAIMER

- 15.1 This Agreement is not intended to constitute, create, give rise to, or otherwise recognize a joint venture agreement, partnership, or other formal business association or organization of any kind, and the rights and obligations of the Parties shall be only those expressly set forth in this Agreement.
- 15.2 The Subrecipient agrees that no individual performing under this Agreement on behalf of the Subrecipient may be considered a County agent, employee, or representative and that no rights of County civil service, County retirement, or County personnel rules shall accrue or apply to any such individual. The Subrecipient shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, workers' compensation, occupational disease compensation, unemployment compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals shall indemnify, defend and hold harmless the County with respect to the foregoing.
- 15.3 The County agrees that no individual performing under this Agreement on behalf of County may be considered a Subrecipient agent, employee, or representative and that no rights of Subrecipient civil service, Subrecipient retirement, or Subrecipient personnel rules shall accrue or apply to any such individual. The County shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, workers' compensation, occupational disease compensation, unemployment compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals and the County shall indemnify, defend and hold harmless the Subrecipient with respect to the foregoing.

16.0 SAFEGUARDING OF PARTICIPANT INFORMATION

The use or disclosure by either Party of any information concerning an applicant for, or recipient of, service under this Agreement is directly limited to the conduct of this Agreement. The Subrecipient and any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions shall safeguard the confidentiality of this information, just as they would safeguard their own confidential information.

17.0 GENERAL REQUIREMENTS

- 17.1 The terms of this Agreement shall be construed in accordance with Arizona law and the applicable laws and regulations of the American Rescue Plan Act. Any lawsuit arising out of this Agreement shall be brought in the appropriate court in Maricopa County, Arizona.
- 17.2 The Subrecipient shall, without limitation, obtain and maintain all licenses, permits and authority necessary to do business, render services and perform work under this Agreement, and shall comply with all laws regarding unemployment insurance, disability insurance and worker's compensation.

- 17.3 The Subrecipient is an independent contractor in the performance of work and the provision of services under this Agreement and is not to be considered an officer, employee, or agent of the County.
- 17.4 The Subrecipient shall comply with the applicable regulations prohibiting a conflict of interest. The Subrecipient shall not make any payments, either directly or indirectly, to any person, partnership, corporation, trust, or other organization that has a substantial interest in Subrecipient's organization or with which the Subrecipient (or any of its directors, officers, owners, trust certificate holders, or a relative thereof) has a substantial interest, unless the Subrecipient has made full written disclosure of the proposed payments to the County and has received written approval for the payments.
- 17.5 For purposes of this provision, the terms "substantial interest" and "relative" shall have the meanings prescribed by A.R.S. § 38-502.
- 17.6 The Parties specifically acknowledge and agree that, notwithstanding anything to the contrary in this Agreement, any reference to a requirement pertaining to a statute, ordinance, law, rule, regulation, or published guidance/circular shall apply only insofar as the statute, ordinance, law, rule, regulation, or published guidance/circular is applicable to this Agreement and the Party against whom the requirement is being enforced.

18.0 ACCEPTANCE OF FUNDS

Subrecipient hereby accepts the award of funds under the terms of this Agreement and agrees to execute and return this Agreement to the County within thirty (30) days after receipt, unless Subrecipient receives a written waiver of this requirement by the County.

19.0 ASSIGNMENT AND SUBCONTRACTING

- 19.1 No right, liability, obligation, or duty under this Agreement may be assigned, delegated, or subcontracted, in whole or in part, without the prior written approval of the County. The Subrecipient shall bear all liability under this Agreement, even if it is assigned, delegated, or subcontracted, in whole or in part, unless the County agrees otherwise.
- 19.2 In accordance with 2 C.F.R. §200.331, the Subrecipient may make a "Subaward" as a pass-through entity for the purpose of carrying out a portion of the federal award. The Subrecipient will make determinations classifying recipients of federal funds as a Subrecipient.

20.0 DISPUTES

- 20.1 Except as may otherwise be provided for in this Agreement, the Parties may attempt to informally resolve any dispute arising out of this Agreement for a reasonable period of time, which shall not exceed one hundred twenty (120) calendar days. Disputes which are not resolved in that time period, shall be submitted in accordance with the following formal dispute resolution process.
- 20.2 If a dispute cannot be resolved informally, then the Subrecipient shall notify the Department in writing by mailing notice of the dispute to the Department's Deputy Director ("Deputy Director") within ten (10) business days from expiration of the informal dispute resolution process described in Subparagraph 20.1 above.
- 20.3 The Deputy Director shall respond in writing to the Subrecipient within fourteen (14) business days. The decision of the Deputy Director shall be final and conclusive unless, within seven (7) business days after the date the Subrecipient is served with the decision, the Subrecipient files a written notice of appeal with the Human Services Department Director.

- 20.4 The Human Services Department Director shall provide the Subrecipient with a written response within fourteen (14) business days following receipt of the notice of appeal. The decision of the Director shall be final and not appealable.
- 20.5 Pending a final decision of the Director, the Subrecipient shall diligently proceed with its performance of this Agreement in accordance with the Deputy Director's decision.

21.0 SEVERABILITY

Any provision of this Agreement that is determined to be invalid, void, or illegal by a court shall in no way affect, impair, or invalidate any other provision of this Agreement, and the remaining provisions shall remain in full force and effect.

22.0 STRICT COMPLIANCE

A Party's acceptance of the other Party's performance that is not in strict compliance with the terms of this Agreement shall not be deemed to waive the requirements of strict compliance for all future performance. All changes in performance obligations under this Agreement shall be in writing and signed by both Parties.

23.0 SINGLE AUDIT ACT REQUIREMENTS

The Subrecipient is in receipt of federal funds through the County and is subject to the federal audit requirements of the Single Audit Act of 1984, as amended (Pub. L. No. 98-502) (codified at 31 U.S.C. § 7501, *et seq.*). The Subrecipient shall comply with 2 C.F.R. 200, Subpart F. Upon completion, such audits shall be made available for public inspection. Audits shall be submitted to the County within the twelve (12) months following the close of the fiscal year. The Subrecipient shall take corrective actions within six (6) months of the date of receipt of audit findings. The County shall consider sanctions as described in 2 C.F.R. § 200.505 if it is determined by HUD or the County that the Subrecipient is not in compliance with the audit requirements.

24.0 AUDIT DISALLOWANCES

- 24.1 The Subrecipient shall, upon written notice, reimburse the County for any payments made under this Agreement that are disallowed by a federal, state, or County audit in the amount of the disallowance. Court costs and attorney and expert fees incurred will be specifically identified as applicable to the recovery of the disallowed costs in question.
- 24.2 If the County determines that a cost for which payment has been made is a disallowed cost, then the County will notify the Subrecipient in writing of the disallowance and the required course of action, which shall be at the option of the County, either to adjust any future claim submitted by the Subrecipient by the amount of the disallowance or to require immediate repayment of the disallowed amount by the Subrecipient issuing a check payable to the County.

25.0 PROPERTY

- 25.1 Any County property furnished or purchased pursuant to the terms of this Agreement shall be utilized, maintained, repaired, and accounted for in accordance with instructions furnished by the County, and title to all such property shall revert to the County upon the expiration or termination of this Agreement. The costs to repair such property are the responsibility of the Subrecipient within the limits budgeted in this Agreement.
- 25.2 Any Subrecipient property furnished or purchased pursuant to the terms of the Agreement shall be utilized, maintained, repaired, and accounted for by the

Subrecipient. Repair costs of such property shall be the responsibility of the Subrecipient.

26.0 LIMITATION ON LIABILITY

- 26.1 The County and its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions shall not be liable for any act or omission by the Subrecipient or any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, or commissions occurring in the performance of this Agreement, nor shall the County and its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions be liable for purchases or contracts made by the Subrecipient or any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, or commissions in connection with this Agreement.
- 26.2 The Subrecipient and its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions shall not be liable for any act or omission by the County or any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, or commissions occurring in the performance of this Agreement, nor shall the Subrecipient and its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions be liable for purchases or contracts made by the County or any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, or commissions in connection with this Agreement.

27.0 GENERAL INDEMNIFICATION

Each Party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other Party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney and expert fees) (collectively referred to as "Claims") either arising from or related to breach of this Agreement, but only to the extent that such Claims are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor and any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions.

28.0 INSURANCE

Each Party is a public entity. For such reason, insurance policy requirements shall not apply. Instead, each Party shall provide the other Party a Certificate of Self-Insurance equal to:

General Aggregate	\$3,000,000
Each Occurrence Limit	\$1,000,000

29.0 OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, direct services under this Agreement shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services, or services that are

incidental to the performance of the Agreement. The provision applies to work performed by Subrecipients or Subcontractors at all tiers.

30.0 TECHNICAL ASSISTANCE

The County will provide reasonable technical assistance to the Subrecipient to assist in complying with state and federal laws, and regulations, and accountability for diligent performance and compliance with the terms and conditions of this Agreement and all applicable laws, regulations, and standards. However, this assistance in no way relieves the Subrecipient of full responsibility and accountability for its actions and performance in compliance with the terms of this Agreement.

31.0 STAFF AND VOLUNTEER TRAINING

The County may make available to the Subrecipient the opportunity to participate in any applicable training activities conducted by the County.

32.0 CLEAN AIR ACT

If the total face value of this Agreement exceeds \$100,000, the Subrecipient agrees to comply with all regulations, standards and orders issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. §§ 7401, *et seq.*), to the extent any are applicable by reason of performance of this Agreement.

33.0 LOBBYING

33.1 No federal appropriated funds have been paid or will be paid by or on behalf of the Subrecipient 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 agreement, 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 agreement, grant, loan, or cooperative agreement.

33.2 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 any federal agreement, grant, loan or cooperative agreement, then the Subrecipient shall complete and submit OMB Form-LLL, titled "Disclosure of Lobbying Activities," in accordance with its instructions and 31 U.S.C. § 1352.

34.0 RELIGIOUS ACTIVITIES

The Subrecipient warrants that none of its costs and none of the costs incurred by the Subrecipient or any of its Subcontractors will include any expense for any religious activities.

35.0 POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property, or services contributed by the County or the Subrecipient or any Subcontractor under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

36.0 COVENANT AGAINST CONTINGENT FEES

The Subrecipient warrants that no persons or entities have been employed or retained by it to solicit or secure this Agreement upon an agreement or understanding for a commission,

percentage, brokerage, or contingent fee. For breach or violation of this warranty, the County may immediately terminate this Agreement without liability.

37.0 RIGHTS IN DATA

The County shall have the use of data and reports resulting from this Agreement without cost or other restriction, except as otherwise provided by law or applicable regulation. Each Party shall supply to the other Party, upon request, any available information that is relevant to this Agreement and to the performance under it.

38.0 COPYRIGHTS

If this Agreement results in a book or other written material, the author is free to copyright the work, but the County reserves a royalty-free, nonexclusive, perpetual and irrevocable license to reproduce, publish, and otherwise use and to authorize others to use, all copyrighted material and all material that may be copyrighted as a result of this Agreement.

39.0 AGREEMENT COMPLIANCE MONITORING/AUDITING

39.1 The County will annually monitor the Subrecipient's compliance for fiscal and programmatic performance under the terms and conditions of this Agreement and applicable regulations promulgated by the U.S. Department of Housing and Urban Development and Maricopa County. On-site visits for compliance monitoring may be made by the County or its grantor agencies (or by both the County and its grantor agencies) at any time during the Subrecipient's normal business hours, announced and/or unannounced. For auditing purposes, the County shall provide the Subrecipient with 30-days' advance notice of any proposed on-site visit. During an on-site visit(s), the Subrecipient shall make all of its records and accounts related to work performed or services provided under this Agreement available to the County for inspection and copying.

39.2 The County shall request information for fiscal monitoring/audit per Office of Management and Budget (OMB) Uniform Guidance 2 C.F.R. § 200, to include:

39.2.1 Financial Management 2 C.F.R. § 200.302

39.2.2 Internal Controls 2 C.F.R. § 200.303

39.2.3 Bonds 2 C.F.R. § 200.304

39.2.4 Payment and Financial Reporting 2 C.F.R. § 200.305

39.2.5 Cost Sharing or Matching 2 C.F.R. § 200.306

39.2.6 Program Income 2 C.F.R. § 200.307

39.2.7 Revision of Budget and Program Plans 2 C.F.R. § 200.308

39.2.8 Period of Performance 2 C.F.R. § 200.309

39.2.9 Insurance Coverage 2 C.F.R. § 200.310

39.2.10 Record Retention and Access 2 C.F.R. §§ 200.334 – 200.338

39.2.11 Procurement Standards 2 C.F.R. § 200.318

39.2.12 Indirect Costs 2 C.F.R. § 200.414

39.2.13 Compensation-Personal Services 2 C.F.R. § 200.430

39.2.14 Audit Requirements 2 C.F.R. §§ 200.501-200.517

40.0 CONTINGENCY RELATING TO OTHER AGREEMENTS AND GRANTS

40.1 The Subrecipient shall, during the term of this Agreement, within 15 business days from acceptance, inform the Deputy Director in writing of the award of any other agreement or grant, including any other agreement or grant awarded by the County, where the award may affect either the direct or indirect costs being paid or reimbursed under this Agreement. The Subrecipient's failure to notify the County of

any such agreement shall be a breach of this Agreement and the County may immediately terminate this Agreement without liability.

- 40.2 The Deputy Director may request, and Subrecipient shall provide within a reasonable time, which shall not exceed ten (10) business days, a copy of all such other agreements or grants, when, in the opinion of the Deputy Director, the award of the agreement or grant may affect the costs being paid or reimbursed under this Agreement.
- 40.3 If the Deputy Director determines that the award to the Subrecipient of such other agreements or grants has affected the costs being paid or reimbursed under this Agreement, then the Director shall prepare an amendment to this Agreement effecting a cost adjustment. If the Subrecipient disputes the proposed cost adjustment, then the dispute shall be resolved pursuant to the "Disputes" paragraph of this Agreement.

41.0 MINIMUM WAGE REQUIREMENTS

The Subrecipient 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.

42.0 RECOGNITION OF COUNTY SUPPORT

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

43.0 NONDISCRIMINATION, EQUAL OPPORTUNITY AND EQUAL ACCESS

The Subrecipient, in connection with any services or other activities under this Agreement, shall not in any way discriminate against any person on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The Subrecipient shall include this clause in all its Subcontracts.

44.0 DISABILITY REQUIREMENTS

The Subrecipient 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.

45.0 EQUAL EMPLOYMENT OPPORTUNITY

- 45.1 The Subrecipient 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.
- 45.2 The Subrecipient 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.

- 45.3 The Subrecipient shall and shall cause its Subcontractors to comply with:
- 45.3.1 Title VI and VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §§ 2000a, *et seq.*);
 - 45.3.2 the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 701, *et seq.*);
 - 45.3.3 the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. §§ 621, *et seq.*);
 - 45.3.4 the Americans With Disabilities Act of 1990 (42 U.S.C. §§ 12101, *et seq.*); and
 - 45.3.5 Arizona Executive Order 2009-09, as amended, *et seq.* which mandates that all persons shall have equal access to employment opportunities.

46.0 UNIFORM ADMINISTRATIVE REQUIREMENTS

By entering into this Agreement, the Subrecipient agrees to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, Part 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS contained in Title 2 C.F.R. §§ 200, *et seq.*

47.0 FINANCIAL MANAGEMENT

The Subrecipient shall establish and maintain a separate, interest-bearing bank account for money provided under this Agreement, or shall establish an accounting system that assures the safeguarding and accountability of all money and assets provided under this Agreement. No part of the money deposited in the bank account shall be commingled with other funds or money belonging to the Subrecipient. All interest earned on the account shall be disbursed in a manner specified by the County in accordance with applicable State of Arizona and federal regulations. The Subrecipient shall provide a signed bank account agreement authorizing the County to obtain information about the account. If an accounting system is used, then it shall be in accordance with generally accepted accounting principles.

48.0 RETENTION OF RECORDS

- 48.1 This provision applies to all financial and programmatic records, supporting document, statistical records, and other records of the Subrecipient that are related to this Agreement.
- 48.2 The Subrecipient shall retain all records relevant to this Agreement for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is longer, and the County, federal and state auditors and any other persons duly authorized by the County shall have full access to, and the right to examine, copy, and make use of any and all of the records.

49.0 ADEQUACY OF RECORDS

If the Subrecipient's books, records and other documents related to this Agreement are not sufficient to support and document that allowable services were provided to eligible participants, then the Subrecipient shall reimburse the County for the services not supported and documented.

50.0 IMMIGRATION LAWS AND REGULATIONS

50.1 Federal Immigration and Nationality Act

- 50.1.1 The Subrecipient understands and acknowledges the applicability of the Immigration Reform and Control Act of 1986 (IRCA). The Subrecipient agrees to comply with the IRCA in performing under this Agreement and to permit the County to inspect personnel records to verify such compliance.

- 50.1.2 By entering into this Agreement, the Subrecipient warrant 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 Subrecipient shall obtain statements from their subcontractors certifying compliance and shall furnish the statements to the County upon request. These warranties shall remain in effect through the term of the Agreement. The Subrecipient and their 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.
- 50.1.3 The Subrecipient may request verification of compliance for any employee or Subcontractor performing work under the Agreement. Should the County suspect or find that the Subrecipient or any of its Subcontractors are not in compliance, then the County 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 Subrecipient. All costs necessary to verify compliance are the responsibility of the Subrecipient or its Subcontractor.
- 50.2 **Arizona Law:** The Subrecipient warrants that it is in compliance with A.R.S. § 41-4401 (e-verify requirements) and further acknowledges that:
 - 50.2.1 That then Subrecipient and its contractors, if any, warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214;
 - 50.2.2 A breach of a warranty under this Subparagraph 50.2 shall be deemed a material breach of this Agreement and the County may immediately terminate this Agreement without liability; and
 - 50.2.3 The County and any contracting government entity retain the legal right to inspect the papers and employment records of any Subrecipient or Vendor employees who works on this Agreement to ensure that the Subrecipient or contractor is complying with the warranty provided under this Subparagraph 50.2 and that the Subrecipient agrees to make all papers and employment records of those employees available during normal working hours in order to facilitate such an inspection.

51.0 DRUG FREE WORKPLACE ACT

The Subrecipient shall comply with the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 701, *et seq.*), which requires that Subrecipients and grantees of federal funds must certify that they will provide drug-free workplaces. This certification is a precondition to receiving a grant or entering into this Agreement.

52.0 CERTIFICATION REGARDING DEBARMENT, SUSPENSION INELIGIBILITY AND VOLUNTARY EXCLUSION

- 52.1 The undersigned, by signing this Agreement, represents that he/she has the authority to bind the Subrecipient to the terms of this Certification. The Subrecipient, as the primary participant in accordance with 2 C.F.R. Part 180, certifies to the best of its knowledge and belief that it and its principals:
 - 52.1.1 Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- 52.1.2 Have not within a 3-year period preceding the Start Date of this Agreement, been convicted of or had a civil judgment rendered against them for (1) the 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; (2) the violation of any federal or State antitrust statutes or (3) the commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 52.1.3 Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with the commission of any of the offenses enumerated in Sub-subparagraph 52.1.2 above; and
- 52.1.4 Have not, within a three-year period preceding this Start Date of this Agreement, had one or more public transactions (federal, state, or local) terminated for cause or default.
- 52.2 The Subrecipient agrees to include, without modification, this clause in all lower tier covered transactions (i.e., transactions with Subcontractors) and in all solicitations for lower tier covered transactions related to this Agreement.

53.0 SUBRECIPIENT EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS:

- 53.1 The Subrecipient agrees that this Agreement and employees working on this Agreement will be subject to the whistleblower rights and remedies 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 Section 3.908 of the Federal Acquisition Regulation;
- 53.2 The Subrecipient shall 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. Documentation of such employee notification must be kept on file by the Subrecipient and copies provided to County upon request; and
- 53.3 The Subrecipient shall insert the substance of this clause, including this Paragraph 53.0, in all subcontracts over the simplified acquisition threshold (\$250,000 as of June 2021).

54.0 WRITTEN CERTIFICATION PURSUANT TO A.R.S. § 35-393.01

If the Subrecipient engages in for-profit activity and has 10 or more employees, and if this Agreement has a value of \$100,000 or more, then the Subrecipient certifies it is not currently engaged in, and agrees for the duration of this Agreement not to engage in, a boycott of goods and services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

55.0 SURVIVAL

The indemnification, hold harmless, defense, and non-liability provisions of this Agreement shall have full force and effect notwithstanding any other provisions in this Agreement and shall survive the termination or expiration of this Agreement.

56.0 DEFAULT AND REMEDIES FOR NONCOMPLIANCE

- 56.1 Notwithstanding anything to the contrary, this Section shall not be deleted or superseded by any other provision of this Agreement.
- 56.2 This Agreement may be immediately terminated by either Party if the other Party defaults by failing to perform any material objective or breaches any material

obligation under this Agreement, or any event occurs that materially jeopardizes a Party's ability to perform any of its obligations under this Agreement. A Party will not be in default until the other Party provides reasonable notice of the default, and an opportunity to cure, which shall be a minimum of thirty (30) days.

- 56.3 Failure to comply with the requirements of this Agreement and all the applicable federal, state, or local laws, rules, and regulations may result in suspension or termination of this Agreement, the return of unexpended funds (less just compensation for work satisfactorily completed that, to date, has not been paid), the reimbursement of funds improperly expended, or the recovery of funds improperly acquired. Noncompliance includes, but is not limited to:
 - 56.3.1 Non-performance of any material obligations required by this Agreement.
 - 56.3.2 Noncompliance with any applicable federal, state, or local laws, rules, or regulations.
 - 56.3.3 Unauthorized expenditure of funds.
 - 56.3.4 Noncompliance with applicable financial record requirements, accounting principles, or standards established by OMB circulars and 2 C.F.R. §§ 200 *et seq.*
 - 56.3.5 Noncompliance with recordkeeping, record retention, or reporting requirements.
- 56.4 Notwithstanding the suspension or termination of this Agreement, or the final determination of the proper disposition of funds, the defaulting Party shall, without intent to limit or with restrictions, be subject to the following:
 - 56.4.1 Acknowledge that suspension or termination of this Agreement does not affect or terminate any rights against the defaulting Party at the time of suspension or termination, or that may accrue later. Nothing herein shall be construed to limit or terminate any right or remedy available under Agreement or rule.
 - 56.4.2 Waiver of a breach or default of any term, covenant, or condition of this Agreement or any federal, state, or local law, rule, or regulation shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, condition, law, rule, or regulation.
- 56.5 The defaulting Party shall, upon notice or with knowledge obtained by itself or others, take any and all proactive actions necessary, and provide any and all applicable remedies to address and correct any act by itself, and any and all of its agents, representatives, officers, officials, directors, employees, volunteers, successors, assigns, or Subcontractors that resulted in any wrongdoing (intentional or unintentional); misuse or misappropriation of funds; the incorrect or improper disposition of funds; any violation of any applicable federal, state, or local law, rule, or regulation; or the breach of any certification or warranty provided in this Agreement.

57.0 ADMINISTRATIVE REQUIREMENTS

- 57.1 Accounting Standards - The Subrecipient agrees to comply with this Agreement and to adhere to the accounting principles and procedures required to utilize adequate internal controls and maintain necessary source documentation for all costs incurred, as well as any applicable federal laws and regulations. The Subrecipient further agrees to maintain an adequate accounting system that provides for appropriate grant accounting (including calculation of program income, if any).
- 57.2 Repayment of Funds – The Subrecipient agrees to repay funds provided under this Agreement for noncompliance with the terms of this Agreement. Repayment

shall be in accordance with the terms of this Agreement or the requirement of applicable laws and regulations, including continuing use compliance. The County may specify in writing, the terms of the repayment or alternative terms in lieu of repayment. However, in no case shall repayment or alternative terms be accomplished later than sixty (60) calendar days following the written determination of noncompliance by the County.

- 57.3 Documentation and Record Keeping - The Subrecipient agrees to comply with this Agreement and the following record keeping requirements:
- 57.3.1 Records to be maintained - The Subrecipient shall maintain all financial records as required by 2 C.F.R. § 200, and OMB Circulars;
- 57.3.2 DUNS Number and SAM Profile - All Subrecipients shall have a valid Dun and Bradstreet (DUNS) number and an active profile in the federal System for Award Management (SAM).
- 57.3.2.1 To obtain a DUNS Number use this link:
<https://www.dnb.com/duns-number.html>
- 57.3.2.2 For additional information on System for Award Management (SAM) and, DUNS use this link:
<https://www.sam.gov/SAM/pages/public/generalInfo/aboutSAM.jsf>
- 57.3.3 Records Retention - The Subrecipient shall retain all records pertinent to this Agreement for a period of six (6) years after all ERA requirements have been met. In the event of litigation, a claim, or an audit is begun before the expiration of this retention period, said records shall be retained until all such action or audit findings involving the records have been resolved.
- 57.3.4 Disclosure - The Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the County's or the Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service.
- 57.3.5 Property Records - The Subrecipient shall maintain property and equipment inventory records that clearly identify properties and equipment purchased, improved, or sold. Properties and equipment retained shall continue to meet eligibility criteria and shall conform to the use of property and equipment.

Signatures contained on following page

IN WITNESS, the Parties have approved and signed this Agreement:

APPROVED BY:
THE CITY OF MESA

APPROVED BY:
MARICOPA COUNTY

Name
Title

Jack Sellers
Chairman, Board of Supervisors

Date: _____

Date: _____

Attested to:

Attested to:

City Clerk

Juanita Garza, Clerk of the Board

Date

Date

IN ACCORDANCE WITH A.R.S. §§ 9-240 and 11-952, THIS AGREEMENT HAS BEEN REVIEWED BY THE UNDERSIGNED ATTORNEY WHO HAS DETERMINED THIS AGREEMENT IS PROPER IN FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO THE CITY OF MESA UNDER THE LAWS OF THE STATE OF ARIZONA.

IN ACCORDANCE WITH A.R.S. §§ 11-201, 11-251, AND 11-952, THIS AGREEMENT HAS BEEN REVIEWED BY THE UNDERSIGNED ATTORNEY WHO HAS DETERMINED THIS AGREEMENT IS PROPER IN FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO MARICOPA COUNTY UNDER THE LAWS OF THE STATE OF ARIZONA.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

Date

Deputy County Attorney

Date