CITY CLERK
ORIGINAL

C-8010
05/03/2012

CITY OF GLENDALE
COMMERCIAL VISUAL IMPROVEMENT PROGRAM
AGREEMENT

This Commercial Visual Improvement Program Agreement ("Agreement") is entered into this 3rd day of May, 2012, between the City of Glendale, an Arizona municipal corporation ("City") and Matthew H. Borowski, the property owner, authorized to do business in the State of Arizona ("Applicant").

RECITALS

A. The City makes grants available under its Commercial Visual Improvement Program ("VIP") for the purpose of encouraging reinvestment in certain existing commercial or mixed-use structures located within the corporate limits of the City.

B. Under the Commercial VIP, the City may, in its sole discretion, reimburse up to a maximum of one-half of the approved cost of rehabilitation improvements and one-half of the architectural and engineering fees up to a maximum of Five Thousand Dollars ($5,000).

C. Applicant's property is located at 7141 N 59th Avenue, Glendale, Arizona 85301 and is within the corporate limits of the City and is a commercial property that is at least 15 years of age and located within a Redevelopment Area.

D. City and Applicant desire to memorialize their agreement with this document.

AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Applicant agree as follows:

1. Reimbursement of Construction Costs and Architectural/Engineer Fees

   1.1 Reimbursement Amount. For each approved project on the Property, the City may, in its sole discretion, reimburse Applicant for up to one-half of construction costs for rehabilitation improvements ("Work") and up to one-half of architectural and engineering fees ("Professional Services") with a cap of $5,000 for Professional Services. The actual reimbursement under this Agreement will not exceed $2,300 for Work and $0 for Professional Services, subject to additional amounts that may be approved by the City pursuant to the change order section of this Agreement.

   1.2 Eligible Costs. The Work costs eligible for reimbursement include labor, materials, equipment and other contract items necessary for the proper execution and completion of the project as designated in the design and construction drawings and specifications approved by the City. The approved design and construction drawings and specifications are hereby incorporated into and made part of this Agreement.

   1.3 Compliance with Federal Requirements. Reimbursement shall be made only for Work completed in conformance with all applicable federal regulatory requirements, which are set forth in Exhibit V and hereby incorporated into and made a part of this Agreement.

1.4 Compliance with Zoning and Sign Requirements. As a condition of reimbursement and at all times during the term of this Agreement, the land use and signage under the control of the Applicant shall conform with City zoning and sign code requirements.

1.5. Change Orders

1.5.1 If the scope or cost of Work originally approved by the City is modified, Applicant may request an adjustment to the reimbursement amount. No additional amounts will be reimbursed to the Applicant without the City's written approval.

1.5.2 To request an adjustment, Applicant shall submit a written change order request to the Economic Development Department that explains the nature of and reason for the change(s); provides modified design and construction drawings and specifications, if applicable; and provides a detailed explanation of the increased cost for Work or Professional Services.

1.5.3 The City will provide a written response within 30 days of receipt of Applicant's change order.

2. Design and Construction Plan Approval

2.1 Within 120 days of execution of this Agreement, Applicant shall submit the design and construction drawings and specifications for the improvements to the Property to the City Building Safety Department for approval.

2.2 No Work may take place until the City has approved the drawings and specifications.

3. Time to Complete Work

Applicant shall contract for and complete all Work within 180 days from the date the City approves the drawings and specifications.

4. Review of Project

The City's Economic Development Department or designated representative may periodically review the progress of the Work on the Property. This progress review does not replace any required permits or inspections normally required by the City, including the Building Safety Department. Applicant must immediately remedy any Work not in conformance with the approved drawings and specifications.

5. Proof of Work and Professional Services

5.1 Within 60 days of the final inspection and approval of the Work by the City, the Applicant shall submit to the City copies of all paid bills, cancelled checks, contractor lien waivers and receipts showing the full cost of and full payment for all Work and Professional Services.

5.2 No reimbursement will be made for amounts exceeding amounts actually paid as shown on bills or receipts. Failure to timely submit the documentation required by this Section is a waiver of Applicant's right to reimbursement.

6. Failure to Complete Work

If the Applicant fails to complete the Work in conformance with the approved drawings and specifications and all other terms of this Agreement, the Agreement automatically terminates and the City's reimbursement obligation becomes null and void.

7. Extension of Time

The City may, in its sole discretion and upon good cause as shown in writing by the Applicant, extend the time to obtain design and construction approval, to complete construction, or to submit documentation for reimbursement. Extensions will not be valid unless granted in writing by the City.

8. Unrelated Improvements

Nothing in this Agreement is intended to limit, restrict or prohibit the Applicant from performing any other work in or about the Property which is unrelated to this Agreement.

9. Agreement Applicable to Future Owners

This Agreement is binding upon the Applicant and its successors, heirs and assignees.

10. Maximum Grant Awards

A business or property owner may apply for and receive more than one grant. City Council approval is required when the total of the requested funds exceeds $50,000 within a three-year period.

11. Indemnification

The Applicant agrees to defend and hold harmless the City, its elected officials, officers, agents and employees from and against all loss, damage, claims, suits, proceedings, settlements, judgments, costs and expenses (including but not limited to reasonable attorney's fees, litigation costs and experts' fees), arising or resulting from, caused or occasioned by, or related to the Applicant's obligations, performance and actions taken or not taken or under this Agreement.

12. Attorney's Fees

If the City institutes proceedings against Applicant for a violation of this Agreement and secures a judgment in its favor, the court having jurisdiction thereof shall include in its judgment against Applicant expenses, including but not limited to reasonable attorney's fees, court costs, witness fees, and litigation expenses.

13. Applicant Remedies

Upon a breach of this Agreement by the City, the Applicant, in any court of competent jurisdiction, by an action or proceeding in equity, may secure rescission, a declaratory judgment or the specific performance of this Agreement. The remedies listed in this section are the sole remedies available to the Applicant. Monetary damage remedies are expressly excluded. Before any performance failure of the City is considered a breach of this Agreement, the Applicant shall demand performance and notify the City of the alleged failure in writing in the manner provided in Section 16 of this Agreement.

14. Exhibits

It is agreed that Applicant must complete and execute Exhibits I through IV, which are incorporated as part of this Agreement:

Exhibit I	Proof of Ownership or Executed Lease
Exhibit II	Certificate of Capacity to Execute Agreement
Exhibit III	Copy of City of Glendale Commercial Visual Improvement Program Application
Exhibit IV	Budget

15. Display of City Funding Promotional Material

To the extent requested by the City, Applicant may be required to prominently display a poster identifying the Property as receiving City funding. Any signage will be provided by the City and shall be displayed from the date the Application is approved, until no less than 90 days after final approval and reimbursement is made. Failure to display signage at the request of the City is a breach of this Agreement, and, at the option of the City, makes this Agreement null and void.

16. Notices

Notices must be in writing and given by personal delivery; by certified mail, return receipt requested, postage prepaid; or by express delivery service, freight prepaid, in each case by delivery to the Applicant and the City at the addresses set forth below or at any other address as a party may designate in writing. The date notice is given is the date on which the notice is delivered, if notice is given by personal delivery, or five days after the date of deposit in the mail, if the notice is sent through the United States mail.

APPLICANT:	Applicant's Name:	Matthew H. Borowski
	Address:	526 Granada Road Phoenix, AZ 85003
	Name of Business:	The Spicery
	Project Address:	7141 N 59th Avenue Glendale, AZ 85301
CITY:	City of Glendale Economic Development Department 5850 W. Glendale Avenue Glendale, Arizona 85301	
With a copy to:	Glendale City Attorney 5850 W. Glendale Avenue Glendale, Arizona 85301	

17. Immigration Laws

17.1 Applicant, and on behalf any allowable subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.

17.2 Any breach of warranty of this section is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.

17.3 The City retains the legal right to inspect the papers of Applicant or subcontractor employee who performs work under this Agreement to ensure that Applicant or any subcontractor is compliant with the warranty under section.

17.4 The City may conduct random inspections, and upon request of the City, Applicant must provide copies of papers and records of Applicant demonstrating continued compliance with the warranty under this section. Applicant agrees to keep papers and records available for inspection by the City during normal business hours. Applicant must cooperate with the City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.

17.5 Applicant must incorporate into any subcontract agreements that are allowable under this Agreement, if any, the same obligations imposed upon Applicant and expressly accrue those obligations directly to the benefit of the City. Applicant must require any allowable subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.

17.6 Applicant's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.

17.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

18. Prohibition on Business with Iran or Sudan

Applicant certifies under A.R.S. §§ 35-391 *et seq.* and 35-393 *et seq.* that it does not have, and during the term of this Agreement will not have, "scrutinized" business operations, as defined in the preceding statutory sections, in the countries of Sudan or Iran.

19. Conflict of Interest

Applicant acknowledges this Agreement is subject to A.R.S. § 35-391 *et seq.*, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on the City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

20. Exhibits

Exhibit I	Proof of Ownership or Executed Lease
Exhibit II	Certificate of Capacity to Execute Agreement
Exhibit III	Copy of Grant Application
Exhibit IV	Budget
Exhibit V	Federal Requirements

(Signatures appear on the following page.)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first appearing above.

APPLICANT:

(Signature)

Printed Name: MATT Borowski

Date: 5/2/12

CITY OF GLENDALE:

By:

Its: Assistant City Manager

Date: 5-3-12

PROPERTY OWNER:

(Corporate Name if Applicable)

By:

Printed Name: MATT Borowski

Date: 5/2/12

ATTEST:

Pamela Hanna, City Clerk (Seal)

APPROVED AS TO FORM:

Craig Tindall, City Attorney

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 2nd day of May, 2012, by Matthew Borowski, in his/her capacity as business owner, for The Spicery (Applicant).

My Commission Expires:
11-14-15

ALICIA MULLER
Notary Public - State of Arizona
MARICOPA COUNTY
My Commission Expires
November 14, 2015

Notary Public

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 2nd day of May, 2012, by Matthew Borowski, in his/her capacity as property owner, for The Spicery (Property Owner).

My Commission Expires:
11-14-15

ALICIA MULLER
Notary Public - State of Arizona
MARICOPA COUNTY
My Commission Expires
November 14, 2015

Notary Public

EXHIBIT I

PROOF OF OWNERSHIP OR EXECUTED LEASE

(See attached)

Property Information

Parcel #:	147-26-037-A
MCR #:	249
Property Address:	7141 N 59TH AVE / GLENDALE 85301
Property Description:	GLENDALE MCR 2-49 LOT 8 BLK 3 EX W 10F TH/OF
Section Township Range:	5 2N 2E
Subdivision Name:	GLENDALE BLKS 1-3, 10-15
Lot #:	8
School Dist:	GLENDALE SCHOOL DISTRICT
Local Jurisdiction:	GLENDALE

Owner Information

Owner: BORWSKI MATTHEW H
Mailing Address: 526 W GRANADA RD / PHOENIX, AZ 85003 USA
Deed #: 120184800
Deed Date: 3/6/2012
Sales Price: n/a
Sales Month/Year: n/a

Valuation Information

Tax Year:	**2013**	**2012**	**2011**
Full Cash Value (FCV):	$87,421	$95,112	$107,763
Limited Property Value (LPV):	$87,421	$95,112	$107,763

Notice: The values displayed on this page may not reflect constitutional or statutory adjustments.

Legal Class:	1	1	1
Assessment Ratio:	19.5%	20.0%	20.0%
Assessed FCV:	$17,048	$19,022	$21,553
Assessed LPV:	$17,047	$19,022	$21,553
Property Use Code:	2010	2010	2010
Tax Area Code:	400700	400700	400700

Characteristics

Square Feet of Living Space:		**Improvement Quality Grade:**	
Lot Square Footage:	6,500	**Market Area/Neighborhood:**	16/003
Covered Parking:		**Unique Location Characteristics:**	Corner
Construction Year:		**Pool Square Footage:**	
Number of Patios:		**Bath Fixtures:**	
Patio Type:		**Cooling:**	
Exterior Walls:		**Heating:**	
Roof Type:		**Physical Condition:**	

Disclaimer
The data contained in this database is deemed reliable but not guaranteed. This information should be used for informational use only and does not constitute a legal document for the description of these properties. Every effort has been made to insure the accuracy of this data; however, this material may be slightly dated which would have an impact on its accuracy. The Maricopa County Assessor's Office disclaims any responsibility or liability for any direct or indirect damages resulting from the use of this data.

EXHIBIT II

CERTIFICATE OF CAPACITY TO EXECUTE AGREEMENT

CERTIFICATION: I certify that I have the legal and financial capacity to execute a contract for rehabilitation of the property described in this application packet.

4/18/12
Date

7141 N. 59TH AVE
Property Address

Signature of Property Owner/Property Manager

MATT BOROWSKI
Printed Name of Property Owner/ Property Manager

EXHIBIT III

COPY OF CITY OF GLENDALE COMMERCIAL VIP APPLICATION

(See attached)

Revised 8-10-10 to reflect new contact information

GLENDALE

City of Glendale
Commercial Visual Improvement Program Application

Page 1

Applicant Information

Applicant Name: MATT BOROWSKI

Applicant Mailing Address: 7141 N. 59TH AVE.

Applicant Contact Number: 602-420-9931 Alternate Number: _____

Federal Tax ID Number or Social Security Number: [redacted]

Applicant(s): Building Owner: _____ Tenant: _____

Property Manager: _____ Contact Number: _____

Project/Site Information

Project Address: 7141 N. 59TH AVE.

Property Owner: MATT BOROWSKI

Year Purchased: 2012 Year Built: 1895

Property/Business Name: THE SPICERY IN OUR 1895 HOME

Name of Tenant: N/A Lease Expiration Date: N/A

INITIAL HERE

Grant Request

Total Anticipated Project Budget: ~~$ 3,300~~ $4,600

Total Anticipated Grant Request: ~~$ 1,650~~ $2,300

Revised 8-10-10 to reflect new contact information

GLENDALE

City of Glendale
Commercial Visual Improvement Program Application

Project Description

Please describe the exterior improvements you'll be making as part of this grant application: *(Please attach elevations, photos, renderings, any visuals you may have depicting the improvements).*

Remove Dead trees from property and Trim existing trees to improve visual appearance and reduce risk of damage during storms

As part of this application process you are required to submit "Before Photos" of the existing building/property/site. The photos should be in color and can be submitted either in hard copy format or digitally. You can email them to rlamb@glendaleaz.com or submit them on a CD.

INITIAL HERE

Revised 8-10-10 to reflect new contact information

City of Glendale
Commercial Visual Improvement Program Application
Page 3

Anticipated Project Budget

Activity/Task	Estimated Cost
Tree Trim / Removal	$ 3,300
Planting of new trees	$ 800
Renting Hoverbed	$ 500 I added
	$
	$
	$
	$
	$
	$
	$
Total Project Budget	$ 4,600 ~~4,600~~ ≈2,300

I am requesting $ ~~1,650~~ **in grant funding through the VIP program.**

The amount of assistance that can be requested is up to 50% of total eligible project expenses, and should be based on the lowest bid. *(Example - If the project budget is $60,000 the maximum amount of assistance that can be requested is $30,000 – 50% of the total project expenses).*

The Applicant should develop the project budget by obtaining at least one bid and talking to local resources in the contract field in an effort to develop a reasonable and accurate project budget. The grant request will be based off of this proposed budget, so it is important that is accurate and reasonable. The Applicant will work with Community Revitalization to complete the formal bid process.

Please be aware that in order to be reimbursed the full grant award, the Applicant must spend at least 50% more than the grant award on the total project. If that does not happen, the Applicant is only reimbursed 50% of what is spent.

Example: If an Applicant is awarded $30,000 for a $60,000 project, but ends up only spending $50,000 on the project – the Applicant will only be reimbursed $25,000 – 50% of what is spent. In order to receive the full grant award the Applicant must have documentation that shows that $60,000 or more was spent on the project.

Revised 8-10-10 to reflect new contact information

GLENDALE

City of Glendale
Commercial Visual Improvement Program Application

Page 4

The City of Glendale will review Applications. Applications greater than $50,000 will be forwarded to the City Council for action. Grants are given at the discretion of the City Council, and the Council's decision is final.

I, MATT BOROWSKI, hereby make application to the City of Glendale for a Commercial VIP Grant in the anticipated amount of $~~1,650~~ 2,300. I understand that the City must approve my Application, and that it must conform to established design guidelines, as well as specific design recommendations of the City of Glendale. I have read a copy of the Commercial VIP Agreement. If approved, I understand that all work performed is subject to development standards, building and property codes, permit requirements and Agreement provisions.

Applicant Signature — 3/12/2012 Date

Property Owner — 3/12/2002 Date

Please return the completed Application to:

City of Glendale
Economic Development Department
5850 West Glendale Avenue
Glendale, Arizona 85301

If you need assistance with the Application and/or have general inquiries, please contact ~~Bob Lamb, Administrator~~ Mark Santa Cruz at (623) 930-2134.

FOR CITY USE ONLY
Comments: See attached estimate plan for changes

Form A

AFFIDAVIT CONCERNING TRUTHFULNESS OF DOCUMENTS PRESENTED

(Arizona Revised Statutes A.R.S. 1 §§501-502)

Under oath and penalty of perjury, I swear that the documents I have submitted to the City of Glendale, as required by my application for any federal, state or local public benefit, are true and accurate as presented.

Matthew Henry Borowski — NAME:

3/28/12 — DATE:

STATE OF ARIZONA)
)ss.
County of Maricopa)

TRICIA WILKE
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Commission Expires
November 30, 2013

On this 28th day of March, 2012, before me personally appeared Matthew Henry Borowski (name of signer), whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and knowledge that he/she executed the same. That he/she affirms under penalty perjury that the statements in this document are true to the best of his/her knowledge and belief.

Tricia Wilke
Notary Public

My Commission Expires:

11/30/13

EXHIBIT IV

BUDGET

Name of Applicant: Matt Boronski

Please itemize the cost of each task associated with the proposed project and attach estimates from qualified sources. Use this sheet or another in the format suggested below. Use additional sheets as necessary.

ITEM	COST
Paint	
A.	
B. N/A	
C.	
Pavement	
A.	
B. N/A	
C.	
Landscape	
A. Removal of Tree's	~$4,600
B. Trimming of Tree's	
C. replanting	
Signage	
A.	
B.	
C.	
Other	
A.	
B.	
C.	

Total Project Cost $ $4,600

Total Grant Request (50% maximum) $ $2,300

Note: Figure base budget without sales tax. The City does not reimburse sales tax.

EXHIBIT V

FEDERAL REQUIREMENTS

Laws and Regulations

NOTE: The term "agency(ies)" refers to "Applicant(s)"

1. **Applicability of Uniform Administrative Requirements.**

1.1 Agencies that are governmental entities (including public agencies) will comply with the requirements and standards of OMB Circular A-87, "Cost Principles for State, Local and Indian tribal Governments;" OMB Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations" (implemented at 24 CFR Part 44); and with the following Sections of 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments":

a. Section 85.3, "Definitions."

b. Section 85.6, "Additions and exceptions."

c. Section 85.12, "Special grant or subgrant conditions for 'high-risk' grantees."

d. Section 85.20, "Standards for financial management systems," except paragraph (a).

e. Section 85.21, "Payment," except as modified by Section 570.513.

f. Section 85.22, "Allowable costs."

g. Section 85.26, "Non-Federal audit."

h. Section 85.32, "Equipment," except in all cases in which the equipment is sold, the proceeds will be Program Income.

i. Section 85.33, "Supplies."

j. Section 85.34, "Copyrights."

k. Section 85.35, "Subawards to debarred and suspended parties."

l. Section 85.36, "Procurement," except paragraph (a).

m. Section 85.37, "Subgrants."

n. Section 85.40, "Monitoring and reporting program performance," except paragraphs (b) through (d), and paragraph (f).

o. Section 85.41, "Financial reporting," except paragraphs (a), (b), and (e).

p. Section 85.42, "Retention and access requirements for records," except that the period will be four years.

q. Section 85.43, "Enforcement."

r. Section 85.44, "Termination for convenience."

s. Section 85.51, "Later disallowances and adjustments."

t. Section 85.52, "Collection of amounts due."

1.2 Agencies, except Agencies that are governmental entities, will comply with the requirements and standards of OMB Circular No. A-122, "Cost Principles for Nonprofit Organizations," or OMB Circular No. A-21, "Cost Principles for Educational Institutions," as applicable, and OMB Circular No. A-133, "Audits of States, Local Governments, and Nonprofit Organizations" (as set forth in 24 CFR part 45). Audits will be conducted annually. Such Agencies will also comply with the following provisions of the Uniform Administrative requirements of OMB Circular No. A-110 (implemented at 24 CFR part 84, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Nonprofit Organizations") or the related CDBG provision, as specified in this paragraph:

a. Subpart A -- "General";

b. Subpart B -- "Pre-Award Requirements," except for § 84.12, "Forms for Applying for Federal Assistance";

c. Subpart C -- "Post-Award Requirements," except for:

(1) Section 84.22, "Payment." Grantees will follow the standards of § 85.20(b)(7) and 85.21 in making payments to Agencies;

(a) Section 84.23, "Cost sharing and matching";

(b) Section 84.24, "Program income." In lieu of § 84.24, CDBG Agencies will follow § 570.504;

(c) Section 84.25, "Revision of budget and program plans";

(d) Section 84.32, "Real property." In lieu of § 84.32, CDBG Agencies will follow § 570.505;

(e) Section 84.34(g), "Equipment." In lieu of the disposition provisions of § 84.34(g), the following applies:

(i) In all cases in which equipment is sold, the proceeds will be Program Income (prorated to reflect the extent to which CDBG funds were used to acquire the Program Income (prorated to reflect the extent to which CDBG funds were used to acquire the equipment); and

(ii) Equipment not needed by the Agency for CDBG activities will be transferred to the recipient for the CDBG program or will be retained after activities will be transferred to the recipient for the CDBG program or will be retained after compensating the recipient.

(f) Section 84.51(b), (c), (d), (e), (f), (g), and (h), "Monitoring and reporting program performance";

(g) Section 84.52, "Financial reporting";

(h) Section 84.53(b), "Retention and access requirements for records." Section 84.53(b) applies with the following exceptions:

(i) The retention period referenced in § 84.53(b) pertaining to individual CDBG activities will be four years; and

(ii) The retention period starts from the date of submission of the annual performance and evaluation report, as prescribed in 24 CFR § 91.520, in which the specific

annual performance and evaluation report, as prescribed in 24 CFR § 91.520, in which the specific activity is reported on for the final time rather than from the 24 CFR § 91.520, in which the specific activity is reported on for the final time rather than from the date of submission of the final expenditure report for the award; expenditure report for the award.

(iii) Section 84.61, "Termination." In lieu of the provisions of § 84.61 CDBG Agencies will comply with § 570.503(b)(7).

d. Subpart D -- "After-the-Award Requirements," except for § 84.71, "Closeout procedures."

2. Equal Opportunity.

2.1 The Agency agrees to comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and the HUD regulations under 24 CFR Part 1, which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance by way of grant, loan, or contract and will immediately take any measures necessary to effectuate this Contract. If any real property or structure thereof is provided or improved with the aid of Federal financial assistance extended to the Agency, this assurance will obligate the Agency, or in the case of any transfer of such property or structure is used for a purpose of which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

2.2 The Agency agrees to comply with Title VIII of the Civil Rights Act of 1968 (P.L. 90-284), as amended by the Fair Housing Amendments Act of 1988 (P.L. 100-430), and will administer all programs and activities relating to housing and community development in a manner to affirmatively further fair housing within Constitutional limitations throughout the United States.

2.3 The Agency agrees to comply with Section 109 of the Housing and Community Development Act of 1974 and 1977, as amended, and in conformance with all requirements imposed pursuant to the regulations of the Department of HUD (24 CFR Part 570.602) issued pursuant to that Section; and in accordance with Equal Opportunity obligations of that Section, no person in the United States will, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, any program or activity funded in whole or in part with the Community Development funds. Section 109 of the Act further provides that any prohibition against discrimination on the basis of age, under the Age Discrimination Act of 1975 (24 CFR Part 146), or with respect to an otherwise qualified handicapped person, as provided in Section 504 of the Rehabilitation Act of 1973 (24 CFR Part 8), will also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act.

2.4 The Agency agrees to comply with Executive Order 11063 on equal opportunity in housing and related facilities owned or operated by the Federal Government or provided with Federal financial assistance.

2.5 The Agency agrees to comply with Executive Order 11246, as amended, requiring nondiscrimination and affirmative action to ensure nondiscrimination in employment by government contractors and subcontractors and under federally assisted construction contractors.

2.6 The Agency agrees to comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as amended, the HUD regulations issued pursuant thereto (24 CFR Part 135) as follows:

a. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u); Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns that are located in or owned in substantial part by persons residing in the area of the project.

b. The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.

c. The contractor will send to each labor organization or representative or workers, with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advertising the said labor organization or workers' representative of his commitments under this Section 3 clause and will post copies of the notice in conspicuous places available to employees and applicants for employment or training.

d. The contractor will include this Section 3 clause to every subcontract for work in connection with the project and will, at the direction of the applicant or Community of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this Contract, will be a condition of the Federal financial assistance provided to the project.

3. **Subcontracting.** All work or services covered by this Contract, which is subcontracted by the Agency, will be specified by written contract and subject to all provisions of this Contract. All subcontracts must be approved by the City prior to execution.

4. **Interest of Certain Federal Officials.** No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit to arise from the same.

5. **Interest of Members, Officers or Employees of the Agency, Members of Local Governing Body, or Other Public Officials.** No member, officer, or employee of the Agency or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for 1 year thereafter, will have any interest, direct or

indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Contract.

6. **Hatch Act.** The Agency agrees to comply with all provisions of the Hatch Act and that no part of the program will involve political activities, nor will personnel employed in the administration of the program be engaged in activities in contravention of Title V, Chapter 15, of the United States Code.

7. **Labor Standards Provisions.** The Agency agrees to comply with 24 CFR § 570.603, "Labor Standards" published by HUD for Community Development Block Grants.

8. **Compliance with Environmental Requirements.** The Agency agrees to comply with any conditions resulting from the City's compliance with the provisions of the National Environmental Policy Act of 1969 and the other provisions of law specified at 24 CFR § 58.5 insofar as the provisions of such Act apply to activities set forth in the Statement of Work.

9. **Compliance with Flood Disaster Protection Act.**

9.1 This Contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). No portion of the assistance provided under this Contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in any area identified by the Secretary as having special flood hazards, which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this Contract for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program will be subject to the mandatory purchase of flood insurance requirements of Section 102(a) of said Act.

9.2 Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared, or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance required with respect to financial assistance for acquisition or construction purposes under Section 102(2) of Flood Disaster Protection Act of 1973. Such provisions will be required notwithstanding the fact that the construction of such land is not itself funded with assistance under this Contract.

10. **Compliance with Air and Water Acts.**

10.1 This Contract is subject to the requirements of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.; and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

10.2 In compliance with said regulations, the City will cause or require to be inserted in full in all contracts and subcontracts with respect to any nonexempt transaction thereunder funded with assistance provided under this Contract, the following requirements:

a. A stipulation by the contractor or subcontractor that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the list of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR § 15.20.

b. Agreement by the contractor to comply with all the requirements of Section 114 of the Clear Air Act, as amended (42 U.S.C. 1857c-8), and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1318) relating to inspection,

monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

c. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the director, Office of Federal Activities EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA list of Violating Facilities.

d. Agreement by the contractor that he will include or cause to be included the criteria and requirements in paragraphs (a) through (d) of this section in every nonexempt subcontract and requiring the contractor to take such action as the Government may direct as means of enforcing such provisions.

e. In no event will any amount of the assistance provided under this Contract be utilized with respect to a facility that has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

11. **Historic Preservation.** This Contract is subject to the requirements of P.L. 89-665, the Archaeological and Historic Preservation Act of 1974 (P.L. 93-291), Executive Order 11593, and the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800. The City must take into account the effect of a project on any district, site, building, structure, or object listed in or found by the Secretary of the Interior, pursuant to 35 CFR Part 800, to be eligible for inclusion in the National Register of Historic Places, maintained by the National Park Service of the U. S. Department of the Interior, and must make every effort to eliminate or minimize any adverse effect on a historic property.

12. **Historic Barriers.** This Contract is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151) and its regulations. Every building or facility (other than a privately owned residential structure) designed, constructed, or altered with CDBG funds must comply with requirements of the "American Standards Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped."

13. **Lead-Based Paint.** This Contract is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.), and Lead-Based Paint Regulations (24 CFR Part 35 and 24 CFR § 570.608 and/or 92.335), and related amendments thereto. The use of lead-based paint is prohibited whenever federal funds are used directly or indirectly for the construction, rehabilitation, or modernization of residential structures. All federally assisted residential structures and related property constructed prior to 1978, Homebuyer Programs, Tenant-Based Rental Assistance, and Special-Needs Housing (acquisition), will comply with existing and new Lead-Based Paint Hazard Reduction Requirements, effective September 15, 2000. As the Grantor or Participating Jurisdiction, the City of Glendale shall be consulted regarding the Agency/Grantee's compliance status.

14. **Property Disposition.** Real or personal property purchased in whole or in part with CDBG funds shall not be disposed through sale, use, or location without the written permission of the City. The proceeds from the disposition of real property will be considered Program Income and subject to 24 CFR § 570.504(c).

15. **Lobbying.** Block Grant funds shall not be used for publicity or propaganda purposes designed to support or defeat legislation proposed by federal, state, or local governments.

16. **Acquisition/Relocation.** This Contract is subject to providing a certification that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR Part 24, and 24 CFR Part 511.14, which govern the acquisition of real property for the project and provision

of relocation assistance to persons displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

17. **Section 504.** The Agency agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the handicapped in any federally assisted program.

18. **Federal Fire Prevention and Control Act of 1992.** The Fire Administration Authorization Act of 1992 added a new Section 31 to the Federal Fire Prevention and Control Act of 1974. This Section requires that approved smoke detectors be installed in all houses assisted under the Community Development Block Grant Program. To comply with this requirement and locally adopted codes Agency shall install smoke detectors in all sleeping areas and any hallway connecting these sleeping areas.

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ADDITIONAL FEDERAL REQUIREMENTS
For Procurement, Disputes/Grievance Procedure, Right to Refuse Service

PROCUREMENT

1. The Agency agrees to comply with federal procurement requirements and the City's procurement code for all expenditures of funds. Below is an overview of the procurement requirements.

   1.1 Purchases over $50,000 must be publicly bid.

   1.2 Purchases between $10,001 and $50,000 must follow competitive purchasing procedures based on written quotations.

   1.3 Purchases of $5,000 to $10,000, whenever practical, must be based on oral quotations, with file documentation of vendors contacted and quotations received.

   1.4 Purchases under $5,000 do not require formal procurement.

   1.5 Expenditures for employee salaries or items such as client subsidies would not generally be subject to procurement requirements. (Such items do not generally constitute purchases.)

2. The Agency agrees to adopt a written procurement policy that, at a minimum, complies with the above procurement requirements, and to follow accounting procedures that will assure compliance with federal and city procurement codes.

3. The Agency further agrees to retain sufficient supporting documentation to demonstrate compliance with these requirements. Examples include, but are not limited, to the following:

   3.1 Copies of bid documents;

   3.2 Written quotations; and

   3.3 Evidence of oral quotations.

DISPUTES/GRIEVANCE PROCEDURE

1. The Agency agrees to negotiate and resolve any disputes in the delivery of activities stated herein and will inform the City in writing of such negotiations and resolutions.

2. In the event the issue is not resolved, the City will confer with all parties to understand the issue, if appropriate, offer guidance, and try and reach an amicable solution.

3. In the event the issue is not resolved, and with both parties agreeing, the City Mediation Program will be available to assist in resolving the dispute.

RIGHT TO REFUSE SERVICE

The City reserves the right to refuse, terminate, or suspend service or accounts to an individual, company, or agency, if the City believes that conduct or actions violate applicable law, is harmful to the interests of the City of Glendale and its affiliates, or meets the criteria covered under City's Right to Refuse Assistance Policy. Legal counsel will be consulted before such action is undertaken, unless an emergency.

INSURANCE REQUIREMENTS

The Certificate of Insurance will contain the following information:

Item One:

A. Commercial General Liability coverage with limits not less than $1 million per occurrence, $100,000 for property damage liability, and $2 million aggregate.

B. Unless a sole proprietorship, Agency shall carry Arizona Statutory Workers Compensation and Employers' Liability coverage.

Item Two: City of Glendale will be named Certificate Holder.

Item Three: City of Glendale will be named as "additional insured."

Item Four: The Certificate of Insurance will provide a 30-day notice to the City of Glendale for cancellation, non-renewal, or material change and must be an "occurrence," not a "claims made" policy.

Item Five: General Requirement for the Insuring Company:

A. The insurance company underwriting the policy will have a Best Rating of B++ or better. Please request that your insurance provider supply some form of verification of the best rating of B++ or better.

B. The insurance company underwriting the policy will **be licensed in the State of Arizona**.

C. If the Certificate of Insurance contains a section page which notes: "Important, if the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s)." Insurance Certificates containing this clause will not be accepted without an **"endorsement" stating, "the City of Glendale is included as an 'additional insured' on the policy."**

###

CERTIFICATIONS

See attached Certifications:

1. Policy of Nondiscrimination on the Basis of Disability.
2. Section 319 of Public Law 101-121.
3. Contracting with Small and Minority Firms, Women's Business Enterprises and Labor Surplus Area Firms.
4. Drug-Free Workplace.

###

POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY

The undersigned representative agrees, on behalf of Client, to have or adopt a Policy of Nondiscrimination on the Basis of Disability. Such Policy will state that the Agency does not discriminate on the basis of disabled status in the admission or access to, or treatment or employment in, its federally assisted programs or activities.

Signature

5/2/12
Date

SECTION 319 OF PUBLIC LAW 101-121

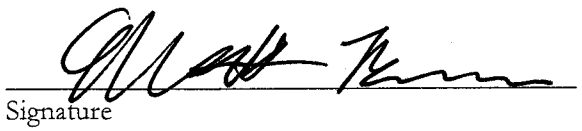
The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 undersigned will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned will 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 agencies will 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 31 U.S.C. § 1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.



Signature

5/2/12

Date

CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES AND LABOR SURPLUS AREA FIRMS

1. It is a national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction, and services. Affirmative steps will include the following:

   1.1 Qualified small and minority businesses on solicitation lists.

   1.2 Assuring that small and minority businesses are solicited whenever they are potential sources, and to the greatest extent possible that these businesses are located within the metropolitan area.

   1.3 When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.

   1.4 Where the requirement permits, establish delivery schedules which will encourage participation by small minority businesses.

   1.5 Using the services and assistance of the Small Business Administration, and the Office of Minority Business Enterprises of the Department of Commerce and the Community Services Administration as required.

   1.6 If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in §§ 1.1 through 1.5. Grantees will take similar appropriate action in support of women's enterprises.

   1.7 To the greatest extent feasible, opportunities for training and employment will be given to low and moderate income persons residing within the metropolitan area.

2. The above-described equal opportunity requirements are obligations of the City of Glendale because federal funds are being utilized to finance the Project to which this Project pertains.

3. In executing any contract, the Agency agrees to comply with the requirements and to provide appropriate documentation at the request of the City.

Signature

5/2/12
Date

DRUG-FREE WORKPLACE

The Agency certifies that it will maintain a drug-free workplace in accordance with the requirements of 24 CFR Part 24, Subpart F by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Agency's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

2. Establishing an ongoing drug-free awareness program to inform employees about:

   2.1 The dangers of drug abuse in the workplace;

   2.2 The Agency's policy of maintaining a drug-free workplace;

   2.3 Any available drug counseling, rehabilitation and employee assistance programs; and

   2.4 The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1.

4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will:

   4.1 Abide by the terms of the statement; and

   4.2 Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

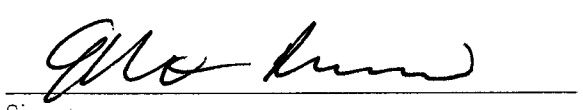
5. Notifying the City in writing, within ten calendar days after receiving notice under paragraph 4.2 from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice will include the identification number(s) of each affected grant.

6. Taking one of the following actions, within 30 calendar days of receiving notice under paragraph 4.2, with respect to any employee who is so convicted:

   6.1 Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

   6.2 Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, local health requirements, law enforcement, or other appropriate agency.

7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of the above-described paragraphs.



Signature

5/2/12

Date