



REQUEST FOR PROPOSAL STATEWIDE HOUSING LOCATOR SERVICES

BACKGROUND INFORMATION and OVERVIEW

The Arizona Department of Housing (ADOH) Special Needs Division is seeking a qualified organization to provide Statewide Housing Locator Services. The goal of this program is to increase the availability of safe, affordable housing options for individuals and families experiencing homelessness and participating in scattered site permanent housing and rapid re-housing programs.

The purpose of this Request for Proposal (RFP) is to secure one qualified entity (governmental, non or for-profit) to provide statewide Housing Locator Services including: trained housing locator staff; outreach and recruiting of landlords and property managers to participate in homeless housing programs; coordination with local coordinated entry and housing supportive service providers; usage of housing database or other tools to manage housing options; and development and implementation of a program marketing strategy and materials. One contract may be awarded, but Offeror may elect to sub-contract or collaborate with a 3rd party to deliver all or some of the services described in scope of work. All services and activities under this project will serve all fifteen (15) Arizona counties. The initial contract shall be for an eighteen (18)-month period. Additional one (1) year renewals for up to three (3) years may be available at the discretion of ADOH based upon project performance and availability of funding. Renewals shall involve a new Scope of Work, Performance Timeline, and Grant amount to be negotiated with the entity selected for contracting.

As more homeless funding and programming has been aligned around Housing First and Rapid Re-housing models, there has been an increased need to find and maintain an adequate roster of safe, affordable rental units throughout Arizona for individuals and families participating in these programs. Due to low vacancy rates, rising rents, and the stigma of renting to formerly homeless individuals, or those reintegrating into mainstream society, it has become difficult to find sufficient housing units to meet this demand. Identifying housing units, negotiating with landlords, and promoting programs generally falls upon case managers and service providers. This is not their area of expertise and reduces the amount of time available for outreach, client counseling and income assistance. These barriers result in longer housing search times, client frustration and overcrowding in our shelters along with increased crisis service use while individuals and families search for housing.

ADOH's goals in creating a statewide Housing Locator Service are to create a team of dedicated staff to:

- 1) identify safe and affordable rental units throughout Arizona;
- 2) recruit private sector landlords, owners and property managers of these units to participate in efforts to end homelessness by leasing to tenants referred through homeless housing and rapid re-housing programs;
- 3) promote and educate landlords and property managers about current housing programs;
- 4) coordinate between landlord/property owners and service providers to ensure availability of housing resources in the community, and;
- 5) administer the Housing Mitigation Fund

FUNDING SOURCE

The Housing Locator Services will be funded through the ADOH Housing Trust Fund.

MINIMUM QUALIFICATIONS

This is a competitive process open to non-profit, faith-based, private, and public agencies that meet the following minimum qualifications:

1. Must have work experience related to the Scope of Work.
2. Must demonstrate fiscal and administrative capacity to perform the proposed services. For current ADOH sub-recipients, ADOH will consider all ADOH program and fiscal monitoring reports, as well as expenditure reports, indicating agency's ability to expend funds in a timely manner.
3. Agencies not eligible include those that have had a state contract terminated for default, and/or are currently debarred by any federal or state debarment agency.

THRESHOLD REVIEW

To be eligible for evaluation and scoring, proposals must meet the following threshold requirements. Proposals that fail to comply with all instructions will be rejected without further consideration.

1. Application is submitted on time and complete.
2. Application meets the proposal format requirements.
3. The project must be ready to start immediately upon receipt of a contract.
4. The recipient must have the capacity to complete the project in a timely manner and adhere to all regulations.

ADOH may make inquiries in order to verify and or clarify the information submitted, but applicant may only provide missing information to specifically address a request for information from the ADOH. Applicants must respond by the deadline included in the inquiry to avoid disqualification. ADOH may verify representations, information, and data in an Application with public information, independent reports, and statistics available through recognized subscription services.

PERFORMANCE PARAMETERS

If awarded a contract, applicants will be expected to achieve and report on the following performance measures:

1. Total number of new units made available each month for ADOH Housing Programs.
2. Number of new units made available each month by County for housing programs directed at ending homelessness.
3. Number of new units made available each month for Pilot Reintegration RRH Program in Maricopa County.

BUDGET

The annual budget will include approximate funding in these budget line items: Staffing, Operations, Marketing and Administration.

SCOPE OF WORK

Key Duties include:

Statewide Housing Locator Services and Housing Recruitment

1. Hire, train and manage staff to perform Housing Locator functions described herein.
2. Actively identify, engage, recruit and maintain relationships with private sector landlords including property managers and property owners to increase housing options for individuals and families experiencing homelessness and participating in permanent and rapid re-housing subsidy programs. This includes identifying housing options for individuals and families with criminal history, imperfect credit, mental health or other barriers to housing.
3. Coordinate and utilize socialserve.com housing database to manage housing listings, eligibility and specifications in all Arizona counties to coordinate and share housing options with homeless service and housing subsidy providers and coordinated entry systems.
4. Be familiar with AZ Landlord Tenant Law, Fair Housing laws, Housing Quality Standards and other federal, state and local legal issues related to the provision of safe, accessible and affordable housing.
5. Be knowledgeable and provide Housing Locator Services Project elements in all fifteen urban and rural Arizona Counties.
6. Awareness and commitment to Housing First, rapid re-housing, coordinated entry and other housing based strategies for ending homelessness.
7. Function as a secondary contact for tenants participating in the program if case manager or navigator cannot be reached.

Coordination with Local Coordinated Entry and Homeless Service Providers

1. Coordinate with the local coordinated entry, Rapid Re-Housing and Permanent Supportive Housing providers and homeless service providers to facilitate referral process and rental placements.
2. Work with landlords, reintegration service provider/s and homeless supportive service providers to address concerns and resolve tenancy issues associated with individuals and families experiencing homelessness or reintegrating, to maintain landlord participation with housing subsidy, homeless housing programs, ADOC/ADC reintegration pilot projects and housing retention for persons experiencing homelessness.
3. Promote and assist landlords with use of ADOH AZ Landlord Incentive Project (ALIP) to address damages related to participation in eligible housing programs to maintain landlord participation.

Development of Marketing and Education to Landlords to Increase Program Awareness

Provide a communication/marketing plan to promote landlord participation. This plan should include:

1. The methods to be used for broad public outreach, e.g., PSAs, social networks, print media and the distribution of posters and brochures with a list of entities to which such shall be distributed/provided and the frequency of distribution.
2. Any specific events at which program promotion will be conducted, (e.g. conferences, trade association meetings, etc.)
3. The Offeror selected shall be required to submit for approval all materials that will be distributed and all materials must:
 - include the ADOH and Fair Housing logos,
 - be provided in other languages where appropriate,
 - contain the required disability statement and allow for copying and reuse, as once developed such will be in the public domain,
4. Handle public inquiries and complaints as appropriate.

Administer the Housing Mitigation Fund

ADOH established the Arizona Landlord Incentive Program (ALIP) to engage and incentivize landlords to rent to special populations. The contract for Housing Locator Services would include administering ALIP. ALIP reimburses landlords for property damage, vacancy expenses due to eviction, abandonment, or fees to hold a rental unit temporarily if landlord agrees to continue to lease to homeless households and those reintegrating, referred through eligible housing subsidy providers.

The basic duties to administer ALIP include: promoting the program, accepting landlord applications for reimbursement, reviewing submitted reimbursement applications for completeness and cutting checks for approved reimbursements.

PROPOSAL PROCESS

There will be a pre-submission meeting for this Request for Proposal for clarification related to definition or interpretation to be held on Monday, December 11, 2017 at ADOH, 1110 W. Washington St., Suite 280 from 10:00 am until 12:00 pm.

1. PROPOSAL SUBMISSION

One (1) legible PDF electronic version of the complete Proposal is due **no later than 4:30 PM on Friday, January 19, 2018 and must be submitted via the ADOH Special Needs Portal**. The name of the file must be ADOHSHLS-(*agency name*) (Example: ADOHSHLS – XYZ, Inc.) The ADOH *Special Needs Portal* which may be found at the following location on ADOH's website:

<https://housing.az.gov/portals/document-upload-portals/special-needs-portal>

The electronic copy must be organized to correspond to the **PROPOSAL FORMAT AND EVALUATION CRITERIA** in the RFP. The proposal shall contain signed PDF documents of the General Information Sheet and the Certification Form below.

Questions regarding the RFP will be answered at the Public Meeting on December 11, 2017 and may be submitted in writing until January 15, 2018 via e-mail to Karia Basta, Special Needs Administrator karia.basta@azhousing.gov Answers to questions will also be available on the ADOH Special Needs webpage.

2. PROPOSAL FORMAT AND EVALUATION CRITERIA

Offeror shall complete and include with the proposal a signed certification form. The award will be made to the responsible Offeror whose proposal is determined to be most advantageous to the entities based upon the following criteria:

- A. Method of Approach (40 points). Response to include detailed descriptions of the following:
 1. Cover Letter
 2. Written narrative demonstrating the ability to satisfy the Scope of Work. The narrative should describe a logical progression of tasks and efforts starting with the initial steps or tasks to be accomplished and continuing until all proposed tasks are fully described.
 3. Staffing model and strategies for providing state Housing Locator Services in all Arizona Counties.
 4. Specific strategies for identifying, engaging, educating and outreaching to landlords.
 5. Proposed timeframe to implement Housing Locator Services by March 1, 2018 with deadlines for each component.

6. Collaborations or partnerships in place or planned to deliver or enhance Housing Locator Services or functions.
7. Ability to utilize and coordinate with socialserve.com housing database for managing landlord information and coordinating with housing subsidy and supportive service providers.
8. Strategies for coordinating with landlords and homeless service system including coordinated entry, supportive services providers and housing subsidy programs to resolve issues to enhance retention.
9. Clearly identified goals and proposed measureable outcomes to demonstrate program efficiency. Describe any proposed metrics, measurement, or other evaluation methodology used to evaluate program and its impact or effectiveness.

B. Experience and Reliability (30 points). Response to include detailed descriptions of the following:

1. Experience working with landlords, property owners or property management companies for both the Offeror and the specific staff assigned to the task.
2. Experience in serving or working with and housing homeless individuals and families including any experience with Housing First initiatives, continuum of care or other homeless and special population programs.
3. Experience with collaboration and partnerships or other private/public/non-profit partnerships.
4. Overall agency administrative and financial capacity to responsibly implement and oversee administrative and fiscal requirements of contract.
5. Information on the Offeror's related experience. This should include specific information on the type of services provided and on the dates of performance.
6. A list of references. References should be verifiable and should be able to comment on the Offeror's related experience. The Offeror should submit three (3) similar type professional service references.
7. The proposal may include any additional information that reflects on the Offeror's ability to perform the required services.
8. Experience and reliability of the Offeror's organization is considered in the evaluation process. The Offeror is advised to submit any information that documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP.
9. The Offeror should provide an organizational chart showing the staffing and lines of authority for the key personnel to be used in the project. The relationship of the project leader to management and to support personnel should be clearly illustrated.

10. The Offeror should provide a resume and data related to previous work assignments as they relate to this RFP for each of the key personnel to be assigned to the project if known. If new positions, please include job description for any proposed positions.
 11. If 3rd party or other sub-contractor will be providing required services described under the terms of this contract, provide brief description of their qualifications and experience and primary contact for the project.
- C. Cost (30 points). Include a detailed budget with the following components:
1. Cost of staffing related to FTEs by position(s), hourly wage costs, and Employee Related expenses for project staffing.
 2. Project Operational Costs including transportation, phone and communications, equipment, travel, etc.
 3. Budget for education, promotion, printing and other costs associated with promotion and recruitment of landlords.
 4. Administrative/Overhead costs (not to exceed 10%)
 5. Payments to any 3rd party or sub-contracts to provide any of the proposed services described in the offer
 6. Any in-kind or other financial support being dedicated to the project by the agency or offeror.
 7. Other costs or expenses.

CONTRACT

By submitting a proposal in response to this RFP, the respondent implicitly agrees to comply with the provisions in the ADOH standard Funding Agreement. Applicants must review Funding Agreement in Attachment 1.

DISCUSSIONS

In accordance with A.R.S. § 41-2534, after the initial receipt of proposals, the State reserves the option to conduct discussions with those Offerors who submit proposals determined to be reasonably susceptible of being selected for award.

ADDITIONAL REQUIREMENTS

Upon notification that the Offeror has been selected for funding, participation at a meeting scheduled by ADOH is required. The contract meeting will include preparation of any additional forms and negotiation of a final Scope of Work.

Department of Housing
REQUEST FOR PROPOSAL – Statewide Housing Locator Services

General Information Sheet

Contact Person: _____

Title: _____

Firm Name: _____

Street Address: _____

City/State/Zip: _____

Telephone: ____ (____) _____

E-mail Address: _____

Department of Housing
REQUEST FOR PROPOSAL – Statewide Housing Locator Services

CERTIFICATION FORM

TO THE STATE OF ARIZONA:

The undersigned hereby offers and agrees to furnish the service in compliance with all terms, conditions, and specifications and amendments in the Proposal and any written exceptions in the offer. Signature certifies understanding and compliance with the State of Arizona Uniform Terms and Conditions, as well as the following:

- A. *Non-collusion, Employment, and Services.* By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:
 - 1. It did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and
 - 2. It does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable federal, state and local laws and executive orders regarding employment.
- B. *Disclosure.* If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.
- C. *Disqualification.* The Offer of an Offeror who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall be rejected.

Firm Name

Address

City

State

Zip

The Applicant has caused this document to be duly executed as of this ___ day of _____ 20__.

Offeror's Authorized Signature

Attachment 1

ADOH Funding Agreement

FUNDING AGREEMENT
with
ARIZONA DEPARTMENT OF HOUSING

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FUNDING AGREEMENT
with
ARIZONA DEPARTMENT OF HOUSING

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ATTACHMENTS

- A Scope of Work
- B Performance Report/Schedule of Completion
- C Budget
- D Request for Payment Form
- E Special Conditions of the Agreement
- F Certification and Other Requirements Relating to Title I or Title II Assistance
- G Authorizing Resolution(s)
- H Additional Provisions of the 2013 HOME Final Rule (Effective August 23, 2013)

AGREEMENT NO.
TERMINATION DATE

FUNDING AGREEMENT
BETWEEN THE ARIZONA DEPARTMENT OF HOUSING
AND
FOR

This Funding Agreement ("Agreement") is made by and between:

The **Arizona Department of Housing ("ADOH")**, located at, 1110 West Washington Street, Suite 280, Phoenix, Arizona 85007, acting pursuant to A.R.S. § 41-3953 and (please select applicable funding source):

- Title I of the Housing and Community Development Act of 1974, as amended (Community Development Block Grant) ("**CDBG**").
- Title II of the National Affordable Housing Act of 1990, as amended (HOME Investments Partnerships Program) ("**HOME**").
- A.R.S. § 41-3955 (State Housing Trust Fund) ("**HTF**").
- A.R.S. § 41-3957 (State Housing Program Fund) ("**HPF**").
- The AIDS Housing Opportunity Act of 1992, as amended, 42 U.S.C. Section 12902 (Housing Opportunities for Persons with HIV/AIDS) ("**HOPWA**").
- Title IV Part 578 of the McKinney-Vento Homeless Assistance Act of 1987, as amended, 42 USC. 11301 et seq. and the Continuum of Care Program regulations as amended by the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 (Continuum of Care) ("**COC**").
- Title I of the Housing and Economic Recovery Act of 2008, Section 1131 (Public Law 110-89). (National Housing Trust Fund) ("**NHTF**").
- Part A of the Energy and Conservation in Existing Buildings Act of 1976, as amended and 42 U.S.C. Section 6861 (Department of Energy Weatherization Assistance Program for Low Income Persons) ("**DOE WAP**").
- Low Income Energy Assistance Act of 1981, as amended, 42 U.S.C. Section 8621-8630, (Low Income Home Energy Assistance Program) ("**LIHEAP WAP**").

Southwest Gas Corporation, Weatherization Assistance Program (“**SWG WAP**”).

and

(Entity)

An Arizona SELECT (“Recipient”) DUNS # _____, located at

Street

City State Zip

In consideration of the mutual representations and obligations hereunder,
ADOH and Recipient agree as follows:

Section 1. FUNDS PROVIDED

ADOH agrees to provide \$_____ in the following type of funds to Recipient in accordance with this Agreement. ADOH is entitled to change the funding sources as described in this section, in its sole discretion, so long as the total amount of funds to be disbursed is not affected thereby.

CDBG, CFDA # 14.228
Federal Fiscal Year _____
\$_____

HOME, CFDA # 14.239
Federal Fiscal Year _____
\$_____

HTF
State Fiscal Year _____
\$_____

HPF
State Fiscal Year _____
\$_____

HOPWA, CFDA # 14.241
Federal Fiscal Year _____
\$_____

COC, CFDA # 14.267
Federal Fiscal Year _____
\$_____

- NHTF, CFDA # 14.275**
Federal Fiscal Year _____
\$_____

- DOE WAP, CFDA # 81.042**
Federal Fiscal Year _____
\$_____

- LIHEAP WAP, CFDA # 93.658**
Federal Fiscal Year _____
\$_____

- SWG WAP**
State Fiscal Year _____
\$_____

Section 2. OTHER FUNDS

If applicable, Recipient agrees to secure funding other than that listed in **Section 1** for the completion of this Agreement as indicated in the *Budget* attached hereto as **Attachment C**. ADOH reserves the right to rescind some or all of the funding committed through this Agreement if other funding sources become unavailable.

Section 3. ACCEPTANCE OF FUNDS

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

Section 4. DURATION

This Agreement shall be effective beginning on the date of execution by ADOH and shall remain in effect until _____ unless sooner terminated, extended or otherwise amended in accordance with the terms of this Agreement.

Section 5. INCORPORATION OF TERMS FOR COMPLIANCE WITH PROGRAM REQUIREMENTS AND APPLICABLE STATE AND FEDERAL LAW

Recipient shall carry out each activity in compliance with all applicable State and Federal laws, Federal regulations and other requirements including, but not limited to, the provisions indicated as marked below and hereby incorporated into this Agreement, as if fully set forth herein. Also incorporated into this Agreement as applicable, are the terms of any resolution authorizing Recipient's application for funds, which is attached hereto as **Attachment G, Authorizing Resolution(s)** and any *Special Conditions of the Agreement* attached hereto as **Attachment E**.

- CDBG** funds require adherence to the following provisions as revised: (1) 24 CFR Part 570; (2) *Certification and Other Requirements Relating to Title I Assistance* attached hereto as Attachment F; (3) the provisions contained in the *State of Arizona Consolidated Plan*; (4) *ADOH ERR Handbook*; (5) *ADOH Labor Standards Handbook*; (6) *CDBG Application Handbook*; (7) *CDBG Grant Administration Handbook*; and (8) *CDBG Procurement, Contracts and Acquisition Handbook* (collectively “the Incorporated Documents”) as each may be amended from time to time. In the event of a conflict between the terms of this Agreement and the terms of the Incorporated Documents, the terms of this Agreement shall govern.
- HOME** funds require adherence to the following provisions as revised: (1) 24 CFR Part 92; (2) *Certification and Other Requirements Relating to Title II Assistance* attached hereto as Attachment F; (3) the provisions contained in the *State of Arizona Consolidated Plan*; (4) *ADOH ERR Handbook*; (5) *ADOH Labor Standards Handbook*; and (6) the *State Housing Fund Program Summary and Application Guide*.
- HTF** funds require adherence to the *State Housing Fund Program Summary and Application Guide* as revised.
- HPF** funds require adherence to the *Special Needs Housing Manual* as revised.
- COC** funds require adherence to the following provisions as revised: (1) 24 CFR Part 578; and (2) the *Special Needs Housing Manual* as revised.
- HOPWA** funds require adherence to the following provisions as revised: (1) 24 CFR Part 574; and (2) the *Special Needs Housing Manual* as revised.
- NHTF** requires adherence to the following provisions as revised: (1) 24 CFR Parts 91 and 93, Housing Trust Fund Interim Rule; (2) the provisions contained in the *State of Arizona Consolidated Plan*; (3) *State Housing Fund Program Summary and Application Guide*; (4) State of Arizona Qualified Allocation Plan; and (5) *National Housing Trust Fund Allocation Plan*.
- DOE WAP** funds require adherence to the following provisions as revised: (1) 10 CFR Part 440 as revised; (2) the *Arizona Weatherization Assistance Program State Plan (State Plan)*; (3) *Health and Safety Plan (HSD Plan)*; (4) *the Arizona Weatherization Policies and Procedures Handbook*; (5) *Arizona Weatherization Assistance Program Field Guide*; (6) *Standard Work Specifications*; and (7) *WAP Memorandum 15-10 Quality Management Plan*.
- LIHEAP WAP** funds require adherence to the following provisions: (1) 45 CFR Part 96 as revised; (2) *the Arizona Weatherization Assistance Program State Plan (State Plan)*; (3) *Health and Safety Plan (HSD Plan)*; (4) *the Arizona Weatherization Policies and Procedures Handbook*; (5) *Arizona Weatherization Assistance Program Field Guide*; (6) *Standard Work Specifications*; and (7) *WAP Memorandum 15-10 Quality Management Plan*.

- SWG WAP** funds require adherence to the following provisions: (1) *the Arizona Weatherization Assistance Program State Plan (State Plan)*; (2) *Health and Safety Plan (HSD Plan)*; (3) *the Arizona Weatherization Policies and Procedures Handbook*; (4) *Arizona Weatherization Assistance Program Field Guide*; (5) *Standard Work Specifications*; and (6) *WAP Memorandum 15-10 Quality Management Plan*.

Section 6. SCOPE OF WORK

Recipient agrees to utilize all funds made available under this Agreement only for the purpose of implementing the *Scope of Work* hereby incorporated into this Agreement and described in Attachment A.

Revisions to Scope of Work. Recipient agrees to follow the procedures indicated as marked below regarding changes to the *Scope of Work*.

Revisions to the *Scope of Work* that change the manner in which an activity is to be executed or that change final outcome such as number of units, feet of utility line, number of households served, square footage of building, etc. require prior written approval from ADOH. The following substantial revisions to the *Scope of Work* require written amendment to this Agreement:

- (a) The purpose of the project changes;
- (b) The location of the project changes;
- (c) A project activity is added, deleted or altered such that it becomes a different activity;
- (d) The beneficiary of any activity changes;
- (e) Recipient is requesting a change to the loan or grant terms. Recipient must submit a written request for an Agreement amendment to ADOH, with a revised *Scope of Work* attached;
- (f) The ownership entity changes; and
- (g) Any other changes that involve program requirements.

ADOH will respond to the written request within fourteen (14) business days. Amendments may not be implemented until ADOH consents in writing and an amendment to the Agreement has been executed.

Section 7. REPORTS

Recipient shall be responsible for providing various reports of all activities related to this Agreement as identified below and as requested by ADOH or HUD. Recipient shall also provide to ADOH any additional written information requested by ADOH in a timely manner and within reasonable deadlines as shall be set by ADOH.

7.1 Performance Report. Recipient agrees to submit performance reports as indicated below.

- CDBG, HOME, NHTF, HTF, HPF, COC, HOPWA, DOE WAP, LIHEAP WAP and SWG WAP.** Recipient must submit a *Bimonthly Performance Report* attached hereto as Attachment B. The Bimonthly Progress Report must be submitted to ADOH on the 20th of January, March, May, July, September and November and address activities of the preceding two (2) months (i.e. the January report covers the months of November and December). Failure to submit *Bimonthly Performance Report* will result in suspension of payment reimbursement requests until such reports are brought current. **In addition to the *Bimonthly Performance Report***, for COC, Recipient shall submit *Annual Progress Report (APR)* data from HMIS to ADOH no later than thirty (30) days following the contract termination date listed on Page 1 of this Agreement.

- HOPWA** funded rental assistance and services (“HOPWA Projects”). A Recipient of HOPWA awarded funding shall administer said program in the contract term as set forth in Section 4 and submit one (1) *HUD Consolidated Annual Performance Evaluation Report (CAPER)* in accordance with the schedule set forth in Attachment B no later than sixty (60) days following the end of Fiscal Year date which is June 30th annually.

7.2 Contract Close-Out Completion Reports and Post-Funding Audits. Recipient's obligation to ADOH under this Agreement shall not end until all closeout requirements described in this paragraph are completed (“Contract Close-Out Date”), except as provided hereunder. ADOH will notify Recipient in writing that a Completion Report is due to ADOH within sixty (60) days of one (1) of the following occurrences:

- (a) The funds have been expended;
- (b) The Scope of Work has been completed;
- (c) The contract period set forth in this Agreement has expired; or
- (d) The Agreement has been otherwise terminated.

The Completion Report shall contain the information identified in the notice.

Following the receipt and approval of the Completion Report, ADOH will notify Recipient in writing that the Agreement is administratively closed.

After the project is administratively closed, Recipient must submit all required audits to ADOH, and such obligation shall survive the Contract Close-Out Date. All audits for fiscal years in which Recipient received funds from ADOH must be received, reviewed and found to be satisfactory by ADOH. In the event that ADOH determines that any project costs described in a post-funding audit are unjustified or describe ineligible activities, Recipient will be required to refund such monies back to ADOH.

Section 8. SCHEDULE OF COMPLETION

Recipient agrees to make progress with the *Scope of Work* in accordance with the *Schedule of Completion* hereby incorporated into this Agreement and described in Attachment B.

Revisions to the Schedule of Completion. Recipient agrees to follow the procedures indicated as marked below regarding changes to the *Schedule of Completion*.

- CDBG, HOME, NHTF, HTF, HPF, or COC.** Recipient must notify ADOH of revisions to the *Schedule of Completion* using the *Bimonthly Performance Report*, attached hereto as Attachment B. To the extent that the changes cause the schedule timeline to be extended, Recipient must submit a written request for a contract amendment to ADOH with a revised *Schedule of Completion* attached. Contract amendment requests must be received by ADOH a minimum of thirty (30) days prior to the contract expiration date. ADOH will respond to the written request within fourteen (14) business days. Amendments may not be implemented until ADOH consents in writing and an amendment to the Agreement has been executed.

- DOE WAP, LIHEAP WAP and SWG WAP.** Projects funded with DOE WAP, LIHEAP and/or SWG WAP. Recipients will have twelve (12) months to complete the Scope of Work with no extensions. ADOH may, based on a review of the progress of Recipient completed units and expenditures, move funds from a non-performing or under-performing Recipient to a Recipient meeting or exceeding their performance goals. ADOH will review the performance of the Recipient on a monthly basis. The first re-allocation of funds if applicable would occur at six (6) months with additional re-allocations, if needed, at the eight (8) month and ten (10) month time periods.

Section 9. BUDGET

Recipient agrees to use the funds provided pursuant to this Agreement in accordance with the Budget that is attached as Attachment C. Recipient further agrees that any project costs, unless otherwise specified, exceeding the Budget shall be the sole responsibility of Recipient.

Revisions to the Budget. Recipient agrees to follow the procedures indicated as marked below regarding changes to the *Budget*:

- CDBG.** Recipient must obtain written approval from ADOH to move funds from one Budget Activity Line Item to another. The following substantial revisions to the *Budget* require a contract amendment:
 - (a) Funds are moved from one Budget Activity Line Item to another and the change in the Budget Activity Line from which it is moved or to which it is being moved exceeds fifty percent (50%), unless the move is from administration to a non-

administration activity, in which case only written notice without a contract amendment is required;

- (b) Additional funding sources are added to the Project;
- (c) Recipient is requesting a change to the grant terms.

HOME, NHTF, HTF and HPF. Recipient must obtain prior written approval from ADOH to move funds from one Budget Activity Line Item to another. ADOH will only approve changes to the Budget for eligible costs as outlined in the State Housing Fund program. The following substantial revisions to the *Budget* require a contract amendment:

- (a) Additional funding sources are added to the project which require a project to be re-underwritten to determine gap;
- (b) Recipient is requesting a change to the loan terms.

DOE WAP, LIHEAP WAP, and SWG WAP. Recipient must obtain written approval from ADOH to move funds from one Budget Activity Line Item to another.

Recipient shall not retain any funds that are drawn down in excess of immediate cash needs (to be utilized within fifteen (15) days of draw down) to cover subsequent requests for reimbursement and must return them to ADOH within thirty (30) days of receipt. Recipient must also return to ADOH any interest that is earned on these funds that are drawn down and not expended for eligible costs within fifteen (15) days of draw down.

Section 10. AMENDMENTS AND MODIFICATIONS

ADOH may consent to amendment or modification of this Agreement upon written request of Recipient. All amendments or modifications to this Agreement shall be by mutual consent of the parties in writing.

ADOH will respond to the request for amendment or modification to this Agreement within fourteen (14) business days.

Section 11. ENVIRONMENTAL REVIEW CONDITIONS

Recipient must conduct an Environmental Review to determine the effects of each activity carried out with federal funds. Recipient agrees to follow the procedures indicated as marked below regarding Environmental Reviews:

CDBG, HOME, COC, HOPWA. Conduct an Environmental Review in accordance with 24 CFR 50 and 24 CFR 58 ("Environmental Review"). **For COC Recipients only,** local government entities are responsible for Environmental Reviews and requesting a release of funds from ADOH. Completion of the Environmental Review Record ("ERR") is mandatory before taking any physical action on a site or entering into

contracts. Only exempt activities such as architecture, engineering and administration may be undertaken and reimbursed by ADOH prior to receiving a written release of funds. Exempt activities described in 24 CFR 58.34(a)(1)-(11) are activities that generally have no physical impact on the environment. If federal funds are involved in a project, neither federal nor non-federal funds may be expended or committed by contract (conditional or not) for property acquisition, rehabilitation, conversion, lease, repair or construction activities, until HUD or ADOH has provided written authorization based on approval of an ERR.

Projects funded solely with HTF or HPF do not require an ERR but are required to meet the requirements of the State Historic Preservation Act by consulting with the State Historic Preservation Office (SHPO). For SHF projects, Phase I Environmental Assessments are required to be completed on properties for which new construction/change in use is proposed, regardless of whether federal or state funds are the source of funding. Expenditures incurred or obligated by construction contract prior to ADOH's release of funds or consultation with SHPO will not be reimbursed by ADOH.

- NHTF.** Projects funding with NHTF must adhere to the requirements of 24 CFR Part 93.301.
- DOE WAP, LIHEAP WAP.** DOE has made a final NEPA determination for all activities under this Funding Agreement that are listed in the State Plan formally approved by DOE and incorporated into this Funding Agreement. Recipients are responsible for compliance with Section 106 pursuant to 36 CFR Part 800.2 (c)(4).

Section 12. APPLICATION AND OTHER PRE-AWARD COSTS

Recipient may use a portion of the funds provided hereunder to reimburse itself for exempt activities pursuant to 24 CFR 58.34(a)(1)-(11) such as architecture, engineering, testing and sampling of asbestos and capital needs assessments and environmental reviews.

- CDBG.** If Recipient is receiving funding under this Agreement from the CDBG program, in accordance with federal procedures, Recipient may use funds provided hereunder to reimburse it or to pay for costs incurred in preparing the application. In no event shall such compensation exceed eighteen percent (18%) of the total funding provided to Recipient by ADOH.

Section 13. COMPENSATION AND METHOD OF PAYMENT

Subject to availability of and receipt of funds from the State's Unclaimed Property Fund (for state HTF funds) and/or the United States Treasury (for HOME, CDBG, COC, NHTF HOPWA, DOE WAP and LIHEAP WAP funds) and the commitment of other required funding as indicated in Recipient's application, ADOH agrees to reimburse Recipient for

authorized expenditures according to the *Budget* in Attachment C. Recipient must maintain invoices and other similar documentation to support payment expenses under those generally accepted accounting principles and procedures approved by ADOH and outlined in 2 CFR 200 as applicable; 24 CFR Parts 44, 92 and 570 as applicable; and 10 CFR 440 and 600 as applicable.

Recipient may request funds only after the date of the executed Agreement and other legal documents as applicable, provided Recipient has satisfied ADOH funding contingencies and federal Environmental Review conditions. Requests for reimbursement must be made using the ADOH *Request for Payment* form hereby incorporated into this Agreement and attached as Attachment D. In order to be reimbursed for construction projects, unconditional release of lien documents from the general contractor and all subcontractors must be attached to the Request for Payment in amounts proportionate to contractor reimbursement requests.

Recipient must maintain proof of said expenditures including checks, payrolls, time records, invoices, contracts, vouchers, orders and other accounting documents evidencing in proper detail the nature and propriety of the respective charges as may be required by applicable federal rules and regulations, including requirements by the Federal Office of Management and Budget, and as may be otherwise reasonably required to permit ADOH to determine or confirm that any such expenditures are prudent and within the Scope of Work.

Recipient's right to incur expenses under this Agreement shall cease upon expiration of this Agreement. All requests for reimbursement on expenditures made prior to expiration of this Agreement must be requested within sixty (60) days after expiration. Unless expressly authorized by ADOH in writing, expenditures not requested within the sixty (60) day period after expiration of this Agreement shall be disallowed and all funds shall be reclaimed by ADOH.

Section 14. FUNDS RECOUPED BY RECIPIENT, INTEREST AND PROGRAM INCOME

14.1 Definitions. For purposes of this section, the following definitions shall apply:

"Funds Recouped by Recipient" means funds initially provided by ADOH to Recipient under this Agreement and any matching contributions that are recouped by Recipient when: (1) the funds provided by ADOH under this Agreement or matching contributions or the proceeds of funds provided by ADOH (including, but not limited to, equipment or housing) do not continue to be used for an approved purpose or eligible activity, as described in applicable law or regulations, for the full period of affordability required by this Agreement; or (2) when a State-assisted homeownership housing does not continue to be the principal residence of the assisted homebuyer for the full affordability period required by this Agreement. Funds Recouped by Recipient are subject to all the requirements of Program Income described below with the exception that Recipient shall not

use Funds Recouped by Recipient for administrative purposes. For this reason, Recipient must separately account for all Funds Recouped by Recipient.

“Interest” means any compensation paid or to be paid for the use or deposit of the funds provided by ADOH to Recipient under this Agreement.

“Program Income” means gross income received by Recipient directly generated from the use of funds provided by ADOH under this Agreement. When Program Income is generated by housing that is only partially assisted with funds provided by ADOH under this Agreement or matching contributions, the income shall be prorated to reflect the percentage of funds provided by ADOH under this Agreement. Program Income includes, but is not limited to, the following: (1) proceeds from the disposition by sale or long-term lease of real property purchased or improved with funds provided by ADOH under this Agreement; (2) gross income from the use or rental of real or personal property acquired by Recipient with funds provided by ADOH under this Agreement, less costs incidental to generation of the income; (3) payments of principal and interest on loans made using funds provided by ADOH under this Agreement or matching contributions; (4) proceeds from the sale of loans made with funds provided by ADOH under this Agreement or matching contributions; (5) proceeds from sale of obligations secured by loans made with funds provided by ADOH under this Agreement or matching contributions; (6) Interest earned on Program Income pending its disposition; (7) proceeds from the disposition of equipment purchased with CDBG funds; (8) gross income from the use or rental of real property, owned by Recipient, that was constructed or improved with funds provided by ADOH under this Agreement, less costs incidental to generation of the income; (9) if the funds provided by ADOH under this Agreement are from the CDBG Program, funds collected through special assessments made against properties owned and occupied by households not of low and moderate income, where the assessments are used to recover all or part of the CDBG portion of a public improvement; and (10) if the funds provided by ADOH under this Agreement are from the HOME Program, any other interest or return on the investment permitted under 24 C.F.R. Part 92.205(b) of HOME funds or matching contributions.

14.2 Use of Program Income and Funds Recouped by Recipient.

Recipient is not authorized by ADOH to retain and reuse Program Income, Funds Recouped by Recipient or accrued Interest as described in the following paragraph(s) except as authorized by ADOH through a written agreement.

Recipient must return all Program Income, Funds Recouped by Recipient and Interest to ADOH within thirty (30) days of receipt.

Recipient must remit to ADOH any Program Income, Funds Recouped by Recipient or Interest on hand at the time of expiration, cancellation, or termination of this Agreement or subsequently received by Recipient within **thirty (30) days** of receipt by Recipient.

Section 15. DE-OBLIGATION, RECAPTURE AND REPAYMENT OF FUNDS

15.1 De-obligation. ADOH may reduce funds from the funding award evidenced by this Agreement without regard to the source of funding, under the following circumstances: (1) Recipient has completed performance under the *Scope of Work* (Attachment A) without using all of the funds provided by ADOH under this Agreement; (2) this Agreement expires and not all funds have been expended; (3) ADOH's original allocation was a loan and Recipient or Sub-recipient paid the loan; (4) Recipient, with the consent of ADOH, cancelled or changed an activity required under the *Scope of Work* for reasons other than non-performance; or (5) Recipient receives Program Income that has not been included in the budget or set forth in the *Scope of Work*; and (6) this Agreement has otherwise been terminated. ADOH may de-obligate funds under this Agreement under the foregoing circumstances upon written notice to Recipient.

15.2 Reallocation of De-obligated HOME or State HTF Funds. If the funds provided by ADOH under this Agreement are from the State HTF or the HOME Program, ADOH may reallocate funds that it has de-obligated under this Agreement as it determines in its sole discretion.

15.3 Reallocation of De-obligated CDBG Funds. If the funds provided by ADOH under this Agreement are from the CDBG Program, ADOH may reallocate funds that it has de-obligated under this Agreement to Recipient from which the funds were de-obligated for use under an existing or new funding contract of the same funding year if Recipient can immediately commit the reallocated funds to a project and execute a new or amended funding contract within sixty (60) calendar days of the reallocation. If ADOH is not able to reallocate funds that it has de-obligated under this Agreement in accordance with the foregoing sentence of this subsection, ADOH may reallocate those funds as it determines in its sole discretion.

15.4 Recapture. ADOH may reduce funds from the amount of the funding award evidenced by this Agreement, without regard to the source of funding, under the following circumstances: (1) ADOH determines that Recipient has failed to use the funds provided by ADOH under this Agreement in compliance with the terms of this Agreement or the requirements of applicable laws and regulations (non-compliance); or (2) Recipient fails to perform in accordance with the performance obligations set forth in the *Scope of Work* (Attachment A) and the *Schedule of Completion* (Attachment B) or the terms of this Agreement. ADOH may recapture funds under this Agreement under the foregoing circumstances upon written notice to Recipient.

15.5 Reallocation of Recaptured Funds. ADOH may reallocate funds that it has recaptured under this Agreement, without regard to the source of funding, as it determines in its sole discretion.

15.6 Repayment of Funds. Recipient agrees to repay funds provided under this contract if ADOH determines that Recipient has failed to use the funds provided by ADOH under this Agreement in compliance with the terms of this Agreement or the requirements of applicable laws and regulations. ADOH 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 180 days following the written determination of non-compliance by ADOH. Recipient's obligation to repay funds shall survive the Contract Close-Out Date.

Section 16. REVERSION OF ASSETS

16.1 Funds Remaining at Expiration. Upon expiration of this Agreement, Recipient shall transfer to ADOH any unexpended funds advanced to Recipient by ADOH under this Agreement.

16.2 Real Property Acquired or Improved with CDBG Funds. Upon expiration of this Agreement, any real property under Recipient's control that was acquired or improved in whole or in part with CDBG funds, for non-owner occupied use, provided to Recipient by ADOH under this Agreement (including CDBG funds provided to Recipient in the form of a loan) in excess of \$25,000, shall either: (1) be used to meet one of the national objectives in 24 CFR Part 570.208 until five (5) years after expiration of this Agreement, or for such longer period of time as determined to be appropriate by Recipient; or (2) not be used in accordance with 24 CFR Part 570.503(b)(8)(i), in which event Recipient shall pay to ADOH an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. No payment is required after the period of time specified in 24 CFR Part 570.503 (b)(8)(i).

16.3 Real Property Acquired or Improved with HOME Funds. Upon expiration of this Agreement, any real property under Recipient's control that was acquired or improved in whole or in part with HOME funds, for non-owner occupied uses, provided to Recipient by ADOH under this Agreement (including funds provided to Recipient in the form of a loan), must be occupied only by households that are eligible as low-income families and must meet the requirements to qualify as affordable housing and is subject to encumbrances and obligations described in any applicable Declaration of Conditions, Covenants and Restrictions ("CC&Rs") for the period of affordability set forth in 24 CFR Part 92.252.

16.4 Real Property Acquired or Improved with State Housing Trust Funds. Upon expiration of this Agreement, any real property under Recipient's control that was acquired or improved in whole or in part with state HTF funds, for non-owner occupied uses, provided to Recipient by ADOH under this Agreement (including funds provided to Recipient in the form of a loan), must be occupied only by households that are eligible as low-income families and must meet the requirements to qualify as affordable housing and is subject to encumbrances and obligations described in any applicable Declaration of CC&Rs for the period of affordability set forth in the CC&Rs.

Section 17. DEPARTMENT OF HOUSING RESPONSIBILITIES

ADOH shall monitor and evaluate Recipient to determine compliance with and performance under this Agreement. A summary of discrepancies noted by ADOH during monitoring visits will be specified in writing. Appropriate time for correction of discrepancies will be specified in the written report to Recipient. ADOH shall follow up on discrepancies to ensure that they have been corrected in a timely manner. The failure of ADOH to require timely performance of any provision of this Agreement shall in no way affect the right of ADOH thereafter to enforce such provision nor shall the waiver of any succeeding breach of such provision act as waiver of the provision itself.

ADOH shall provide reasonable technical assistance to assist Recipient to comply with program requirements for the provision of services under this Agreement. However, this in no way relieves Recipient of full responsibility for its acts or omissions in the performance of activities required by this Agreement.

Section 18. SUBCONTRACTING

Recipient shall not disburse any funds received under this Agreement without fully completed written agreements with subcontractors requiring they follow all provisions of this Agreement and a completed Environmental Review pursuant to Section 11 of this Agreement.

The use of subcontractors does not relieve Recipient of responsibility for ensuring the administration of the provided funds in accordance with all applicable program requirements. Recipient is responsible for determining the adequacy of performance under subcontractor agreements and procurement contracts and for taking appropriate action when performance issues arise.

Section 19. FAILURE TO MAKE PROGRESS

Failure of Recipient to make progress according to the Schedule of Completion, attached hereto as Attachment B may result in contract termination, de-obligation of funds or recapture of funds. Recipient agrees to meet with ADOH at the site in which the funded activity is taking place to discuss progress and allow ADOH to provide technical assistance if:

- (a) Recipient fails to begin work on its Environmental Review pursuant to Section 11 within the sixty (60) calendar days from the date ADOH executes this Agreement;
- (b) Recipient fails to expend any funds in performance of and in accordance with the terms of this Agreement within ninety (90) calendar days from the inception date of this Agreement.

ADOH will terminate any Agreement and recapture funds from the same Agreement in which Recipient does not commence any of the activities described in the *Scope of Work* (Attachment A) or fails to expend any funds in accordance with the *Budget* (Attachment C) within 180 calendar days from the full execution date of this Agreement. ADOH may in its sole discretion, forgo providing technical assistance and recapture funds as outlined in this Agreement under Section 15.4 hereof and/or terminate this Agreement for cause pursuant to Section 20 of this Agreement.

Section 20. TERMINATION FOR CAUSE

ADOH may terminate this Agreement in whole or in part at any time whenever it determines that Recipient has failed to comply with the conditions hereof including, but not limited to the Scope of Work set forth in Attachment A, Schedule of Completion set forth in Attachment B and Budget set forth in Attachment C to this Agreement. If ADOH so determines, it shall notify Recipient in writing by certified mail, return receipt requested, of such termination for cause with such notification to include the reason(s) for the termination and the effective date of termination. If ADOH terminates this Agreement pursuant to this Section, ADOH shall recapture all funds allocated to Recipient under this Agreement pursuant to Section 15.4 hereof and obtain repayment of funds expended pursuant to Section 15.6, hereof.

Section 21. TERMINATION FOR CONVENIENCE

ADOH or Recipient may terminate this Agreement in whole or part (one (1) or more activities) if either party believes that continuation will not produce beneficial results. If ADOH so determines, it shall notify Recipient in writing by certified mail, return receipt requested, of such termination for convenience and the effective date of termination. If Recipient so determines, it shall notify ADOH in writing by certified mail, return receipt requested, of such termination for convenience and the effective date of termination. If ADOH terminates this Agreement pursuant to this Section, ADOH shall de-obligate, recapture or receive repayment, as applicable, all funds allocated to Recipient under this Agreement pursuant to Section 15 hereof.

Section 22. ENFORCEMENT

22.1 Remedies for Noncompliance. If Recipient materially fails to comply with any term of this Agreement or applicable law, ADOH may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by Recipient or more severe enforcement action by the awarding agency;
- (b) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
- (c) Wholly or partly suspend or terminate the award evidenced by this Agreement;

- (d) Withhold further awards to Recipient's project funded by the award evidenced by this Agreement;
- (e) Recapture funds and terminate contract;
- (f) Withhold future ADOH grant awards from all sources; or
- (g) Take other remedies that may be legally available.

22.2 Appealable Agency Action. Enforcement action taken under this section is an appealable agency action pursuant to A.R.S., Title 41, Chapter 6, Article 10.

22.3 Effects of suspension and termination. Costs incurred by Recipient resulting from obligations incurred by Recipient during a suspension or after termination of an award are not allowable unless ADOH expressly authorizes them in the notice of suspension or termination or subsequently.

22.4 Relationship to debarment and suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude Recipient from being subject to "Debarment and Suspension" under the United States President's Executive Order 12549.

Section 23. CANCELLATION

Pursuant to A.R.S. § 38-511, ADOH may, within three (3) years after its execution, cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of ADOH, 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 a consultant to any party of this Agreement with respect to the subject matter of the contract. A cancellation notice made pursuant to this provision shall be effective when Recipient receives written notice of the cancellation unless the notice specifies a later time. The right of cancellation shall survive the Contract Close-Out Date.

Section 24. RECORDS RETENTION

Pursuant to A.R.S. § 35-214, Recipient shall retain and require that its subcontractors retain for inspection and audit by ADOH, all books, accounts, reports, files including information regarding actual beneficiaries of the fund, and other records relating to the bidding and performance of this Agreement for a period of five (5) years following the date of the letter informing Recipient of the Administrative Contract Close-Out Date or termination. Recipient's obligation to retain records shall survive the Contract Close-Out Date.

- CDBG funded projects only:** All CDBG records must be retained for at least three (3) years after the Contract Close-Out Date set forth in this Agreement between HUD and

ADOH has been approved by HUD. ADOH will notify recipients of the records retention date of expiration for CDBG funded projects.

- DOE WAP, LIHEAP WAP projects only:** All records must be retained for at least three (3) years after the Contract Close-Out Date set forth in this Agreement between DOE or SWG and ADOH has been approved. ADOH will notify recipients of the records retention date of expiration for Weatherization projects.

Upon request by ADOH, Recipient shall produce a legible copy of all such records at the Administrative Office of ADOH or at the Office of the Auditor General. The original records shall be available and produced for inspection and audit when required by ADOH or the Auditor General.

Recipient shall maintain records that adequately identify the source and application of the funds provided under this Agreement (including Program Income and Recaptured Funds) as part of the financial transactions of their funding program, consistent with generally accepted accounting principles and the requirements of 2 CFR 200. Recipient will provide reports regarding the capture and reuse of Program Income and Recaptured Funds as requested by ADOH from time to time.

In addition, in the event that the project resulted in Recipient holding any liens or notes as a result of this funding, Recipient must retain all pertinent records for five (5) years beyond the expiration or release of such liens or notes.

Section 25. NO OBLIGATION OF STATE GENERAL APPROPRIATIONS FUNDS

Nothing herein shall be construed as obligating state general appropriation funds, excepting HTF funds, for payment of any debt or liability of any nature arising hereunder. The parties expressly recognize that all payments to be made by ADOH are from federal funds and HTF funds made available to ADOH for this purpose.

Section 26. AVAILABILITY OF FUNDS

Payments under this Agreement are subject to the availability of the federal funds provided to the ADOH for the HOME and CDBG programs and the availability of state funds provided for the state HTF Program. Every payment obligation of ADOH under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by ADOH at the end of the period for which funds are available. No liability shall accrue to ADOH in the event this provision is exercised, and ADOH shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

Section 27. APPLICABLE LAW AND ARBITRATION

This Agreement shall be governed and interpreted by the laws of the State of Arizona. The parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.

Section 28. INDEMNIFICATION

Recipient shall indemnify, defend, and save harmless ADOH, the State of Arizona and its agents, officials and employees from any and all claims, demands, suits, actions, proceedings, loss, costs and damages of every kind and description, including any attorney's fees and litigation expenses, which may be brought or made against or incurred by the State on account of loss of or damage to any property or for injuries to or death of any person, caused by, arising out of or contributed to, in whole or in part, by reason of any alleged act, omission, professional error, fault, mistake or negligence of Recipient, its employees, agents, representatives or subcontractors, their employees, agents or representatives in connection with or incidental to the performance of this Agreement, or arising out of Workmen's Compensation claims, Unemployment Compensation claims or Unemployment Disability Compensation claims of employees of Recipient or its subcontractors or claims under similar such laws or obligations. Recipient's obligation under this section shall survive the Contract Close-Out Date and shall not extend to any liability caused by the sole negligence of ADOH, the State of Arizona or its employees.

Section 29. FEDERAL GOVERNMENT LIABILITY

It is agreed by all parties that the Federal Government and particularly the U.S. Department of Housing and Urban Development ("HUD") and the U.S. Department of Energy (DOE) is not a party to this Agreement and that no legal liability on the part of the Federal Government is inferred or implied under the terms of this Agreement.

Section 30. AUDIT

If federal funds are paid to Recipient through this Agreement, Recipient shall comply with the audit requirements set forth in 2 CFR 200. Recipient shall comply with A.R.S. § 35-181.03 if any state funds are paid through this Agreement. Recipient agrees to rectify issues identified in audits within ADOH prescribed time periods. Failure to comply shall result in withholding of all present and future ADOH provided funds. Recipient's obligation under this section shall survive the Contract Close-Out Date.

Section 31. AUDIT EXCEPTIONS

If federal or state audit exceptions are made relating to this Agreement, Recipient shall reimburse all costs incurred by the State of Arizona and ADOH associated with defending

against the audit exception or performing an audit or follow-up audit including but not limited to: audit fees, court costs, attorney's fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature.

Immediately upon notification from ADOH, Recipient shall reimburse the amount of the audit exception and any other related costs directly to ADOH as specified by ADOH in the notification. Recipient's obligation under this section shall not survive the Contract-Close-Out Date.

Section 32. UNALLOWABLE USE OF FUNDS

Recipient, its officers, employees and agents, shall not utilize any of the federal funds or HTF provided under this Agreement to solicit or influence, or attempt to solicit or influence, directly or indirectly, any member of Congress regarding pending or prospective legislation.

Section 33. INTEREST OF MEMBERS OF DEPARTMENT OF HOUSING AND OTHERS

No officer or employee of ADOH and no public official, employee or member of the governing body of Recipient who exercises any functions or responsibilities in review or approval of the undertaking or carrying out of this Agreement shall participate in any decision relating to this Agreement which affects their personal interest or the interest of any corporation, partnership or association in which they are directly or indirectly interested, or have any interest, direct or indirect, in this Agreement or its proceeds.

Section 34. ACCESS TO RECORDS, PARTICIPANTS AND STAFF

Recipient agrees to provide ADOH and its representatives access at any reasonable time to all participants and staff involved in this Agreement and to all records and reports involving this Agreement.

Section 35. IDENTIFICATION OF DOCUMENTS

All materials used for public outreach and for informational purposes as a part of this Agreement, other than documents exclusively for internal use by ADOH, shall identify the source of federal (CDBG, HOME, NHTF, COC, HOPWA, DOE WAP, LIHEAP WAP) or state (HTF) funds used as part of this Agreement as well as acknowledgement of support from ADOH.

Section 36. COPYRIGHT

Reports, maps or other documents produced in whole or in part under this Agreement are works for hire and shall not be the subject of any application for copyright by or on behalf

of Recipient, by any employee or subcontractor of Recipient. Recipient shall advise ADOH or its designee at the time of delivery of any copyrighted or copyrightable work furnished under this Agreement, or any adversely held copyrighted or copyrightable material incorporated in any such work and of any invasion of the right of privacy therein contained.

Section 37. RIGHTS IN DATA

ADOH may duplicate, use and disclose in any manner and for any purpose whatsoever, within the limits established by federal and state laws and regulations, all information relating to this Agreement.

Section 38. FUNDING CONDITIONS

ADOH will make the funding assistance available to Recipient upon execution of this Agreement by the parties. The obligation and utilization of the funding assistance provided through this Agreement are subject to the proper observation of the requirements incorporated by reference. Recipient shall require any subcontracting entities to observe and follow all provisions of this Agreement.

Section 39. NON-DISCRIMINATION

- (a) Recipient shall comply with A.R.S. § 41-1463 and Executive Orders 99-4 and 2009-09, which prohibit Recipient from discriminating against persons, or depriving or tending to deprive any individual of employment opportunities or otherwise adversely affecting the individual's status as an employee on the basis of race, color, religion, sex, age, national origin, disability or political affiliation and require Recipient to take action to ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, age, national origin, disability, or political affiliation. Recipient shall comply with all of the other requirements of Executive Order 2009-09.
- (b) Recipient agrees to comply with Title VII of the Civil Rights Act of 1964, as amended. Recipient shall also comply with applicable federal regulations that prohibit discrimination in the employment or advancement in employment of qualified persons with disabilities. Recipient shall comply with all applicable federal regulations regarding equal employment opportunity and relevant orders issued by the U.S. Secretary of Labor. Recipient agrees to comply, and will require any subcontractor(s) to comply with applicable federal nondiscrimination requirements, which may include: Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §3789(d)); the Victims of Crime Act (42 U.S.C. §10604(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. §5672(b)); the Civil Rights Act of 1964 (42 U.S.C. §2000(d)); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794); Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. §§12132); Title IX of the Education Amendments of 1972 (20 U.S.C. §1681); the Age Discrimination Act of 1975 (42

U.S.C. §6102); 28 C.F.R. pt. 35 (DOJ Regulations- Nondiscrimination on the Basis of Disability in State and Local Government Services); 28 C.F.R. pt. 42 (DOJ Regulations- Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Executive Order 13279 (equal protection of the laws for faith-based and community organizations); and 28 C.F.R. pt. 38 (DOJ Regulations- Equal Treatment for Faith-Based Organizations).

Section 40. THIRD PARTY ANTITRUST VIOLATIONS

Recipient assigns to the State of Arizona any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to Recipient toward fulfillment of this Agreement.

Section 41. COMPLIANCE REQUIREMENTS FOR A.R.S. § 41-4401—IMMIGRATION LAWS AND E-VERIFY REQUIREMENT

- (a) Recipient warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.”)
- (b) A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and Recipient may be subject to penalties up to and including termination of this Agreement.
- (c) The ADOH retains the legal right to inspect the papers of any employee who works on this Agreement to ensure that Recipient or Recipient’s subcontractor is complying with the warranty under paragraph (a).

Section 42. INSURANCE

During the contract period, Recipient shall purchase and maintain in full force the following insurance. All certifications of insurance must provide for a thirty (30) day notice to ADOH of cancellation, non-renewal or material change. Proof of insurance from Recipient shall be provided to ADOH prior to execution of this contract and periodic certifications must be furnished at the request of the Program Specialist.

Recipient and its subcontractors, at Recipient’s and subcontractors’ own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. Rating of A-, 7, local government insurance pools formed pursuant to ARS 11-952.01 or other as approved by ADOH and licensed in the State of Arizona with policies and forms satisfactory to ADOH.

All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of this Agreement is completed satisfactorily and formally accepted; failure to do so may, at the sole discretion of ADOH, constitute a material breach of this Agreement.

Recipient's insurance shall be primary insurance as respects ADOH and any insurance or self-insurance maintained by ADOH shall not contribute to it.

Recipient shall not fail to comply with the claim reporting provisions of the insurance policies or cause any breach of an insurance policy warranty which would affect coverage afforded under insurance policies to protect ADOH.

The insurance policies, except Worker's Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against ADOH, its agents, representatives, directors, officers and employees for any claims arising out of Recipient's acts, errors, mistakes, omissions, work or service.

The insurance policies may provide coverage, which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to ADOH under such policies. Recipient shall be solely responsible for the deductible and/or self-insured retention, and ADOH, at its option, may require Recipient to secure payment of such deductibles or self-insured retentions by a Surety Bond listing ADOH as the Obligee or co-Obligee or an irrevocable and unconditional letter of credit.

ADOH reserves the right to request and to receive, within ten (10) working days, certified copies of any or all of the herein required insurance policies and/or endorsements. ADOH shall not be obligated, however, to review same or to advise Recipient of any deficiencies in such policies and endorsements, and such receipt shall not relieve Recipient from, or be deemed a waiver of ADOH's right to insist on, strict fulfillment of Recipient's obligations under this Agreement.

The insurance policies, except Worker's Compensation and Professional Liability, required by this Agreement, shall name ADOH, its agents, representatives, officers, directors, officials and employees as additionally insured.

42.1 Required Coverage

Commercial General Liability. Recipient shall maintain Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 Products/Completed Operations Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage. Coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00011093 or any replacements thereof.

Such policy shall contain a severability of interest provision and shall not contain a sunset provision or commutation clause, nor any provision that would serve to limit third party action over claims. The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc. Additional Insured, Form B, CG 20101185, and shall include coverage for Recipient's operations and products and completed operations.

Automobile Liability. Recipient shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to Recipient's any auto, all owned autos, scheduled autos, hired autos, non-owned autos assigned to or used in performance of Recipient's work. Coverage will be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof).

Worker's Compensation. Recipient shall carry Worker's Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Recipient's employees engaged in the performance of the work or services; and Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee and \$500,000 disease policy limit.

In case any work is subcontracted, Recipient will require the subcontractor to provide Worker's Compensation and Employer's Liability to at least the same extent as required of Recipient.

42.2 Certificates of Insurance

Prior to commencing work or services under this Agreement, Recipient shall furnish ADOH with Certificates of Insurance, or formal endorsements as required by this Agreement, issued by Recipient's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Agreement are in full force and effect.

In the event any insurance policy(s) required by this contract is (are) written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of Recipient's work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of this Agreement, a renewal certificate must be sent to ADOH fifteen (15) days prior to the expiration date.

42.3 Cancellation and Expiration Notice

Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days written notice to ADOH.

Section 43. PRIVACY CONSIDERATIONS

Recipients of federal funds (for the purpose of this section “federal funds” means funding from the CDBG, HOME, HOPWA and COC programs; *see* Section 1, above) from ADOH warrant and represent that commencing from the effective date of this Agreement and until the latest expiration or termination date of any promissory note, deed of trust, declaration or other agreement that secures the federal funds that are the subject of this Agreement, Recipient and Recipient’s contractors shall comply with the requirements of the federal Privacy Act, 5 U.S.C. § 552a. Recipient warrants and represents that it has read and understands the requirements of the Federal Privacy Act and requires the same of its contractors and subcontractors.

Section 44. NOTICES

When routine reports or correspondence is required to be sent to ADOH, it shall be addressed to Arizona Department of Housing, to the attention of the assigned Program Specialist at 1110 West Washington Street, Suite 280, Phoenix, Arizona 85007. Notices or correspondence regarding material changes to the contract or requests for amendment shall be addressed to the same. All correspondence regarding this Agreement must be identified by its ADOH Agreement number (which is located on the top left hand corner of the first page of this Agreement).

When notice or correspondence is required to be sent to Recipient, it shall be addressed to:

Entity

Attention (if applicable)

Mailing Address

City State Zip

Section 45. REGISTRATION WITH SOCIAL SERVE

For new construction or rehabilitation of rental projects, Recipient agrees to register the project with socialserve.com and keep the project listed with socialserve.com for the duration of the period of affordability as indicated in the Conditions, Covenants and Restrictions.

Section 46. ADOH SIGNAGE

For new construction and rehabilitation projects, Recipient must erect a sign at the project site indicating that the project is funded through the Arizona Department of Housing and indicate the sources of funds. The sign must be a minimum size of twenty-four (24) inches

high by thirty-six (36) inches wide, include a minimum five (5) inch high ADOH logo and text printed at a minimum seventy-two (72) point font. An individual ADOH sign does not have to be provided if Recipient incorporates ADOH information into a larger group sign.

Section 47. PHOTOGRAPHS

For new construction and rehabilitation projects, Recipient is required to provide to ADOH before and after photographs of the project in digital or film format.

AGREED, effective as of the later date of the signatures of the duly authorized representatives subscribed below:

**THE STATE OF ARIZONA,
ARIZONA DEPARTMENT OF HOUSING**

**Typed Name Of Recipient
RECIPIENT**

BY: _____

BY: _____

Carol Ditmore

Typed Name

TITLE: Interim Director

TITLE: _____

DATE: _____

DATE: _____

ATTACHMENT A

SCOPE OF WORK

Replace this page with actual Scope of Work.

ATTACHMENT B

SCHEDULE OF COMPLETION AND PERFORMANCE REPORT

Replace the page with actual Schedule of Completion and Performance Report.

ATTACHMENT C

BUDGET

Replace this page with actual Budget.

ATTACHMENT D

REQUEST FOR PAYMENT FORM

Replace this page with actual Payment Request Form.

ATTACHMENT E

SPECIAL CONDITIONS OF THE AGREEMENT

Replace this page with actual Special Conditions of the Agreement.

ATTACHMENT F

**CERTIFICATION AND OTHER REQUIREMENTS RELATING TO TITLE I or TITLE II
ASSISTANCE**

**Replace this page with Attachment F for Title 1 (CDBG) or Title II (HOME) projects.
Not applicable for COC or HOPWA projects.**

ATTACHMENT G

RESOLUTION AUTHORIZING FUNDING REQUEST

FOR CDBG ONLY: Replace this page with copy of Resolution to apply for funding.

ATTACHMENT H
State Housing Fund Agreement
Additional Provisions of the 2013 HOME Final Rule (Effective August 23, 2013)

§ 92.2 Definitions.

- An individual does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR 5.612.

§ 92.205 Eligible activities: General.

- After project completion, the number of units designated as HOME-assisted may be reduced only in accordance with § 92.210, except that in a project consisting of all HOME-assisted units, one (1) unit may be subsequently converted to an on-site manager's unit if ADOH determines that the conversion will contribute to the stability or effectiveness of the housing and that, notwithstanding the loss of one (1) HOME-assisted unit, the costs charged to the HOME program do not exceed the actual costs of the HOME-assisted units and do not exceed the subsidy limit in § 92.250(b).

§ 92.214 Prohibited activities and fees.

- Project owners are prohibited from charging fees that are not customarily charged in rental housing (i.e. laundry room access fees), except that rental project owners may charge the following fees with ADOH approval, if such fees are also allowable under all other sources of project financing:
 - (i) Reasonable application fees to prospective tenants;
 - (ii) Parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and
 - (iii) Fees for services such as bus transportation or meals, as long as the services are voluntary and fees are charged for services provided.
- Annual rent increases must be approved by ADOH through the Annual Compliance Report.

§ 92.252 Qualification as affordable housing: Rental housing.

- If the housing unit is not occupied by eligible tenants within six (6) months following the date of project completion, ADOH will require the Recipient to submit marketing information and, if appropriate, submit a marketing plan.
- ADOH will require the Recipient to repay HOME funds invested in any housing unit that has not been rented to eligible tenants 18 months after the date of project completion.
- The Recipient must engage a qualified professional, as defined in the *State Housing Fund Program Summary and Application Guide*, to prepare a utility allowance

schedule based upon the energy consumption model (Treas. Reg. § 1.42-10(b)(4)(ii)(E)) for utilities and services (excluding telephone) and submit an updated utility allowance schedule annually with the Annual Compliance Report. The qualified professional must not be related to the building owner, property manager, or any other entities owned or controlled by these parties within the meaning of I.R.C. §267(b) or §707(b). All rent increases require ADOH approval. The Recipient must submit its proposed rents for the upcoming year annually for approval by ADOH with the Annual Compliance Report.