

<p><b>PIMA COUNTY COMMUNITY DEVELOPMENT AND NEIGHBORHOOD CONSERVATION DEPARTMENT</b></p> <p><b>PROJECT:</b></p> <p><b>CONTRACTOR:</b></p> <p><b>AMOUNT: \$</b></p> <p><b>FUNDING:</b></p>	<p>(STAMP HERE)</p>
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This Contract, ("Contract"), entered between Pima County ("COUNTY"), a body politic and corporate of the State of Arizona, and Tucson Youth Collective, Inc., an Arizona nonprofit corporation ("AGENCY").

W I T N E S S E T H

WHEREAS, pursuant to A.R.S. §§ 11-254.04, 11-251(5) and 11-251(17), COUNTY may appropriate and spend public monies for and in connection with activities that the County Board of Supervisors finds and determines will assist in the improvement or enhancement of the economic welfare and health of COUNTY inhabitants; and

WHEREAS, COUNTY approved funding for the Program through the 2009-2010 in the budget process; and

WHEREAS, the Pima County Board of Supervisors finds that AGENCY is capable and willing to provide the Program services, previously provided by Our Family for FY 2009-2010.

NOW, THEREFORE, the parties agree as follows:

**ARTICLE I - TERM AND EXTENSION/RENEWAL/CHANGES**

- A. This Contract, as awarded by the Procurement Director, shall commence on July 1, 2009 and shall terminate on June 30, 2010, unless sooner terminated or further extended pursuant to the provisions of this Contract.
- B. Any modification, or extension of the contract termination date, shall be by formal written amendment executed by the parties hereto.
- C. Amendments to the Contract must be approved by the Board of Supervisors or the Procurement Director, as required by the Pima County Procurement code, before any work or deliveries under the Amendment commences.

**ARTICLE II – SCOPE OF SERVICES**

A. PURPOSE:

This Contract establishes the agreement under which AGENCY shall provide COUNTY with services in accordance with the attached **Exhibit A, Scope of Work** and all provisions set forth in this Contract. AGENCY must deliver services each month throughout the Contract year. Failure to do so without prior approval of the Community Development and Neighborhood Conservation Director shall be considered a default subject to termination by COUNTY pursuant to Article XV (C).

B. ACTIVITIES:

- 1. AGENCY shall:

- a. Provide services set forth in Exhibit A, Scope of Work.
- b. Assure that all services comply with the requirements and specifications of the Solicitation No: CDNC-11-26-07-CDBG-ESG-OA application and AGENCY'S response.
- c. Notify COUNTY of any changes to any of the following positions: chief executive, financial officer, program director and any other COUNTY liaison. In addition, AGENCY is responsible for updating contact information for the above personnel. Notification of any of these changes shall be provided within two (2) weeks of change.
- d. Have a written grievance policy to provide to all applicants and participants with the opportunity for a fair hearing for grievances and advise all applicants and participants of their right to present to COUNTY any grievances arising from the delivery of contract services including, but not limited to, ineligibility determination, service reduction, suspension, termination or quality of service.
- e. Design and conduct a participant satisfaction survey at least once during each Contract year for activities funded under this Contract.
- f. Have a personnel policy manual and conduct an annual performance appraisal of all personnel providing services under this Contract.
- g. Assure appropriate personnel attend training sessions provided by COUNTY in relation to compliance with this Contract. It is AGENCY'S responsibility to keep informed of all subjects discussed at training meetings and any changes to COUNTY'S requirements.
- h. Provide quarterly and annual program reports on COUNTY'S web-based reporting system at <https://secure.pima.gov/CIRS/>. Reports provided in any other form shall be accepted only after written approval is provided by the Community Development and Neighborhood Conservation Director or her authorized representative.
  - i. Quarterly reports shall be submitted on the following dates of the contract year for the preceding quarter:
    - (1) October 31
    - (2) January 31
    - (3) April 30
    - (4) July 31
  - ii. The Annual Report shall contain the quarterly report due on July 31 and be submitted no later than July 31.

2. COUNTY may:

- a. In its sole discretion, direct those services which are provided to specific populations, areas or projects that the Board of Supervisors or County Administrator determines to be most appropriate and advantageous to the residents of the COUNTY.
- b. Conduct on-site monitoring of AGENCY during the Contract term to evaluate AGENCY performance and determine AGENCY'S needs, if any, for technical assistance from COUNTY.

**ARTICLE III – COMPENSATION AND PAYMENT**

- A. This is a cost reimbursement contract. In consideration of the services specified in this Contract, COUNTY agrees to pay AGENCY as provided in the budget contained in Exhibit A.
- B. **Total payment shall not exceed: \$**
- C. Payments shall be made from COUNTY General Funds only. The following conditions shall apply:
  - a. All of AGENCY'S activities under this Contract must comply with the budget to be eligible for payment. Line items in budget shall follow budget narrative descriptions as set forth on web site <http://www.pima.gov/CED/Data/forms.html>.

- b. Requests for payment shall include all claims and invoices of every kind and nature against COUNTY arising under this Contract or any provision thereof.
  - c. All requests for payments shall be on the form set forth on following web site <http://www.pima.gov/CED/Data/forms.html>. Each monthly request for payment shall include: copies of time sheets in the form or similar to the one listed on the web site: or the general ledger to support all labor and personnel charges; personnel time allocation to support payroll expenses charged to this Contract; and copies of all receipts and/or checks (front and back) or the general ledger to support all purchased goods or services for which reimbursement is sought.
  - d. AGENCY may bill the COUNTY for indirect administrative costs. Direct and indirect administrative costs allocated to Outside Agency funds may not exceed 15% of the funded amount for each program. Requests for payment of administrative costs shall include proper documentation with written notation sufficient to establish the specific administrative expenses for which reimbursement is sought. AGENCY must provide a copy of AGENCY'S Federal Indirect Cost Rate with the COUNTY as requested.
  - e. AGENCY agrees to submit **quarterly documentation of time allocation to support payroll expenses** charged to the funds provided under this Contract shall be provided in the form set forth on the following web site <http://www.pima.gov/CED/Data/forms.html> or similar and approved format. Upon request of COUNTY, the AGENCY will be required to submit this documentation on a monthly basis.
  - f. At the end of the Contract term any unexpended funds shall be retained by the COUNTY.
- D. AGENCY shall submit monthly requests for payment no more than 15 calendar days following the expenditure month with the following exceptions:
- a. Monthly expense requests incurred in July and August shall be submitted no later than October 24.
  - b. For expenses incurred in June, invoices must be submitted no later than July 7 to meet COUNTY fiscal year-end requirements.
- E. AGENCY shall not be entitled to, and shall forfeit, payment of any expenses not submitted to COUNTY within the following time frames:
- a. No later than October 24 for expenses incurred in July, August and September.
  - b. Within sixty (60) days after the end of the month in which the expenses were incurred in the months of October through April.
  - c. No later than July 7 for expenses incurred in May and June.
- F. COUNTY may deduct from any amount due AGENCY, COUNTY'S processing costs or delay-related damages in connection with a request for payment submitted after the deadline in Article III (D) but before the forfeiture deadline described in Article III (E).
- G. Payment by COUNTY will generally occur ten (10) days from the date the submission is received by the Pima County Finance Department. AGENCY should budget their cash needs accordingly.
- H. AGENCY may not bill the COUNTY for costs that are paid by another source. AGENCY must notify the COUNTY within ten (10) days of receipt of alternative funding for costs that would otherwise be eligible for payment pursuant to this Contract.
- I. All requests to modify the current fiscal year budget line item amounts shall be on the form set forth on following web site <http://www.pima.gov/CED/Data/forms.html>. AGENCY must include a written justification for the modification in any such request. AGENCY must limit requested

modifications of line items to 10% of the total contract amount per year. Any requests to modify the current fiscal year budget line item amounts must be submitted to COUNTY and must:

- a. Include invoices for the requested change;
- b. Be for expenditures made within 30 days of the date of the request; and
- c. Be submitted before May 15.

Granting any such request is within the sole discretion of COUNTY and must be signed by the Community Development and Neighborhood Conservation Director or her authorized representative.

- J. AGENCY shall have an accounting manual that describes its financial procedures in sufficient detail to allow reasonable understanding of financial practices.
- K. AGENCY shall have a written cost allocation plan, and provide expenditure documentation allocated to this Contract.
- L. Notwithstanding any other provision of this Contract, if the amount of monies that the State of Arizona distributes to Pima COUNTY'S General Fund pursuant to A.R.S. §42-5029 ("Distributed Revenues") is less than the amount anticipated in Pima County's then current fiscal year budget ("Budgeted Revenues"), then the COUNTY, at its sole option and after consideration of COUNTY needs, available resources and other obligations, may reduce the total Contract amount by decreasing the amount of Pima County General Funds monies allocated to this Contract.
- M. Request for payment for services under this Contract must be certified on invoices signed by CONTRACTOR or an authorized representative of CONTRACTOR, must be supported by documentation that CONTRACTOR will provide to COUNTY upon request and must be verified by COUNTY representatives. Request for payment shall be submitted to the COUNTY within 60 calendar days of services provided.
- N. Although State and City sales tax are paid when applicable and invoiced, taxes should not be included in the unit price.
- O. It is the intention of both parties that pricing shall remain firm during the term of the contract. Price increases shall only be considered in conjunction with a renewal of the Contract. In the event that economic conditions are such that unit price increases are desired by the CONTRACTOR upon renewal of the Contract, CONTRACTOR shall submit a written request to COUNTY with supporting documents justifying such increases at least 90 days prior to the termination date of the Contract. It is agreed that the Unit Prices shall include compensation for the CONTRACTOR to implement and actively conduct cost and price control activities. COUNTY will review the proposed pricing and determine if it is in the best interest of COUNTY to renew or extend the Contract as provided for in Article I of this Contract.
- P. CONTRACTOR shall not provide goods and services in excess without prior authorization by an amendment executed by COUNTY. Goods and Services provided in excess of Line Item or Contract Total Amounts without prior authorization by fully executed amendment will be at CONTRACTOR'S own risk.
- Q. For the period of record retention required under Article XXI, COUNTY reserves the right to question any payment made under this Article and to require reimbursement therefore by setoff or there wise for payments determined to be improper or contrary to the contract or law.

#### **ARTICLE IV - INSURANCE**

CONTRACTOR shall obtain and maintain at its own expense, during the entire term of this Contract the following type(s) and amounts of insurance:

- A. Commercial General Liability in the amount of \$1,000,000.00 combined single limit Bodily Injury and Property Damage. Pima County is to be named as an additional insured for all operations performed within the scope of the Contract between Pima County and CONTRACTOR;
- B. Commercial or Business automobile liability coverage for owned, non-owned and hired vehicles used in the performance of this Contract with limits in the amount of \$1,000,000.00 combined single limit or \$1,000,000.00 Bodily Injury, \$1,000,000.00 Property Damage;
- C. If this Contract involves professional services, professional liability insurance in the amount of \$1,000,000.00; and,
- D. If required by law, workers' compensation coverage including employees' liability coverage.

CONTRACTOR shall provide COUNTY with current certificates of insurance. All certificates of insurance must provide for guaranteed thirty (30) days written notice to the COUNTY of cancellation, non-renewal or material change.

#### **ARTICLE V - INDEMNIFICATION**

CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence by the CONTRACTOR, its agents, employees or anyone under its direction or control or on its behalf in connection with performance of this Contract.

CONTRACTOR warrants that all products and services provided under this contract are non-infringing. CONTRACTOR will indemnify, defend and hold COUNTY harmless from any claim of infringement arising from services provided under this contract or from the provision, license, transfer or use for their intended purpose of any products provided under this Contract.

#### **ARTICLE VI - COMPLIANCE WITH LAWS**

CONTRACTOR shall comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Contract. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Contract, and any disputes hereunder. Any action relating to this Contract shall be brought in a court of the State of Arizona in Pima County. Any changes in the governing laws, rules, and regulations during the terms of this Contract shall apply, but do not require an amendment.

#### **ARTICLE VII - INDEPENDENT CONTRACTOR**

The status of the CONTRACTOR shall be that of an independent contractor. Neither CONTRACTOR, nor CONTRACTOR'S officer's agents or employees shall be considered an employee of Pima County or be entitled to receive any employment-related fringe benefits under the Pima County Merit System. CONTRACTOR shall be responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Contract and shall indemnify and hold COUNTY harmless from any and all liability which COUNTY may incur because of CONTRACTOR'S failure to pay such taxes. CONTRACTOR shall be solely responsible for program development and operation.

#### **ARTICLE VIII - SUBCONTRACTOR**

CONTRACTOR will be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor and of persons for whose acts any of them may be liable to the same extent that the CONTRACTOR is responsible for the acts and omissions of persons directly employed by it. Nothing in this contract shall create any obligation on the part of COUNTY to pay or see to the payment of any money due any subcontractor, except as may be required by law.

#### **ARTICLE IX - ASSIGNMENT**

CONTRACTOR shall not assign its rights to this Contract, in whole or in part, without prior written approval of the COUNTY. Approval may be withheld at the sole discretion of COUNTY, provided that such approval shall not be unreasonably withheld.

#### **ARTICLE X - NON-DISCRIMINATION**

CONTRACTOR shall not discriminate against any COUNTY employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out CONTRACTOR'S duties pursuant to this Contract. CONTRACTOR shall comply with the provisions of Executive Orders 75-5, as amended by Executive Order 99-4, which are incorporated into this Contract by reference as if set forth in full herein.

#### **ARTICLE XI - AMERICANS WITH DISABILITIES ACT**

CONTRACTOR shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

#### **ARTICLE XII - AUTHORITY TO CONTRACT**

CONTRACTOR warrants its right and power to enter into this Contract. If any court or administrative agency determines that COUNTY does not have authority to enter into this Contract, COUNTY shall not be liable to CONTRACTOR or any third party by reason of such determination or by reason of this Contract.

#### **ARTICLE XIII - FULL AND COMPLETE PERFORMANCE**

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of this Contract to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

#### **ARTICLE XIV - CANCELLATION FOR CONFLICT OF INTEREST**

This Contract is subject to cancellation for conflict of interest pursuant to ARS ' 38-511, the pertinent provisions of which are incorporated into this Contract by reference.

#### **ARTICLE XV - TERMINATION**

- A. COUNTY reserves the right to terminate this Contract at any time and without cause by serving upon CONTRACTOR 30 days advance written notice of such intent to terminate. In the event of such termination, the COUNTY'S only obligation to CONTRACTOR shall be payment for services rendered prior to the date of termination.
- B. This Contract may be terminated at any time without advance notice and without further obligation to the COUNTY when the CONTRACTOR is found by COUNTY to be in default of any provision of this Contract.
- C. Notwithstanding any other provision in this Contract, this Contract may be terminated if for any reason, there are not sufficient appropriated and available monies for the purpose of maintaining COUNTY or other public entity obligations under this Contract. In the event of such termination, COUNTY shall have no further obligation to CONTRACTOR, other than to pay for services rendered prior to termination.

#### **ARTICLE XVI - NOTICE**

Any notice required or permitted to be given under this Contract shall be in writing and shall be served by personal delivery or by certified mail upon the other party as follows:

COUNTY: \_\_\_\_\_ :  
Margaret Kish, Director  
Community Development and Neighborhood Conservation  
2797 E. Ajo Way, 3<sup>rd</sup> Floor  
Tucson, Arizona 85701

CONTRACTOR:

**ARTICLE XVII - NON-EXCLUSIVE CONTRACT**

CONTRACTOR understands that this Contract is nonexclusive and is for the sole convenience of COUNTY. COUNTY reserves the right to obtain like services from other sources for any reason.

**ARTICLE XVIII - OTHER DOCUMENTS**

CONTRACTOR and COUNTY in entering into this Contract have relied upon information provided in the Pima County Solicitation No.CED-04-30-07-TA-RFP including the Invitation for Proposals, Instructions to Bidders, Standard Terms and Conditions, Specific Terms and Conditions, Solicitation Addenda, CONTRACTOR'S Proposal and on other information and documents submitted by the CONTRACTOR in its' response to Solicitation No. CED-04-30-07-TA-RFP. These documents are hereby incorporated into and made a part of this Contract as if set forth in full herein, to the extent not inconsistent with the provisions of this contract.

**ARTICLE XIX - REMEDIES**

Either party may pursue any remedies provided by law for the breach of this Contract. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

**ARTICLE XX - SEVERABILITY**

Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

**ARTICLE XXI - BOOKS AND RECORDS**

CONTRACTOR shall keep and maintain proper and complete books, records and accounts, which shall be open at all reasonable times for inspection and audit by duly authorized representatives of COUNTY.

In addition, CONTRACTOR shall retain all records relating to this contract at least 5 years after its termination or cancellation or, if later, until any related pending proceeding or litigation has been closed.

**ARTICLE XXII- PUBLIC INFORMATION**

- A. Pursuant to A.R.S. § 39-121 *et seq.*, and A.R.S. § 34-603(G) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all information submitted in response to this solicitation, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and upon request, is subject to release and/or review by the general public including competitors.
- B. Any records submitted in response to this solicitation that respondent believes constitute proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as CONFIDENTIAL by respondent prior to the close of the solicitation.
- C. Notwithstanding the above provisions, in the event records marked CONFIDENTIAL are requested for public release pursuant to A.R.S. § 39-121 *et seq.*, County shall release records marked CONFIDENTIAL ten (10) business days after the date of notice to the respondent of the request for release, unless respondent has, within the ten day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release shall not be counted in the time

calculation. Respondent shall be notified of any request for such release on the same day of the request for public release or as soon thereafter as practicable.

- D. County shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked CONFIDENTIAL, nor shall County be in any way financially responsible for any costs associated with securing such an order.

**ARTICLE XXIII – LEGAL ARIZONA WORKERS ACT COMPLIANCE**

- A. CONTRACTOR hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to CONTRACTOR’S employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the “State and Federal Immigration Laws”). CONTRACTOR shall further ensure that each subcontractor who performs any work for CONTRACTOR under this contract likewise complies with the State and Federal Immigration Laws.
- B. COUNTY shall have the right at any time to inspect the books and records of CONTRACTOR and any subcontractor in order to verify such party’s compliance with the State and Federal Immigration Laws.
- C. Any breach of CONTRACTOR’S or any subcontractor’s warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting CONTRACTOR to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, CONTRACTOR shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion.
- D. CONTRACTOR shall advise each subcontractor of COUNTY’S rights, and the subcontractor’s obligations, under this Article by including a provision in each subcontract substantially in the following form:
- E. “SUBCONTRACTOR hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to SUBCONTRACTOR’s employees, and with the requirements of A.R.S. § 23-214 (A). SUBCONTRACTOR further agrees that COUNTY may inspect the SUBCONTRACTOR’S books and records to insure that SUBCONTRACTOR is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR will be deemed to be a material breach of this contract subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this contract.”
- F. Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of CONTRACTOR. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of CONTRACTOR’s approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which CONTRACTOR shall be entitled to an extension of time, but not costs.

**ARTICLE XXIV – SCRUTINIZED BUSINESS OPERATIONS**

Pursuant to A.R.S. §§ 35-391.06 and 393.06, contractor hereby certifies that it does not have scrutinized business operations in Iran or Sudan. The submission of a false certification by contractor may result in action up to and including termination of this contract.

**ARTICLE XXV – HOMELESS INFORMATION MANAGEMENT SYSTEM (HMIS)**

If CONTRACTOR is providing services under Continuum of Care or providing beds, emergency services or case management to homeless they shall actively participate in the Homeless Information Management System

**(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)**

**ARTICLE XXV - ENTIRE AGREEMENT**

This document constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Contract may be modified, amended, altered or extended only by a written amendment signed by the parties.

IN WITNESS THEREOF, the parties have affixed their signatures to this Contract on the date written below.

**PIMA COUNTY**

**CONTRACTOR**

\_\_\_\_\_  
Procurement Director

\_\_\_\_\_  
Authorized Officer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title

APPROVED AS TO CONTENT

\_\_\_\_\_  
Date

\_\_\_\_\_  
Department Head

\_\_\_\_\_  
Date

APPROVED AS TO FORM

\_\_\_\_\_  
Deputy County Attorney

\_\_\_\_\_  
Date