

**PARTNERSHIP AGREEMENT
BETWEEN THE CITY OF SAN ANTONIO &
ROC USA, LLC FOR THE U.S. DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT COMMUNITY DEVELOPMENT BLOCK GRANT PRESERVATION
AND REINVESTMENT INITIATIVE FOR COMMUNITY ENHANCEMENT
PROGRAM**

This Agreement between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its Director (“Director”) of the Neighborhood and Housing Services Department (“NHSD”) pursuant to Ordinance No. _____ dated _____, 2024, and ROC USA, LLC (“Entity”), (collectively “the Parties”) sets forth the objectives, understandings, and agreements between the Parties in connection with Entity’s partnership with City in the United States Department of Housing and Urban Development (“HUD”) for the Community Development Block Grant Preservation and Reinvestment Initiative for Community Enhancement (PRICE) Program (“Program” or “Project”).

WITNESSETH:

WHEREAS, the City is applying for a grant from the U.S. Department of Housing and Urban Development (“Grant”) through the Community Development Block Grant Preservation and Reinvestment Initiative for Community Enhancement (PRICE) Program to support the Lakeside Villages Mobile Home Community to be located at 5627 Sherry Dr. in the City of San Antonio, Bexar County, Texas; and

WHEREAS, City and Entity desire to enter into a partnership through which Entity will undertake certain activities in furtherance of completion of the Project, as more fully detailed in the Scope of Work attached to this Agreement; and

WHEREAS, this Agreement is contingent upon receipt of the award of the grant by City, and will become effective upon approval of the Agreement by the Parties’ governing bodies.

NOW THEREFORE, City and Entity agree as follows:

I. SCOPE OF WORK

- 1.1 Entity will provide all activities and services in a manner satisfactory to the City and in compliance with Entity’s attached Scope of Work (“**Attachment I**”) and this Agreement. If any terms of this Agreement are inconsistent, the terms imposing the most stringent requirements upon the Entity will control.
- 1.2 In the event that Entity is not able to provide the services for a reason grossly outside of Entity’s control, such as a City declaration of Emergency or Disaster, Entity must alert NHSD immediately, and City will determine if and what alternative services are required. Entity may propose alterations, but the final service delivery plan must receive City’s approval in writing.

1.3 For purposes of this Agreement, the terms listed below will have the following meanings:

- (A) “Allowable Costs” are those costs which are necessary, reasonable and allowable for the performance of services under this Agreement.
- (B) “Business day” means every day of the week except all Saturdays, Sundays, and those scheduled holidays officially adopted and approved by the City for City employees.
- (C) “Entity” is identified as ROC USA, LLC, which is the entity providing services to City in accordance with this Agreement.
- (D) “Cost Allocation Plan” is a plan that identifies and distributes the cost of services provided under this Agreement in order to substantiate and support the costs, and to assure the provided funds do not subsidize other program(s), and to ensure that the City is paying only its fair share of the costs.
- (E) “Equipment” and “property” means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more, and includes property such as furniture and vehicles, but not supplies and non-durable goods.
- (F) “Expenditure Report” is a report that details all expenditures from all revenue sources that the Entity expensed in the previous month.
- (G) “Program budget year” or “PBY” is the annual budget term (October 1 – September 31) for this Agreement.

1.4 Entity understands that City will have other partners that will complete work and provide services in connection with the Project. Entity agrees to allow the City’s other partners and service providers access to the facilities leased and/or owned by Entity, so long as access would not cause disruption of Entity’s operation of the facilities or completion of Entity’s work under this Agreement. Entity agrees to cooperate with City and third-party service providers to establish, modify and comply with the policies and procedures governing the City’s Program under the Grant and the protocol for collaboration between service providers. Entity agrees that, notwithstanding the fact that another service provider may be contracted to provide a category of service, Entity, under the leadership of its Entity director, or director’s designee, will be responsible for coordinating with other service providers and working with City to ensure provision of the full array of services covered by the Grant.

1.5 **Affordability Covenant.** Entity acknowledges that the Project will include a required affordability covenant that will run with the land establishing that the Property can only be used for affordable housing for a period of no less than 40 years from the date the project goes into service. Lot leases shall be restricted to 90% of all lots for lease to households whose income is at or below 60% of AMI at the time of move-in; and a max of ten percent (10%) of all lots for lease to households whose income is at or below 80%

of AMI, unless otherwise approved at the City's sole discretion.

II. TERM

- 2.1 Except as otherwise provided, this Agreement will begin on _____ and terminate on _____. This Agreement may be amended to extend the term to comply with the Grant and to accommodate any extensions agreed to by City and HUD without further action by the San Antonio City Council.
- 2.2 Entity understands this Agreement is contingent on the award of the Grant by HUD and acceptance of the Grant by the San Antonio City Council.

III. CONSIDERATION

- 3.1 In consideration of Entity's services, the City will pay Entity for Allowable Costs incurred, based on the acquisition and conversion of the Lakeside Village Mobile Home Community to a resident owned community located at 5627 Sherry Dr. San Antonio, Texas for affordable housing, a total amount not to exceed \$20,700,000.00 in HUD PRICE Grant funds.
- 3.2 Entity will contribute up to \$6,000,000 (six million dollars), as debt, subject to PRICE award and final underwriting, to support the completion of the Project.
- 3.3 Funding Reduction. Entity understands and agrees that City reserves the right to reduce Entity's funding if:
- (A) Entity fails to provide the services outlined in this Agreement or as required by the Grant documents as set forth in Attachment I;
 - (B) Grant funding is reduced by HUD causing the City's over budget for the Project to be reduced. City shall be under no obligation to compensate Entity for any losses Entity suffers as a result on reduction of funding of the Grant by HUD.
- 3.4 City reserves the right to modify payments to Entity or terminate this Agreement shall any of the events in Section 3.2 occur.

IV. PAYMENT

- 4.1 Disallowed Costs. Entity agrees that that the City's liability under this Agreement is limited to paying for direct services provided in accordance with the terms and provisions of this Agreement, including all Attachments. City will not be liable for any cost of Entity not eligible for payment as defined within this Agreement or the Grant documents. The amount of any disallowed costs must be remitted to City within ten (10) business days of City's request, or City may offset against future funding obligations by City to Entity.
- 4.2 Payment Process. City will make payments to Entity for work performed in accordance with this Agreement and Grant requirements, so long as:
- (A) Entity submits an invoice for payment on the first (1st) of every month.

(B) City verifies that work has and is being performed as required by this Agreement and Grant.

4.3 Closeout. At the end of each program budget year, Entity will submit to City a full accounting total costs incurred from all sources, and including Program Income, no later than forty-five (45) days after the end of that PBY or early termination. These deadlines may be adjusted only if Entity receives written authorization from City.

(A) Overpayment. Entity agrees to reimburse the City for any Entity overpayment based upon reconciled adjustments as of the end of each budget period, which is due to the City no later than ten (10) days after the end of that budget period.

(B) Written Notification by City. Reimbursement, including for all unused or unapproved funds, rebates, or as a result of Entity not contributing its full match, must be made within twenty (20) calendar days of written notification to Entity of the need for reimbursement; otherwise, City reserves the right to withhold the amount from subsequent payments.

4.4 Entity agrees that City will not be obligated to any subcontractors or third-party beneficiaries of the Entity.

4.5 Financial Management System. Entity will maintain a financial management system and acceptable accounting records with City's direction and to City's satisfaction, that provides:

(A) accurate, current, and complete disclosure of financial support from each federal, state and locally sponsored project and program in accordance with the reporting requirements set forth in this Agreement. If accrual basis reports are required, the Entity will develop accrual data based on an analysis of the documentation available;

(B) records that adequately identify the source and application of funds for City-sponsored activities. Such records will contain information pertaining to City funding, authorizations, obligations, un-obligated balances, assets, equity, outlays, and income;

(C) effective control over and accountability for all funds, property, and other assets. The Entity must adequately safeguard all such assets and ensure that they are used solely for authorized purposes. Entity will maintain a separate numbered account for all funds received and disbursed through this Agreement;

(D) comparison of actual outlays with budget amounts for each award. Whenever appropriate or required by the City, financial information should be related to performance and unit cost data;

(E) procedures to minimize the time elapsing between the transfer of funds from the City and the disbursement of said funds by the Entity;

(F) procedures for determining reasonable, allowable, and allocable costs in accordance with the provisions of any and all applicable cost principles, including but not limited to the cost principles referenced in this Agreement;

(G) accounting records supported by source documentation (i.e., timesheets, employee benefits, professional services agreements, purchases, and other documentation as

required by City). Entity will maintain records and meet necessary requirements under Generally Accepted Accounting Principles; and

(H) an accounting system based on City's accounting or administrative procedures that are in conformity with generally acceptable accounting principles which accurately reflects all costs chargeable to the Program (paid and unpaid). A Receipts and Disbursements Ledger must be maintained. A general ledger with an Income and Expense Account for each invoice is necessary. Paid invoices revealing check number, date paid, and evidence of goods or services received are to be filed according to the expense account to which they were charged.

- 4.6 Entity agrees that Entity costs or earnings claimed under this Agreement may not be claimed under another contract or grant from another agency, organization, business entity or governmental entity.
- 4.7 Cost Allocation Plan. Entity must establish and abide by a cost allocation methodology and plan, to ensure that costs allocated and charged to City are not charged to other awards. Entity will provide to City prior to the beginning of the Agreement Term, and each budget period thereafter, (i) a matrix identifying the shared use of facilities and/or program services and (ii) the Cost Allocation Plan with supporting documentation, along with its financial statements and audit(s) that are applicable to Entity's services under this Agreement. City has the right to review the Cost Allocation Plan for approval.

V. PROGRAM INCOME

- 5.1 At the sole option of the Director of NHSD, if Entity obtains program income ("PI") under the Agreement, Entity must either (a) be required to return the funds to NHSD within the timeframe specified by the Director, or (b) receive written approval by the Director to retain such funds, to be:
- (A) used to further eligible project objectives after proposed expenditures are approved by NHSD; or
- (B) deducted from the total project cost for the purpose of determining the net cost reimbursed by the City.
- If the Director approves Entity to retain PI, Entity must submit all reports as and when required by NHSD.
- 5.2 Fees & Donations. Entity and any vendors, if applicable, are prohibited from charging fees or soliciting donations, from program participants or parents without the prior written approval of NHSD. However, Entity may engage in general mission-oriented activity not specifically governed by the Grant requirements.
- 5.3 Entity must include this entire Article in any subcontract involving income-producing services or activities.

VI. ADMINISTRATION OF THIS AGREEMENT

- 6.1 Should any disagreement or dispute arise between the Parties pertaining to the interpretation or meaning of any part of this Agreement or its governing rules, regulations, laws, codes or ordinances, the City Manager or the Director of NHSD, as representatives of the City and the party ultimately responsible for all matters of compliance with the Grant, will have the final authority to render an interpretation.
- 6.2 Entity will not use funds awarded through this Agreement as matching funds for any other project without the prior written approval of the Director of NHSD.
- 6.3 Entity's Board. Entity will provide to NHSD all information reasonably requested by NHSD relating to the functions of Entity's governing body ("Board") for this and any other City-related projects, including but not limited to:
- (A) Roster of current Board members (including name, role, and terms, and e-mail);
 - (B) Annual schedule of anticipated Board meetings for;
 - (C) Board agendas to be submitted to City in advance of the time of posting prior to each Board meeting;
 - (D) Approved minutes of every Board meeting.
- 6.4 The City will have the authority during normal business hours to make physical inspections of all operating facilities occupied by Entity for the administration of this Agreement and to require physical safeguarding devices such as locks, alarms, security / surveillance systems, safes, fire extinguishers, sprinkler systems, etc. as reasonably necessary, to safeguard residents of the Property and/or equipment.
- 6.5 Check writing and Handling Procedures. If Entity writes or handles checks under this Agreement, Entity agrees to comply with the following check writing and handling procedures:
- (A) No blank checks are to be signed in advance.
 - (B) No checks are to be made payable to cash or bearer with the exception of those for petty cash reimbursement, not to exceed a \$100.00 maximum per check. Entity agrees that the aggregate amount of petty cash reimbursement will not exceed \$200.00 for any given calendar month during the Term of this Agreement unless Entity receives prior written approval from NHSD to exceed such limit. Such requests for petty cash must be supported by the submission to NHSD of an original receipt.
 - (C) Immediate Deposit. Checks issued by City to Entity must be deposited into the appropriate bank account immediately or by the next business day after Entity's receipt or City may investigate and issue a stop payment order, and checks must never be cashed for purposes of receiving the face amount back.
 - (D) Two signatures. For checks other than petty cash reimbursement, Entity must adopt and comply with a policy requiring no less than two (2) signatures of authorized representatives of Entity on each check. Alterations to the number of required signatures, may only occur upon the written approval of the City.

- 6.7 Publicity. This Section is applicable to all ROC USA publicity, public presentations, signs, public notices, and other informational material, to include electronic media, (collectively, “Materials”) prepared and/or disseminated during the Term of the Agreement by Entity. Entity will obtain City’s prior approval of the language and logo to be used, and the Parties agree that all publicity regarding the affiliation between City and Entity will be mutually agreed to by the Parties in advance. Entity agrees that all Material(s) regarding the Program shall provide a written statement which must read as follows: “The Lakeview Villages Project is funded by the City of San Antonio Neighborhood and Housing Services Department through a federal grant received from the U.S. Department of Housing and Urban Development.” These Materials include, but are not limited to, signs identifying facilities. In addition, all publicity related to Entity’s services must note that the Program is operated on a non-discriminatory basis.

VII. RIGHT OF REVIEW AND AUDIT

- 7.1 The City may conduct or have an audit conducted or conduct a review of the use of funds and documentation associated with this Agreement. City is entitled to determine the scope of any audit. The City Internal Audit Staff, a Certified Public Accounting (CPA) firm, or other personnel as designated by the City, may perform such audit(s) or reviews. Entity must make available to City all accounting and Project records, and any other records the City deems necessary for a thorough audit and review to ensure compliance with this Agreement and the requirements of the Grant.
- 7.2 Entity, during normal business hours, and as often as deemed necessary by City and/or the applicable state or federal governing agency or any other auditing entity, must make available the books, records, documents, reports, and evidence with respect to all matters covered by this Agreement for a minimum period of three (3) years or whatever period is determined necessary based on the Records Retention guidelines established by applicable law for this Agreement. The records shall be maintained for the required retention period, except if there is pending litigation or if the audit report has not been accepted, then the Entity shall retain the records for as long the City requires retention. The auditing entity shall have the authority to audit, examine and make excerpts, transcripts, and copies from all such books, records, documents and evidence, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this Agreement.
- 7.3 If an audit or examination determines that the Entity has expended funds or incurred costs which may be inconsistent with this Agreement or if the applicable state or federal governing agency raises compliance issues, then Entity shall be notified and provided an opportunity to address the issues.
- 7.4 City shall provide Entity written notification if reimbursed expenses or charges are disallowed by the City because of review or audit findings. NHSD may, in its sole discretion, elect to either 1) deduct the disallowed amounts from subsequent

reimbursements, or 2) require Entity to fully refund the disallowed amounts by cashier's check or money order within ten days after receipt of written notification. Entity may not reduce a Project's expenditures if the City opts to deduct disallowed expenses or charges from future reimbursements.

- 7.8 Any expenses for the collection of delinquent debts owed by Entity are the sole responsibility of the Entity and shall not be paid from the Grant or any other Project funds.
- 7.9 If the City determines, in its sole discretion, that Entity is in violation of the above requirements, the City shall have the right to dispatch auditors of its choosing to conduct the required audit and to have the Entity pay for such audit from non-City resources.

VIII. RECORDS, REPORTING, AND MONITORING

- 8.1 Tracking & Information Systems. Entity will submit to NHSD any and all reports as may be required of Entity by City. Entity must incorporate and use a City-approved tracking or information system, and collect, input and update all data as required by the City.

Additionally, Entity will maintain and furnish to City the appropriate financial and programmatic information and reports, in such forms as the City may require. Entity will maintain all applicable supporting documentation of costs, including but not limited to payroll records, invoices, contracts or vouchers, and make these available to City upon request.

- 8.2 City reserves the right to reasonably request Entity to provide additional records for travel expenses, long distance and cell phone calls, faxes, internet service, or other electronic communication devices charged to the budget associated with this Agreement.
- 8.3 Licensing. Entity must maintain all licenses, permits, certifications, and approvals necessary to perform the work hereunder and will notify the City of compliance prior to commencement of this Agreement. Entity must report all notices served, violations found, or complaints filed with regard to licensing, or lack thereof, of Entity's within one (1) business day of receipt of notice from the State licensing, certifying or permit-issuing authority of a violation or complaint, and shall take all necessary steps to cure such violation.
- 8.4 Final Report Requirements. Within a period not to exceed forty-five (45) calendar days after the end of each PBY, expiration or early termination date of this Agreement, Entity will submit all final reports and deliverables to City. Entity agrees that in conjunction with the submission of the final report, the Entity will execute and deliver to City a receipt for all sums received and a release of all claims for said sums against the Grant.
- 8.5 Access. Entity will make available to City, unless otherwise prohibited by law, its information, books, statements, data, records, reports, documents, papers, personnel files (including evidence of criminal background check(s)), client files, policies and procedures, and all other Project documents (collectively "Documents"), and those of its subcontractors

for as long as said Documents are retained. This right also includes timely and reasonable access to Entity's facility and to Entity's personnel for the purpose of interview and discussion related to such Documents. Entity will, upon request, transfer certain records or Documents to the custody of City when City determines that they possess long-term retention value unless otherwise prohibited by law.

8.6 Monitoring.

(A) NHSD maintains monitoring, fiscal control, and evaluation of this Project. Therefore, Entity agrees City may evaluate, through monitoring, reviews, inspection or other means, the quality, appropriateness, and timeliness of services delivered under this Agreement, and that the failure of City to monitor, evaluate, or provide guidance and direction will not relieve the Entity of any liability to City for failure to comply with the terms of this Agreement.

1. Interviews. Entity agrees to permit the City to have interviews with its personnel, Board members, and program participants pertaining to the matters covered by this Agreement. Entity agrees that failure of the City to monitor, evaluate, or provide guidance and direction will not relieve the Contractor of any liability to the City for failure to comply with the terms of this Agreement.
2. Background Checks. Criminal background, sex offender, and child abuse/neglect check(s) must comply with applicable law, and as evidence, the Parties agree that City will accept a written statement, from an authorizing agency, that the checks have been conducted and that all persons who are employed have passed, so long as the statement includes the name(s) of the staff member(s) checked, and the date(s) performed. If, at any time, City determines that such written statement is unsatisfactory, Entity agrees to provide additional information to resolve any conflict associated with provision of information related to criminal background checks.

(B) Monitoring Visits. City may, at its discretion, conduct periodic, announced and unannounced monitoring visits to ensure compliance with this Agreement and Grant requirements. City reserves the right to make unannounced visits to Entity's sites when it is determined that such unannounced visits are in the interest of effective program management and service delivery. Entity Program staff will be informed by City representative(s) upon arrival of the expected purpose and length of visit so that accommodations may be made. City's representative(s) will provide proper identification to ensure the safety and security of all parties.

8.7 Findings. Entity understands that the City will timely inform Entity of the findings of any review or monitoring, specifically any default under the Agreement or deficiencies in performance ("findings"). City will inform Entity in writing of strengths and weaknesses, assist Entity in finding solutions if needed, and specify a deadline for corrective action. If the findings are not corrected by the deadline, or occur on a repeated or ongoing basis, City reserves the right to reduce Entity's funding under this Agreement or terminate this Agreement.

- 8.8 Unless otherwise stated, all information requested by NHSD will be submitted by Entity within five (5) business days of the request via electronic communication or other form of written correspondence. Should Entity fail to deliver the required information or delivers incomplete information, the City may suspend payments to Entity until such information is delivered to City. Furthermore, the Entity ensures that all information contained in required reports or information submitted to City is accurate.
- 8.9 Local Government Records. In accordance with Texas law, Entity acknowledges and agrees that all “local government records” as defined in Chapter 201, Section 201.003 (8) of the Texas Local Government Code created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, Entity agrees that no such local government record produced by or on the behalf of Entity pursuant to this Agreement will be the subject of any copyright or proprietary claim by Entity.
- Entity acknowledges and agrees that all local government records produced in the course of the work required by this Agreement, are public information and will be made available to the City at any time unless otherwise prohibited by law. Entity further agrees to turn over to City all such records upon termination of this Agreement. Entity agrees that it will not, under any circumstances, release any records created during the performance of the Agreement to any entity without the written permission of the Director of NHSD, unless required to do so by a court of competent jurisdiction or the Texas Attorney General. NHSD will be notified of such request in accordance with this Article.
- 8.10 If Entity desires to copyright material or to permit any third-party to do so, Entity must obtain City’s prior written approval and must appropriately acknowledge City’s support in any such materials.
- 8.11 Travel by car. If City funds are allocated toward driving costs, Entity shall strongly encourage the participation of its employees in an approved defensive driving course. Evidence of the required driver’s license and liability insurance must be kept on file with the Entity.

IX. INSURANCE

- 9.1 Entity agrees to comply with the insurance provisions and requirements attached to and incorporated in this Agreement.

X. LIMITED LIABILITY

- 10.1 **ENTITY covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and**

nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to ENTITY'S activities under this AGREEMENT including any acts or omissions of ENTITY, any agent, officer, director, representative, employee, consultant or subcontractor of ENTITY, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this AGREEMENT. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT ENTITY AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

- 10.2 The provisions of this INDEMNITY are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Entity shall advise the City in writing within 24 hours of any claim or demand against the City or Entity known to Entity related to or arising out of Entity's activities under this Agreement and shall see to the investigation and defense of such claim or demand at Entity's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving Entity of any of its obligations under this paragraph.
- 10.3 Defense Counsel – Entity shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Entity fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Entity shall reimburse City for all costs related to retaining defense counsel until such time as Entity retains Counsel as required by this Section. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.
- 10.4 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Entity, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Entity or any subcontractor under worker's compensation or other employee benefit acts.

XI. RESERVED

XII. APPLICABLE LAWS

- 12.1 Entity, and all of the work performed under this Agreement, must comply with all applicable laws, rules, regulations and codes of the United States and the State of Texas

and with the charter, ordinances, bond ordinances, and rules and regulations of the City and Bexar County. Entity must also abide by any and all future amendments or additions as they may be promulgated. Failure to comply could subject the Entity to suspension of payments, termination of this Agreement, and debarment and suspension actions. In the event that any disagreement or dispute should arise between the Parties pertaining to the interpretation or meaning of any part of this Agreement or its governing rules, regulations, laws, codes or ordinances, City, as the party ultimately responsible for all matters of compliance with the City of San Antonio, shall have the final authority to render an interpretation.

12.2 Entity understands that certain funds provided it pursuant to this Agreement are funds which have been made available by the City's General Operating Budget and/or by other granting entities. Entity agrees to comply with all laws, ordinances, codes, rules, regulations, policies, and procedures, including licensing and accreditation standards applicable to the funds received by Entity or as otherwise required in this Agreement, including but not limited to:

- (A) The Office of Management and Budget (OMB) Circular at 2 C.F.R. 200 *et. al.* titled "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," ("Uniform Guidance"), as applicable to the funds received by Entity;
- (B) Official record retention schedules as established by the Local Government Records Act of 1989, found at <http://www.tsl.state.tx.us/slr/recordspubs/gr.html>; and
- (C) The Texas Public Information Act, at Chapter 552 of the Texas Government Code. The Texas Public Information Act, Government Code Section 552.021, requires the City to make public information available to the public. Under Government Code Section 552.002(a), public information means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: 1) by a governmental body or 2) for a governmental body and the governmental body owns the information, has a right of access to it, or has spent or contributed public money for the purpose of its writing, production, collection, assembly, or maintenance. Therefore, if Entity receives inquiries regarding documents within its possession pursuant to this Agreement, Entity shall within twenty-four (24) hours of receiving the requests forward such requests to City for disposition. If the requested information is confidential pursuant to state or federal law, the Entity shall submit to City the list of specific statutory authority mandating confidentiality no later than three (3) business days of Entity's receipt of such request.

12.3 Additionally, Entity shall comply with the following:

- (A) If using funds under this Agreement, expenditures shall be made in accordance with:
 - 1. Texas Local Government Code Chapter 252 pertaining to purchasing and contracting authority of municipalities; and
 - 2. Texas Government Code Chapter 2254 pertaining to Professional and Consulting Services.
 - 3. All requirements of the Grant.

(B) Drug-Free Workplace. Entity certifies that it will provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988.

(C) All applicable employment laws including, but not limited to:

1. worker's compensation;
2. unemployment insurance;
3. timely deposits of payroll deductions;
4. filing of Information on Tax Return form 990 or 990T, Quarterly Tax Return Form 941, W-2's Form 1099 on individuals who received compensation other than wages, such as car allowance, Forms 1099 and 1096 for contract or consultant work, non-employee compensation, etc.;
5. Occupational Safety and Health Act regulations; and
6. Employee Retirement Income Security Act of 1974, P.L. 93-406.

12.4 Entity further agrees to:

(A) comply with all standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§1251-1387), as amended and as applicable. Entity agrees to report each violation to City and understands that City will, in turn, report each violation as required to the HHS and the appropriate EPA Regional Office. Additionally, Entity agrees to include these requirements in each subcontract to this Agreement exceeding \$150,000.00 financed in whole or in part with federal funds.

(B) make positive efforts to utilize small businesses, minority-owned firms and women's business enterprises in connection with the work performed hereunder, whenever possible.

(C) provide for the rights of the federal government in any invention resulting from the work performed hereunder, in accordance with 37 C.F.R. Part 401 and any applicable implementing regulations.

(D) include a provision requiring compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. §874 and 40 U.S.C. §276 and §3145), as applicable under Appendix II of the OMB Uniform Guidance and as supplemented by Department of Labor regulations at 29 C.F.R. Part 3, "Contractor and Subcontractors on Public Building or Public Work Financed in Whole or In Part by Loans or Grants from the United States."

(E) comply with the Davis-Bacon Act, as amended (40 U.S.C. 3141–3144 and 3146–3148) and as applicable under Appendix II of the OMB Uniform Guidance, and as supplemented by Department of Labor regulations at 29 C.F.R. Part 5, implementing regulations, and to include a provision requiring compliance with any construction contracts of more than \$2,000.00, and report all suspected or reported violations to HHS.

- (F) comply with the certification and disclosure requirements of the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352), and any applicable implementing regulations. Entity verifies it has tendered said Certificate to the City.
- (G) comply with the applicable standards under the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11301 *et seq.* and 42 U.S.C. §11431 *et seq.*), and any applicable implementing regulations, as may be applicable.
- (H) comply with the Contract Work Hours and Safety Standards Act (40 USC 3701-3708), as applicable under Appendix II of the OMB Uniform Guidance, and as supplemented by Department of Labor regulations (29 CFR Part 5), relating to all contracts that involve the employment of mechanics or laborers, which provides, in part, that each Entity must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours, that work in excess of the standard work week be compensated at a rate at least one and a half times the basic rate of pay, and that no laborer or mechanic must be required to work under conditions which are unsanitary, hazardous or dangerous.
- (I) comply with the prohibitions contained in the Pro-Children Act of 1994 (20 U.S.C §6081-84), relating to no smoking within any indoor facility (or portion thereof) owned or leased or contracted for by Entity for the provision of regular or routine health care or day care or early childhood development services to children or for the use of the employees of the City or Entity who provide such services.
- (J) comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247, and to ensure compliance of any and all subcontractors when applicable.
- (K) if Entity engages in any contract that, except as otherwise provided under 41 C.F.R. Part 60, meets the definition of “federally assisted construction contract” in 41 C.F.R. Part 60-1.3, comply with all Equal Employment Opportunity provisions and all of the Executive Orders and Code of Federal Regulations cited in this Agreement, and must include the provisions in any of its subcontracts.

12.5 Nondiscrimination. As a party to this Agreement, Entity understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein. Also, Entity certifies that it will comply fully with the following nondiscrimination and equal opportunity provisions:

- (A) Titles VI and VII of the Civil Rights Act of 1964, as amended;

- (B) Section 504 of the Rehabilitation Act of 1973, as amended;
- (C) The Age Discrimination Act of 1975, as amended;
- (D) Fair Labor Standards Act of 1938, as amended;
- (E) Equal Pay Act of 1963, P.L. 88-38;
- (F) Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq., and
- (G) All applicable regulations implementing the above laws.

- 12.6 Public Subsidy. In compliance with Texas Government Code Section 2264.053, Restrictions on Use of Certain Public Subsidies, if Entity receives a public subsidy and is found to be in violation of 8 U.S.C. 1324a(f), Entity shall repay all funds received under this Agreement with interest in the amount of three percent (3%). Such repayment shall be made within 120 days of Entity receiving notice from the City of the violation. For the purposes of this Section, a “**public subsidy**” is defined as a public program or public benefit or assistance of any type that is designed to stimulate the economic development of a corporation, industry or sector of the state’s economy or to retain or create jobs in this state. This term includes grants, loans, loan guarantees, benefits relating to an enterprise or empowerment zone, fee waivers, land price subsidies, infrastructure development and improvements designed to principally benefit a single business or defined group of businesses, matching funds, tax refunds, tax rebates, or tax abatements.

XIII. NO SOLICITATION/CONFLICT OF INTEREST

- 13.1 Solicitation. Entity acknowledges that no person, selling agency, or other organization has been retained to solicit or secure this Agreement for a commission, percentage, brokerage, or contingent fee, and further that no such arrangement exists or has existed with any employee of Entity or City. For breach or violation of this Section, City will have the right to terminate this Agreement without liability or, at its discretion, to deduct from the Agreement, or otherwise recover, the full amount of such arrangement, or to seek such other remedies as legally may be available.
- 13.2 Conflict of Interest. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in the City’s Ethics Code, from having a financial interest in any contract with City or any City agency such as City-owned utilities. An officer or employee has a “prohibited financial interest” in a contract with the City or in the sale to City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.
- 13.3 Prohibited Financial Interest. Further, Entity covenants that neither it nor any member of

its governing body or of its staff (1) presently has any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement or (2) possesses any interest in, or uses their position for, a purpose that is or gives the appearance of being motivated by private gain for themselves or others, particularly those with which they have family, business, or other ties. Entity further covenants that no persons having such interest may be employed or appointed as a member of its governing body or of its staff.

- 13.4 Certification. Entity represents, and this Agreement is made in reliance thereon, that it, its officers, employees, and agents performing on this Agreement are neither a City officer nor an employee as defined by Section 2-52 (e) of the City's Ethics Code, and that by contracting with the City, Entity does not cause a City employee or officer to have a prohibited financial interest in the Contract. Entity further represents that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

XIV. TERMINATION

- 14.1 (A) Termination for Cause. Upon written notice in accordance with the official communication provisions in this Agreement, City may terminate this Agreement as of the date provided in the notice in whole or in part, upon the occurrence of either:
1. Failure to fulfill, in a timely and proper manner, obligations under this Agreement or the Grant, to include performance standards established by the City or the Grant, or violation of any of the covenants, conditions, or stipulations of this Agreement; or
 2. Notification by a local, state, or federal agency of a formal charge, probation, deferred adjudication, or conviction involving fraud, theft, or the commission of a felony by Entity or Entity's employee working on the Property or involved in the Project. In the case of an Entity's employee being the subject of the notification, Entity will have the opportunity to cure via the immediate termination and/or removal of the employee from the Program.
- (B) Termination for Convenience. This Agreement may be terminated in whole or in part upon written notice in accordance with the official communication provisions in this Agreement, which must specify a date:
1. not sooner than 120 days following the day on which notice is sent but not later than the end of Entity's fiscal year, unless earlier terminated under any other provision herein, or
 2. of termination to be the end of the PBY.
 3. Changes in the Grant that reduce or eliminate the City's desire or ability to complete the Project.
- 14.2 Entity will be entitled to receive just and equitable compensation for any properly documented, allowable, and approved work satisfactorily, completed prior to any termination date. Satisfactory completion will be reasonably determined by the City and

its decision will be final.

- 14.3 Notwithstanding any other remedy in this Agreement or by law, the City may delay, suspend, limit, or cancel funds, rights or privileges herein given Entity for failure to comply with the terms and provisions of this Agreement. The Entity will not be relieved of liability for damages sustained by the City by virtue of any breach of this Agreement and City may retain and utilize any other remedies available to City.
- 14.4 If an employee of Entity is discharged or leaves employment with Entity, then Entity will pay in full to the employee all of his or her earned salaries and wages, within the timeframe specified by law.
- 14.5 Should the Entity be debarred by any entity or the City pursuant to a debarment policy currently existing or hereafter adopted, the debarment may be grounds for termination.
- 14.6 Entity must not incur new obligations after the effective date of termination, and will cancel as many outstanding obligations as possible. Entity will submit to City all required reports including a final financial statement. The final financial statement's payment constitutes full and complete reimbursement for all of Entity's performance under this Agreement.

XV. RESERVED

XVI. PERSONNEL

- 16.1 Entity must maintain an organizational structure that provides evidence of adequate mechanisms for staff supervision to ensure effective oversight of responsibilities, and must demonstrate upon request, that all staff funded under this Agreement have the knowledge, skills, and experience they need to perform their assigned functions responsibly. Entity must assign adequate staff to fully implement the responsibilities, including those needing specific abilities or expertise, and address the major functions and responsibilities assigned to each position.
- 16.2 Management Team. Entity shall ensure that, at a minimum, the following program management functions are assigned:
 - (A) PRICE Grant Liaison. An appropriately assigned staff member with decision-making abilities, whether the CEO, agency director, Entity director, or designee of any of those previous listed, must attend scheduled Program/Project meetings, advise staff of meeting matters, and provide staff a formal platform for collaboration.
 - (B) All other personnel adequately qualified to perform the Scope of Work for the Project.

Entity's management team and any other necessary staff must provide uninterrupted year-round management services so as to ensure continued coordination with City regarding critical program activities. Critical program activities include but are not limited to: early childhood education services, ongoing health and safety monitoring, monthly staff meetings, and maintaining compliance with child care licensing.

XVII. PROPERTY, EQUIPMENT AND SUPPLIES

- 17.1 Entity shall maintain property, equipment and supplies purchased through the Grant and owned or under Entity's control pursuant to the Program and Project in good repair and without committing waste thereon/thereto. As grantee of the Grant, City has an interest in the status and condition of all property, equipment and supplies utilized in the completion and management of the Project and, as such, reserves the right to exercise any steps allowed by law or equity to protect the Property or residents of the Property.
- 17.2 Disposal, Loss, and Transfer.
- (A) Entity agrees that no equipment purchased with Grant funds may be disposed of without receiving prior written approval from NHSD. In cases of theft or loss of equipment, it is the responsibility of the Entity to replace it with like equipment, with funds other than Agreement funds. All replacement equipment will be treated in the same manner as equipment purchased with Agreement funds.
 - (B) City reserves the right to require transfer of property acquired with funds under this Agreement.
 - (C) All lost, stolen, missing, damaged, and/or destroyed property shall be reported to law enforcement agencies as appropriate. Entity shall make such report immediately and shall notify and deliver a copy of the official report to City within seventy-two (72) hours from the date of Entity's discovery. The report must include:
 - 1. A reasonably complete description of the missing, damaged or destroyed articles of property, including the cost and serial number and other pertinent information; and
 - 2. A reasonably complete description of the circumstances surrounding the loss, theft, damage or destruction.
- 17.3 Records. Entity will maintain accurate and complete records on all equipment and property obtained with Agreement funds to include:
- (A) A description, including the model and serial number or other identification number, if applicable;
 - (B) The date of acquisition, cost and procurement source, purchase order number, and vendor number;
 - (C) An indication of whether the equipment is new or used;
 - (D) The vendor's name (or transferred from);
 - (E) The location of the property;
 - (F) The property number shown on the property tag
 - (G) A list of disposed items and disposition.
- 17.5 Insuring & Reporting
- (A) Entity is fully and solely responsible for the insuring against fire, loss and theft; and safeguarding, maintaining, and reporting of lost, stolen, missing, damaged, or destroyed equipment/property purchased or leased with Agreement funds.

- (B) Entity will inform City of incidents of loss, theft, damage or destruction of equipment or property, excluding supplies and consumables, purchased or leased with Agreement funds.
 - (C) Entity, at a minimum, will provide the equivalent insurance for real property and equipment acquired with Agreement funds as provided to other property acquired or owned by the Entity.
- 17.6 Entity must fully comply with the property and equipment requirements of 45 C.F.R Part 75, including but not limited to Sections 75.316 through 75.323, related to the following:
- (A) Insurance Coverage
 - (B) Real Property
 - (C) Federally-owned and exempt property
 - (D) Equipment
 - (E) Supplies
 - (F) Intangible property
 - (G) Property trust relationship
- 17.7 Purchase thresholds. Entity shall obtain City's review, endorsement, written approval, and processing in the following instances: (i) for equipment, property or supplies purchases in the amount of \$500 or greater or (ii) for cumulative purchases in the amount of \$1,000 or greater. Entity may not split the purchase of a line item with a value greater than the preceding thresholds in order to avoid obtaining approval.
- 17.8 Third Party Beneficiary. Entity acknowledges and agrees that City is the intended third-party beneficiary of any and all facility leases to which Entity is or becomes a party in connection with any facility leased as a consequence of this Agreement. As such, Entity will use its best efforts to have lessor acknowledge that City is an intended third-party beneficiary of such lease. Entity will honor all of its material obligations and stay in good standing under any and all such leases. Entity will immediately notify City in writing in the event of any breach or alleged breach of any lease that could result in its termination. If an event gives rise to a right of first refusal in favor of Entity, Entity will promptly notify City of the event and allow City to step into Entity's shoes as tenant under the lease in order to exercise the right.

XVIII. DEBARMENT

- 18.1 Entity certifies that neither it nor its principals nor subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any state or federal program.
- 18.2 Entity will provide immediate written notice to City, in accordance with the notice or

communication requirements of this Agreement, if at any time during the term of this Agreement, including any renewals, Entity learns that its certification was erroneous when made or has since become erroneous.

XIX. RESERVED

XX. AMENDMENT

- 20.1 Except when the terms of this Agreement expressly provide otherwise, any alterations, additions or deletions to the terms of this Agreement must be by amendment in writing, executed by both Parties, and dated subsequent to the date hereof. Such amendment may occur without the necessity of seeking City Council approval, so long as the Agreement (i) is approved by the City Attorney's Office, and (ii) the total cumulative of all service provider agreements, including amendments, do not exceed City's Program Budget(s) for the applicable budget year.
- 20.2 It is understood and agreed by the Parties, that changes in any applicable governmental rules, regulations, or laws that occur during the term of this Agreement will be automatically incorporated into this Agreement effective as of the effective date of the rule, regulation, or law.

XXI. SUBCONTRACTING & ASSIGNMENT

- 21.1 Subcontracting.
- (A) None of the work or services covered by this Agreement may be sub-contracted without the prior written consent of the City. If allowed, subcontracting methods must meet City requirements; subcontractor compliance must be the responsibility of the Entity to monitor.
- (B) Entity must comply with all applicable local, state, and federal procurement standards, rules, regulations, and laws in all its sub-contracts related to the work or funds herein. It is further agreed by the Parties that City has the authority to monitor, audit, examine, and make copies and transcripts of all sub-contracts, as often as deemed appropriate by City. If, in the sole determination of City, it is found that Entity is not in compliance with said rules or standards with respect to any of its sub-contracts, then Entity will be deemed to be in default of this Agreement, and will be subject to termination in accordance with the Termination article of this Agreement.
- (C) If City grants a request to subcontract, Entity understands and agrees that all subcontracts in excess of \$2,000 must address termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement.
- 21.2 Assignment. Entity will not assign or transfer Entity's interest in this Agreement or any portion thereof without the written consent of City. Any attempt to transfer, pledge, or otherwise assign will be void ab initio and confer no rights upon any third person or party.

XXII. OFFICIAL COMMUNICATIONS

- 22.1 Except where the terms of this Agreement expressly provide otherwise, all official communications and notices among the Parties shall be deemed sufficient if in writing and delivered in person, mailed by overnight or express service or mailed, registered or certified mail, postage prepaid, to the addresses set forth below.

City:
Neighborhood and Housing Services
Attn: Director
100 W. Houston Street, 6th fl
San Antonio, TX 78205

Entity:
ROC USA, LLC
Attn: Chief Operating Office
1200 G Street NW, Suite 220
Washington, D.C. 20002

Notices of changes of address by either Party must be made in writing delivered to the other Party's last known address within five (5) business days of the change.

XXIII. PROHIBITED ACTIONS

- 23.1 Political Activity. Entity agrees:

- (A) No funds provided from or through the City shall be contributed or used to conduct political activities for the benefit of any candidate for elective public office, political party, organization or cause, whether partisan or non-partisan, nor shall the personnel involved in the administration of the Project provided for in this Agreement be assigned to work for or on behalf of any partisan or non-partisan political activity.
- (B) No funds provided under this Agreement may be used in any way to attempt to influence, in any manner, a member of Congress or any other state or local elected or appointed official.
- (C) The prohibitions set forth in Sections 18.1(A) and 18.1(B) of this Agreement include, but are not limited to, the following:
 - 1. an activity to further the election or defeat of any candidate for public office or for any activity undertaken to influence the passage, defeat or final content of local, state or federal legislation;
 - 2. working or directing other personnel to work on any political activity during time paid for with City funds, including, but not limited to activities such as taking part in voter registration drives, voter transportation activities, lobbying, collecting contributions, making speeches, organizing or assisting at meetings or rallies, or distributing political literature;
 - 3. coercing personnel, whether directly or indirectly, to work on political activities on their personal time, including activities such as taking part in voter registration drives, voter transportation activities, lobbying, collecting contributions, making speeches, organizing or assisting at meetings or rallies, or distributing political literature; and

4. using facilities or equipment paid for, in whole or in part with City funds for political purposes including physical facilities such as office space, office equipment or supplies, such as telephones, computers, fax machines, during and after regular business hours.
 - (D) To ensure that the above policies are complied with, Entity shall provide every member of its personnel paid out of City funds with a statement of the above prohibitions, which shall include a paragraph that directs any staff person who has knowledge of violations or feels that he or she has been pressured to violate the above policies to call and report the same to the contact person listed on the statement within the Managing City Department. Entity shall have each said individual sign a statement acknowledging receipt of the policy.
 - (E) That in any instance where an investigation of the above is ongoing or has been confirmed, reimbursements paid to the Entity under this Agreement may, at the City's discretion, be withheld until the situation is resolved.
 - (F) This Section shall not be construed to prohibit any person from exercising his or her right to express his or her opinion or to limit any individual's right to vote. Further, Entity and staff members are not prohibited from participating in political activities on their own volition, if done during time not paid for with City or Grant funds.
- 23.2 Adversarial Proceedings. Entity agrees that under no circumstances will the funds received under this Agreement be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding against the City or any other public entity and City may conduct an audit under Section 6.4 to make such determination. Entity understands that the City may deem Entity ineligible for consideration to receive any future funding under this Agreement or under another existing or future agreement while any adversarial proceedings against the City remains unresolved. This Agreement may be terminated by City under Article XIII should Entity have a pending lawsuit against City or file a lawsuit against the City during the term of this Agreement.
- 23.3 No Use of Funds for Religious Activities. Entity agrees that none of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the benefit, directly or indirectly, any such sectarian or religious facility or activity, or for the construction, operations, maintenance, or administration of any sectarian or religious facility or activity.
- 23.4 Contribution Prohibitions. Entity acknowledges that City Code Section 2-309 provides that any person acting as a legal signatory for an entity that applies for a "high-profile" discretionary contract, as defined by the City of San Antonio Procurement Policy and Procedures Manual, may not make a campaign contribution to any councilmember or candidate at any time from the tenth business day after the Consolidated Human Development Funding Services Pool Request for Proposal (RFP) is released, and ending on the 30th calendar day following the contract award. Any legal signatory for a proposed high-profile contract must be identified within the response to the RFP or RFQ, if the

identity of the signatory will be different from the individual submitting the response. Entity acknowledges that the City has identified this Agreement as high profile. Entity warrants and certifies, and this Agreement is made in reliance thereon, that the individual signing this Agreement has not made any contributions in violation of City Code Section 2-309 and will not do so for 30 calendar days following the award of this Agreement. Should the signer of this Agreement violate this provision, the City Council may, in its discretion, declare the Contract void.

XXIV. TEXAS GOVERNMENT CODE PROHIBITIONS

24.1 Prohibition on contracts with companies boycotting Israel. Texas Government Code §2270.002 provides that a governmental entity may not enter into a contract with a company for goods/services, unless the contract contains a written verification from the company that it:

- (1) does not boycott Israel; and
- (2) will not boycott Israel during the term of the contract.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

"Company", for the purposes of this Article, means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

24.2 Prohibition on contracts with companies that discriminate against firearm and ammunitions industries. Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it:

- (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
- (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

"Discriminate against a firearm entity or firearm trade association": means, with respect to the entity or association, to:

- (1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association;

- (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or
- (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

24.3 Prohibition on contracts with companies that boycott energy companies. Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it:

- (1) does not boycott energy companies and
- (2) will not boycott energy companies;

"Boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described in (A).

24.4 Prohibition on Contracts with companies engaged in business with Iran, Sudan, or foreign terrorist organizations. Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code §§2270.0201 or 2252.153. CONSULTANT hereby certifies that it is not identified on such a list and that it will notify City should it be placed on such a list while under contract with City. City hereby relies on CONSULTANT's certification. If found to be false, or if CONSULTANT is identified on such list during the course of its contract with City, City may terminate this CONTRACT for material

24.5 By executing contract documents with the City, CONSULTANT hereby certifies that it does not and will not engage in any of the prohibitions in this Article during the term of the CONTRACT. City hereby relies on CONSULTANT's certification(s). If found to be false, City may terminate the CONTRACT for material breach.

XXV. MISCELLANEOUS

25.1 Independent Contractor.

- (A) Entity is and will be deemed to be an independent contractor, responsible for its own acts or omissions, for which City is not responsible, and that neither Party has authority to bind the other nor to hold out to third parties that it has the authority to bind the other.
- (B) Nothing contained herein may be deemed or construed as creating the relationship of employer-employee, principal-agent, partners, joint venture, or any other similar

relationship, between the Parties.

(C) Any and all employees of Entity, wherever located, while engaged in the performance of any work required by City under this Agreement will be considered employees of Entity only, and not of City, and any and all Workers' Compensation claims that may arise on behalf of the employees while so engaged are the sole obligation and responsibility of Entity.

25.2 Non-Waiver. No waiver, change, modification, or discharge by either Party of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants, or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant, or guarantee. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved.

25.3 Venue. Entity and City agree that this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the Parties created under this Agreement are performable in Bexar County, Texas. Any action or proceeding to adjudicate any dispute arising out of this Agreement shall be brought in a court of competent jurisdiction in San Antonio, Bexar County, Texas. Venue and jurisdiction arising under or in connection with this Agreement shall lie exclusively in Bexar County, Texas.

25.4 Gender. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

25.5 Severability. If any clause or provision of this Agreement is held invalid, illegal, or unenforceable under present or future federal, state, or local laws, including but not limited to the City Charter, City Code, or ordinances of City, it is the intention of the Parties that such invalidity, illegality, or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal, or unenforceable clause or provision was never contained. It is also the intention of the Parties that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

25.6 Representations.

(A) Entity's signatory below represents, warrants, and guarantees that (s)he has full legal authority to execute this Agreement on behalf of Entity and to bind Entity to all of the terms, conditions, provisions, and obligations herein contained. Entity must be

authorized to do business in the State of Texas and operating in accordance with all applicable laws of the State of Texas. Upon request by the City, Entity will provide NHSD verification of the foregoing requirements.

(B) This Agreement is based on the representation of Entity that it is financially accountable for its expenditures; that it has the continuing capability to furnish it's match contribution specified in this Agreement; and that funds disbursed to Entity will be expended only for Allowable Costs as defined in this Agreement. Entity represents that there are no financial limitations or impediments that would make it not viable, solvent, and accountable.

(C) If circumstances arise which might result in interference with Entity's ability to provide services under this Agreement, Entity agrees to inform City of those circumstances immediately. Entity agrees that payment to Entity, upon reasonable notice, may be suspended by City until such financial circumstances giving rise to the possible interference have been eliminated; provided however, that authorized expenditures made and approved by City prior to the suspension, will not be affected.

XXVI. ENTIRE AGREEMENT

26.1 This Agreement and its attachments, if any, constitute the entire and integrated Agreement between the Parties and contain all terms and conditions, and supersede all prior negotiations, representations, or agreements, either oral or written. No such other negotiations or representations may be enforced by either Party nor may they be employed for interpretation purposes in any dispute involving this Agreement.

This Agreement has been executed as of the date of the last party to sign below,

the _____ day of _____, 2024.

CITY OF SAN ANTONIO:

ROC USA LLC:



Veronica Garcia, Director

F Robert Wilson
EVP CO-operative Solutions

Date _____

Date _____

APPROVED AS TO FORM:

Assistant City Attorney

Board President (if required by Entity)

ATTACHMENTS:

Attachment I – Scope of Work
Attachment II – Insurance Requirements

ATTACHMENT I

SCOPE OF WORK

- Facilitate all aspects, duties, due diligence and responsibilities to position the MHC for resident-ownership with the use of \$18M in PRICE Grant funds, which may include obtaining a bridge loan
 - Facilitate the HUD environmental review for the acquisition
 - Establish the ROC and adopt by-laws
 - Provide all reporting and documentation to the City, as required to HUD for the PRICE Grant
 - Establish property management for the community
 - Coordinate and partner with the San Antonio Housing Trust Public Facilities Corporation to obtain tax exemption on the 16-acre community for no less than 40-years
- Offer resident-ownership cooperative technical assistance and coaching to the newly formed ROC Board for up to 40 years
 - Assess the existing homes to identify potential replacements
 - Develop a process to select which homeowners will receive a replacement using City Bond Funding.
 - Assist in tax and/or title remediation as needed for homeowners receiving a new/replacement unit
- Identify and facilitate the sale of 7 infill lots and replacement of 7 units, working with the City and Next Step to procure the new MFH
 - Advertise the infill houses, prioritizing LMI residents who need replacement units
 - Sales are restricted to 60% AMI
 - Ensure proper income verification is complete in accordance with City policies
 - Coordinate and facilitate any relocation that is needed within the limits of the City's relocation policies
 - Coordinate residents requirement to attend homeowner education classes
 - ROC USA's project manager will be available to assist with home warrant questions for the first 90 days and provide feedback to Next Step to adjust any MFHs in (pre)production.
 - ROC USA will monitor, the frequency or repetition of any clear deficiencies of the new MFHs.



Veronica Garcia
Director of Neighborhood & Housing Services
City of San Antonio, Texas
City Hall 100 Military Plaza
San Antonio, TX 78205

Re: Intent to Participate in the City of San Antonio, Texas CDBG-PRICE Initiative

Dear Ms. Garcia,

This letter is to confirm the mutual intent of the City of San Antonio, Texas and ROC USA to collaborate and enter into a partner agreement, contingent upon the award of funds from the United States Department of Housing and Urban Development for the Community Development Block Grant Preservation and Reinvestment Initiative for Community Enhancement (CDBG-PRICE) competition, to carry out eligible activities as provided in the City of Tucson CDBG-PRICE application.

ROC USA® is a non-profit social venture scaling resident ownership of manufactured home communities since 2008. Together, with a group of regional non-profit affiliates, and ROC USA® Capital, a CDFI lending subsidiary, we work with 321 resident owned communities nationwide.

Through the CDBG-PRICE program, ROC USA will facilitate the conversion of the Lakeside Village to a resident owned community. ROC USA will support all aspects of the transition including facilitation of infrastructure upgrades, financial and legal transactions, debt financing provided through its CDFI subsidiary (ROC USA ® Capital). Technical assistance will be provided to establish the non-profit governing board for the resident owned community, and ongoing support for the community during the lifetime of the project performance period.

ROC USA will receive CDBG-PRICE funds to conduct these activities as outlined in the proposal budget. It is understood that this letter is only an expression of our intent and a binding partner agreement detailing the terms and conditions of the proposed partnership must be executed before the use of any CDBG-PRICE funds, if awarded.

Respectfully,

Nicholas Salerno

Chief Operating Officer

www.rocusa.org

ROC USA, LLC • 6 Loudon Road, Suite 501 Concord, NH 03301 • 603.513.2791 • contact_us@rocusa.org

ATTACHMENT II

INSURANCE REQUIREMENTS

Contractor agrees to comply with the following insurance provisions:

- (A) No later than 30 days before the commencement of this Contract, Contractor must provide a completed Certificate(s) of Insurance to City's Neighborhood and Housing Services Department. The certificate must be:
- clearly labeled with the legal name of Contractor and services in the Description of Operations block;
 - completed by an agent and signed by a person authorized by the insurer to bind coverage on its behalf (City will not accept Memorandum of Insurance or Binders as proof of insurance);
 - properly endorsed and have the agent's signature, and phone number,
- (B) Certificates may be mailed or sent via email, directly from the insurer's authorized representative. City shall have no duty to pay or perform under this Contract until such certificate and endorsements have been received and approved by City's Neighborhood and Housing Services Department. No officer or employee, other than City's Risk Manager, shall have authority to waive this requirement.
- (C) If the City does not receive copies of insurance endorsement, then by executing this Contract, Contractor certifies and represents that its endorsements do not materially alter or diminish the insurance coverage during the effective period of this Contract.
- (D) The City's Risk Manager reserves the right to modify the insurance coverages, their limits, and deductibles prior to the scheduled event or during the effective period of this Contract based on changes in statutory law, court decisions, and changes in the insurance market which presents an increased risk exposure.
- (E) Contractor shall obtain and maintain in full force and effect for the duration of this Contract, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below.
- (F) If the Contractor claims to be self-insured, they must provide a copy of their declaration page so the City can review their deductibles:

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal / Advertising Injury	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella Liability Coverage

d. Contractual Liability e. Sexual Abuse / Molestation**	
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>C</u> ombined <u>S</u> ingle <u>L</u> imit for <u>B</u> odily <u>I</u> njury and <u>P</u> roperty <u>D</u> amage of \$1,000,000 per occurrence
5. Professional Liability – (Claims-made Coverage)	\$1,000,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service. Coverage to be maintained and in effect for no less than two years subsequent to the completion of the professional service.
** Required for projects involving services to children	

(G) Contractor must require, by written contract, that all subcontractors providing goods or services under this Contract obtain the same insurance coverages required of Contractor and provide a certificate of insurance and endorsement that names Contractor and City as additional insureds. Contractor shall provide City with subcontractor certificates and endorsements the subcontractor starts work.

(H) If a loss results in litigation, then the City is entitled, upon request and without expense to the City, to receive copies of the policies, declaration page and all endorsements. Contractor must comply with such requests within 10 days by submitting the requested insurance documents to the City at the following address:

City of San Antonio
Director of Neighborhood and Housing Services
100 W. Houston Street, 6th Floor
San Antonio, Texas 78205

(I) Contractor's insurance policies must contain or be endorsed to contain the following provisions:

- Name City and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with City. The endorsement requirement is not applicable for workers' compensation and professional liability policies.
- Endorsement that the "other insurance" clause shall not apply to City where City is an additional insured shown on the policy. City's insurance is not applicable in the event of a claim.
- Contractor shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of City; and

- Provide 30 days advance written notice directly to City of any suspension, cancellation, non-renewal or materials change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- (J) Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this Contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Contract.
- (K) In addition to any other remedies City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, City may order Contractor to stop work and/or withhold any payment(s) which become due to Contractor under this Contract until Contractor demonstrates compliance with requirements.
- (L) Nothing contained in this Contract shall be construed as limiting the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractors' performance of the work covered under this Contract.
- (M) Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self - insurance carried by City for liability arising out of operations under this Contract.
- (N) The insurance required is in addition to and separate from any other obligation contained in this Contract and no claim or action by or on behalf of City shall be limited to insurance coverage provided.
- (O) Contractor and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.