

PROFESSIONAL SERVICES AGREEMENT FOR THE PREPARATION OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) 2023-2027 COMMUNITY DEVELOPMENT BLOCK GRANT CONSOLIDATED PLAN, 2023 ANNUAL ACTION PLAN, AND ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE BETWEEN THE CITY OF RAPID CITY AND MSA PROFESSIONAL SERVICES, INC.

THIS AGREEMENT made on this day 23 of May, 2022 between the City of Rapid City, 300 Sixth Street, Rapid City, South Dakota 57701, hereinafter referred to as OWNER, and MSA Professional Services, Inc., hereinafter referred to as CONSULTANT encompass the preparation and delivery of the Analysis of Impediments to Fair Housing Choice report.

OWNER and CONSULTANT, in consideration of their mutual covenants herein, agree in respect of the performance of the Scope of Work by CONSULTANT and the payment for those services by OWNER as set forth below.

SECTION 1 - BASIC SERVICES OF CONSULTANT

1.1 General

CONSULTANT shall provide to OWNER services in all phases of the Scope of Work to which this Agreement applies as hereinafter provided.

1.2 Scope of Work

- a) *Basic Services Scope of Work* - The Basic Services Scope of Work as described in REQUEST FOR PROPOSALS CONSULTING SERVICES FOR THE PREPARATION OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) 2023-2027 COMMUNITY DEVELOPMENT BLOCK GRANT CONSOLIDATED PLAN, 2023 ANNUAL ACTION PLAN, AND ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE (“the RFP”) to create such reports, enter and submit the 2023-2027 Consolidated Plan and 2023 Annual Action Plan into the Integrated Disbursement and Information System (IDIS), to include public participation, and to present the reports to City Council as indicated in Section 1.2.
- b) *Guiding Documents and Resources* - CONSULTANT will undertake tasks with the guidance provided in “A New Assessment Process to Affirmatively Further Fair Housing¹” the “Fair Housing Planning Guide²,” “Rapid City’s Community Development Block Grant Program Resident Participation Plan³,” and in consistency with CONSULTANT’s approved public involvement strategy as provided in response to the RFP.
- c) The Analysis of Impediments to Fair Housing Choice report shall contain the following components:
 - i. Executive Summary
 - ii. Introduction
 - Fair Housing Complaint contact information
 - Definition of Fair Housing and the purpose of the report
 - Methodology and public participation process
 - Socio-demographic profile of the City
 - Housing profile and overview of housing characteristics of the City

iii. Assessment of Past Goals and Actions

iv. Analysis

- Status of neighborhood segregation and integration, including Affirmatively Furthering Fair Housing Data Map (or equivalent)
- Prevalence of racially/ethnically concentrated areas of poverty
- Disparities of neighborhoods in accessing community assets by protected classes
- Disproportionate housing needs across protected classes
- Existing regulations, procedures, policies, and trends affecting fair housing choice including a discussion of:
 - Lending practices and differential origination and denial rates
 - Foreclosure and eviction data as represented by % race, % ethnicity, and neighborhood
 - Public housing policies and practices and the impacts on fair housing choice
 - Trends and patterns associated with discriminatory housing practices including advertising and denial or discouragement from inspections, sales, or rentals of units
 - Public policies and practices that shape the ability of individuals and households to obtain housing
 - Barriers to developing housing for protected classes including evaluation of zoning and land-use policies
 - Barriers to rehabilitating housing for protected classes including code and permitting requirements
 - Transit access to housing types and prices consistent with the needs of protected classes
 - Compliance with Section 504, Reasonable Accommodations, Reasonable Modifications, ADA, and other regulatory requirements
 - Other trends and patterns
- Fair Housing Profile
 - Analysis of fair housing programs, activities, and resources

v. Key Findings and Recommendations

- Summary of the leading fair housing challenges and opportunities in the community with prioritized goals and implementation strategies for progress. Key personnel, departments, or organization recommendations should be included.

- vi. Supporting Documentation
 - All plans, calculations, maps, digital files, reports, survey results, correspondence, meeting minutes and agendas, and related data generated for the report must be provided. Newspaper affidavits documenting public notice publications must be included.
- d) *Public Participation*
Public meetings must be advertising in the *Rapid City Journal* and *Native Sun News* as outlined in detail in “Rapid City’s Community Development Block Grant Program Resident Participation Plan.” Publication of public meetings is the responsibility of the OWNER.
- e) *Progress Documentation* - CONSULTANT shall provide the Community Enrichment Division written documentation in the form of memorandums of the status of the project. No less than two (2) progress memorandums are required.

SECTION 2 - ADDITIONAL SERVICES OF CONSULTANT

2.1 Services Requiring Authorization in Advance

If authorized in writing by OWNER, CONSULTANT shall furnish or obtain from others Additional Services of the types listed in Subsections 2.1(a) through 2.1(d), inclusive. These services are not included as part of Section 1 except to the extent provided otherwise in the RFP, and these services will be paid for by OWNER as indicated in Section 5.

- a) Services resulting from significant changes in the general scope, extent or character of the Project including, but not limited to, changes in size or complexity; revising previously accepted reports, maps, meeting minutes and agendas, or public notices or when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents.
- b) Services during out-of-town travel required of CONSULTANT other than visits to the site.
- c) Preparing to serve or serving as CONSULTANT or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving the Project (except for assistance in consultations which is included as part of Basic Services).
- d) Additional services in connection with the Project, excluding services that are to be furnished by OWNER and services not otherwise provided for in this Agreement.

SECTION 3 - OWNER’S RESPONSIBILITIES

3.1 OWNER shall do the following in a timely manner so as not to delay the services of CONSULTANT:

- a) The Community Enrichment Division Manager or their designee shall act as OWNER’S representative with respect to the services to be rendered under this Agreement. The Community Enrichment Division Manager shall have complete authority to transmit instructions, receive

information, interpret and define OWNER'S policies and decisions with respect to CONSULTANT'S services for the Project.

- b) Assist CONSULTANT by placing at CONSULTANT'S disposal all available information pertinent to the Project including previous reports, demographic information, and any other data relative to the Project.
- c) Examine all calculations, maps, digital files, reports, survey results, correspondence, meeting minutes and agendas, and related data generated for the report presented by CONSULTANT, obtain advice of an attorney, insurance counselor and other CONSULTANTs as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of CONSULTANT.
- d) Give prompt written notice to CONSULTANT whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT'S services.
- e) Furnish or direct CONSULTANT to provide Additional Services as stipulated in Subsection 2.1 of this Agreement or other services as required.

SECTION 4 - PERIOD OF SERVICE

CONSULTANT shall complete the scope of work by January 27, 2023. CONSULTANT'S services shall be provided in general accordance with the schedule as defined in Exhibit B. The OWNER may consider a failure by CONSULTANT to meet the schedule in Exhibit B with regard to any phase of the work as a breach of this Agreement.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1 Methods of Payment for Services and Expenses of CONSULTANT

- a) For Basic Services. The OWNER will pay CONSULTANT the actual costs for services provided in an amount not to exceed \$26,000.00. This includes a lump sum fixed fee in the amount of \$26,000.00.
- b) Payment will be made pursuant to an invoice submitted by CONSULTANT with a signed voucher.
- c) Billable in monthly installments at the CONSULTANT'S discretion. Payments may take up to 45 days to process.
- d) The OWNER will retain 10% of the agreed upon lump sum for basic services as well as additional services, equal to 10% of the entire agreed upon lump sum fixed fee for each. This 10% retainage will be released to the CONSULTANT upon HUD's approval of final reports.
- e) For Additional Services. OWNER shall pay CONSULTANT for Additional Services rendered under Section 2 as follows:
- f) General. For additional services of CONSULTANT'S principals and employees engaged directly on the Project and rendered pursuant to Subsection 2.1 on the same basis as outlined in Subsection 5.1.

5.2 Times of Payments

CONSULTANT shall submit statements for Basic and Additional Services rendered and for Reimbursable Expenses incurred. OWNER shall make prompt payments in response to CONSULTANT'S statements.

For these services, the OWNER shall make prompt payments to CONSULTANT based on an invoice submitted by CONSULTANT and approval of the final report by OWNER.

5.3 Other Provisions Concerning Payments and Record Keeping

- a) If OWNER fails to make any payment due to CONSULTANT for services and expenses within forty-five (45) days after receipt of CONSULTANT'S statement CONSULTANT may, after giving seven (7) days written notice to OWNER, suspend services under this Agreement until CONSULTANT has been paid in full all amounts due for services, expenses and charges.
- b) The employees of CONSULTANT, professional associates, and CONSULTANTS whose time is directly assignable to the program shall keep and sign a time record showing the element of the Project, date and hours worked, title of position and compensation rate.
- c) Records. CONSULTANT shall maintain an accurate cost keeping system as to all costs incurred in connection with the subject of this Agreement and shall produce for examination books of accounts, bills, invoices and other vouchers, or certified copies thereof if originals are lost, at such reasonable time and place as may be designated by the OWNER. CONSULTANT shall permit extracts and copies thereof to be made during the contract period and for four (4) years after the date of final payment to CONSULTANT.
- d) All personnel employed by CONSULTANT shall maintain time records for time spent performing work on the study described in this Agreement for a period of four (4) years from the conclusion of the study. Time records and payroll records for said personnel shall be similarly retained by CONSULTANT for a period of four (4) years from the conclusion of the study.
- e) Upon reasonable notice, CONSULTANT will allow OWNER, state, and federal auditors to audit all records of CONSULTANT related to this Agreement. These records shall be clearly identified and readily accessible. All records shall be kept for a period of four (4) years after final payment under this Agreement is made and all other pending matters are closed.
- f) Inspection of Work. CONSULTANT shall, with reasonable notice, afford OWNER or representative of OWNER reasonable facilities for review and inspection of the work in this Agreement. OWNER shall have access to CONSULTANT'S premises and to all books, records, correspondence, instructions, receipts, vouchers and memoranda of every description pertaining to this Agreement.
- g) Audits. If CONSULTANT expends \$750,000.00 or more in federal awards during CONSULTANT's fiscal year, CONSULTANT must have

an audit conducted in accordance with 2 CFR Part 200, Subpart F - Audit Requirements, by an auditor approved by the Auditor General to perform the audit.

- h) OWNER, U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any authorized representatives thereof, at any time during normal business hours, as often as deemed necessary, are allowed to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by CONSULTANT within 30 days after receipt by CONSULTANT. Failure of CONSULTANT to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments.
- i) Upon completion of the aforementioned required annual financial audit, CONSULTANT shall notify OWNER in writing of any audit findings within five (5) business days of CONSULTANT receiving notification of such findings. Further, as soon thereafter as is practicable, CONSULTANT shall notify OWNER in writing of all steps taken or to be taken to resolve such audit findings and the final resolution of such findings.
- j) For either an entity-wide, independent financial audit, or an audit under 2 CFR Part 200, Subpart F, CONSULTANT will resolve all interim audit findings to the satisfaction of the auditor. CONSULTANT will facilitate and aid any such reviews, examinations, and agreed-upon procedures.
- k) Failure to complete audit(s) as required, including resolving interim audit findings, will result in the disallowance of audit costs as direct or indirect charges to programs. Additionally, a percentage of awards may be withheld, overhead costs may be disallowed, and awards may be suspended until the audit is completely resolved.
- l) CONSULTANT will be responsible for the payment of any and all audit exceptions which are identified. CONSULTANT may be responsible for payment of any and all questioned costs, as defined in 2 CFR 200.84, at the discretion of the State.
- m) Notwithstanding any other condition of the Agreement, the cooperative audit resolution process applies, as appropriate. The books and records of CONSULTANT must be made available if needed and upon request at CONSULTANT's regular place of business for audit. The City and U.S. Department of Housing and Urban Development each has the right to return to audit the program during the performance of the scope of work or after completion, and at any time during the record retention period, and to conduct recovery audits including the recovery of funds, as appropriate.
- n) If applicable, CONSULTANT will comply in full with the administrative requirements and cost principles as outlined in the U.S. Office of Management & Budget (OMB) uniform administrative requirements, cost principles, and audit requirements for federal awards – 2 CFR Part 200 (Uniform Administrative Requirements.)

- o) Payment shall be made subject to audit by duly authorized representatives of the OWNER. Payment shall be made as required in 48 CFR 31 and 2 CFR PART 200.
- p) CONSULTANT shall pay subcontractors or suppliers within 15 days of receiving payment for work by the OWNER. If CONSULTANT withholds payment beyond this time period, written justification by CONSULTANT shall be submitted to the OWNER upon request. If it is determined that a subcontractor or supplier has not received payment due without just cause, the OWNER may withhold future estimated payments and/or may direct CONSULTANT to make such payment to the subcontractor or supplier.
- q) Funding Provision. The payment of federal funds under this Agreement is subject to the availability of Community Development Block Grant funds appropriated by Congress.

5.4 Definitions

Reimbursable Expenses means the expenses incurred by CONSULTANT or CONSULTANT'S independent professional associates or CONSULTANTS directly in connection with the Project, including expenses for: transportation and subsistence incidental thereto; reproduction of reports, graphics, and similar Project related items; and if authorized in advance by OWNER, overtime work requiring higher than regular rates. In addition, if authorized in advance by OWNER, Reimbursable Expenses will also include expenses incurred for computer time and other highly specialized equipment, including an appropriate charge for previously established programs and expenses of photographic production techniques times a factor of 1.0 as determined in accordance with CONSULTANT'S normal accounting practices. All costs must be accumulated and segregated in accordance with CONSULTANT's normal business practice, 48 CFR Part 31 and 2 CFR 200. Lodging and subsistence expenses will be reimbursed according to state guidelines using General Services Administration (GSA) federal per diem rates for Rapid City/Pennington County South Dakota.

5.5 Ownership of Data

Documents and all products of this Agreement are to be the property of the OWNER.

5.6 Publication and Release of Information

CONSULTANT shall not copyright material developed under this Agreement without written authorization from the OWNER. The OWNER reserves a royalty-free non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the work for government purposes.

5.7 Acquisition of Property or Equipment

The acquisition of property or equipment will be in accordance with 2 CFR Subpart E.

5.8 Independent Consulting and Subcontracting

While performing services hereunder, CONSULTANT is an independent contractor and not an officer, agent, or employee of the City of Rapid City.

Any employee of CONSULTANT engaged in the performance of services required under the agreement shall not be considered an employee of the OWNER, and any and all

claims that may or might arise under the Worker's Compensation Act of the State of South Dakota on behalf of said employees or other persons while so engaged and any and all claims made by any third party as a consequence of any act or omission of the part of the work or service provided or to be rendered herein by CONSULTANT shall in no way be the obligation or responsibility of the OWNER.

CONSULTANT shall perform all work except specialized services. Specialized services are considered to be those items not ordinarily furnished by CONSULTANT which must be obtained for proper execution of this Agreement. Specialized services required by the study, if any, will be provided pursuant to Section 2 of this Agreement.

Neither this Agreement nor any interest therein shall be assigned, sublet or transferred unless written permission to do so is granted by the OWNER. Subcontracts are to contain all the required provisions of the prime contract as required by 49 CFR Part 18, definitions.

5.9 Personnel Employment

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gifts, or any other considerations, contingent upon or resulting from the award of making of this Agreement. For breach or violation of this warranty, the OWNER shall have the right to annul this Agreement without liability or, in its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fees, commission, percentage, brokerage fee, gift or contingent fee.

5.10 Claims

To the extent authorized by law, CONSULTANT shall indemnify and hold harmless the OWNER, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses and reasonable attorney fees to the extent such claims are caused by any performance of professional services by CONSULTANT, its employees, agents, subcontractors or assignees.

It is further agreed that any and all employees of either party, while engaged in the performance of any work or services, shall not be considered employees of the other party and that any and all claims that may or might arise under the Worker's Compensation Act of the State of South Dakota on behalf of said employees, while so engaged on any of the work or services provided to be rendered herein, shall in no way be the obligation or responsibility of the other party.

5.11 Acceptance and Modification

This Agreement together with the RFP and Exhibits and schedules identified above shall constitute the entire agreement between OWNER and CONSULTANT and supersede all prior written or oral understandings. This Agreement and said RFP, Exhibits and schedules may only be amended, supplemented, modified or canceled after consultation with, and approval in writing by, the parties to this Agreement.

SECTION 6 – TERMINATION

6.1 Notice

If CONSULTANT breaches any of the terms or conditions of this Agreement, the OWNER may terminate this Agreement or any portion of the Agreement at any time with or without notice. In any other case, the OWNER may terminate the entire Agreement or any portion of the Agreement upon ten (10) days' written notice to CONSULTANT.

6.2 Take over Work

Upon termination, the OWNER may take over the work and/or may award another party an agreement to complete the work under this Agreement.

6.3 Delivery of Work

Upon termination, CONSULTANT shall deliver to the OWNER all work completed to the date of termination. CONSULTANT'S work product shall become the OWNER'S property.

6.4 Payment upon Termination

- a) Termination for Default. If the OWNER terminates the Agreement due to CONSULTANT'S default, the OWNER may pay CONSULTANT for work satisfactorily performed and delivered to the OWNER up to the date of termination. After audit of CONSULTANT'S billed costs to the date of termination and after determination by the OWNER of the amount of work satisfactorily performed, the OWNER will determine the amount to be paid to CONSULTANT. The OWNER may adjust any payment to cover any additional costs to the OWNER due to CONSULTANT'S default. The OWNER shall be entitled to recover payments made to CONSULTANT for the work which is the cause of the termination.
- b) Termination not for Default. If the OWNER terminates the Agreement for a reason other than default, CONSULTANT shall be paid for the value of work performed and services rendered up to the date of termination, in an amount decided by OWNER. Any such payment shall constitute total payment for such work and services. This payment to CONSULTANT may be a portion of the fixed fee, plus actual costs. The portion of the fixed fee may be based on the ratio of the actual costs uncured to the estimated actual costs. Actual costs to be reimbursed shall be determined by audit of such costs to the date of termination.

SECTION 7 – GOVERNING LAW

This Agreement and any dispute arising out of this Agreement shall be governed by the laws of the State of South Dakota, without regard for any conflicts of law's provisions contained therein.

7.1 Forum Selection

Any dispute arising out of this contract shall be litigated in the Circuit Court for the 7th Judicial Circuit, Rapid City, South Dakota.

7.2 Compliance Provision

CONSULTANT shall procure all licenses, permits or other rights necessary for the fulfillment of its obligation under the Agreement. CONSULTANT shall comply with all federal, state and local laws, together with all ordinances and regulations applicable to the work and will be solely responsible for obtaining current information on such requirements.

SECTION 8 – MERGER CLAUSE

This written agreement which incorporates by reference the Request for Proposals and associated exhibits, to include Exhibit A – Professional Services Agreement, Exhibit B – Period of Performance, Exhibit C – Certification of Consultant, Exhibit D – Certification for Debarment, Suspension and Other Responsibility Matters, Exhibit E – Assurances, and Exhibit F – RFP, constitute the entire agreement of the parties. No other promises or considerations are a part of this agreement.

Professional Services Agreement for the Preparation of the U.S. Department of Housing and Urban Development (HUD) 2023-2027 Community Development Block Grant Consolidated Plan, 2023 Annual Action Plan, and Analysis of Impediments to Fair Housing Choice between The City of Rapid City and MSA Professional Services, Inc. Project No.

SECTION 9 – ENVIRONMENTAL CONDITIONS

CONSULTANT agrees to comply with the following requirements as they apply to the Professional Services Agreement including the Clean Air Act, 42 U.S.C., 7401, et seq, the Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 308, and all regulations and guidelines issued thereunder, and Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

SECTION 10 – ASSURANCES

CONSULTANT will be bound by Exhibit E, attached to and made a part of this Agreement, said assurance being entitled, “ASSURANCES.”

SECTION 11 – CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

CONSULTANT certifies, by signing this Agreement that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. CONSULTANT will be bound by Exhibit D, attached to and made a part of this Agreement.

SECTION 12 – INSURANCE AND REPORTING

Before CONSULTANT begins providing service, CONSULTANT will be required to furnish the OWNER the following certificates of insurance and assure that the insurance is in effect for the life of the contract:

- a) Commercial General Liability Insurance: CONSULTANT shall maintain occurrence-based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit.
- b) Professional Liability Insurance or Miscellaneous Professional Liability Insurance: CONSULTANT agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit not less than \$1,000,000.00.
- c) The insurance provided for general liability and errors and omissions shall be adequate for the liability presented, and shall be written by an admitted carrier in the State of South Dakota.
- d) Business Automobile Liability Insurance: CONSULTANT shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.
- e) Worker's Compensation Insurance: CONSULTANT shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

Before beginning work under this Agreement, CONSULTANT shall furnish the OWNER with properly executed Certificates of Insurance which shall clearly evidence all insurance required in

Professional Services Agreement for the Preparation of the U.S. Department of Housing and Urban Development (HUD) 2023-2027 Community Development Block Grant Consolidated Plan, 2023 Annual Action Plan, and Analysis of Impediments to Fair Housing Choice between The City of Rapid City and MSA Professional Services, Inc. Project No.

this Agreement and which provide that such insurance may not be canceled, except on 30 days' prior written notice to the OWNER. CONSULTANT shall furnish copies of insurance policies if requested by the OWNER.

SECTION 13- REPORTING

CONSULTANT agrees to report to the OWNER any event encountered in the course of performance of this Agreement which results in injury to any person or property, or which may otherwise subject CONSULTANT, or the OWNER or its officers, agents or employees to liability. CONSULTANT shall report any such event to the OWNER immediately upon discovery.

CONSULTANT'S obligation under this section shall only be to report the occurrence of any event to the OWNER and to make any other report provided for by their duties or applicable law. CONSULTANT'S obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the OWNER under this section shall not excuse or satisfy any obligation of CONSULTANT to report any event to law enforcement or other entities under the requirements of any applicable law.

SECTION 14 – DISCLOSURE TO REPORT LOBBYING

CONSULTANT certifies, to the best of CONSULTANT'S knowledge and belief, that: No Federal appropriated funds have been paid or will be paid, by or on CONSULTANT'S behalf, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any of the above-mentioned parties, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

CONSULTANT will require that the language of this certification is included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-awards will certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 - Any CONSULTANT who applies or bids for an award of \$100,000.00 or more will file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying". Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier will also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant, or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

SECTION 15 - SEVERABILITY PROVISION

In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 16 – CONFLICT OF INTEREST

CONSULTANT agrees to establish safeguards to prohibit any employee or other person from using their position for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. Any potential conflict of interest must be disclosed in writing and approved, in writing, by the OWNER.

SECTION 17 – ASSIGNMENT PROVISION

CONSULTANT will not assign any portion of the work to be performed under this Agreement, or execute any contract, amendment, or change order, or obligate CONSULTANT in any manner with any third party with respect to CONSULTANT'S rights and responsibilities under this Agreement without the OWNER'S prior written consent.

SECTION 18 – PERSONNEL & PARTICIPANT CONDITIONS

In connection with the execution of this Agreement, CONSULTANT agrees to the following:

- a) CONSULTANT will not discriminate against any employee, or applicant for employment, because of race, religion, color, sex, disability, national origin, or familial status. CONSULTANT shall comply with all applicable state, local and civil right laws including civil rights laws proscribing discrimination based on sexual orientation or gender identity, with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279, and the applicable non-discrimination provisions in (42 USC 5309 (a)) Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107, and 12086.
- b) CONSULTANT will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this report. As used in this Agreement, the terms, "small business" means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51%) percent owned and controlled by minority group members or women. CONSULTANT may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.
- c) CONSULTANT agrees to carry out an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1966.
- d) CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT, state that it is an Equal Opportunity or Affirmative Action employer.
- e) CONSULTANT will include the provisions of Section 18 in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its

own subcontractors.

SECTION 19

While Exhibit A is fully incorporated into this agreement by reference), pursuant to Section 1.2 (d), the parties agree that the terms of the contract meet scope of work requirements and the resolution of any internal discrepancies between the Contract terms and Exhibit A shall be governed by the Contract terms.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement by their duly authorized officers on the day, month and year first written above.

**OWNER: City of
Rapid City**

Attest:

Mayor

Date

Finance Director

Date

APPROVED AS TO FORM

Assistant City Attorney

Date

**CONSULTANT:
MSA Professional
Services, Inc.**

By: Jason Valeri

STATE OF Wisconsin

Name/Title: Jason Valerius, Team Leader

COUNTY OF Milwaukee

On this day of May 23, 2022, before me, a Notary Public, personally appeared Jason Valerius, a Principal of MSA Professional Services, Inc and acknowledged to me that s/he did sign the foregoing document as such officer and for the purposes therein stated.

Amy L Bennett
Notary Public

My Commission Expires:

1-11-23

(SEAL)



EXHIBIT A



Professional Services Agreement
MSA Project Number: 21721

This AGREEMENT (Agreement) is made today April 29, 2022 by and between the City of Rapid City (OWNER) and MSA PROFESSIONAL SERVICES, INC. (MSA), which agree as follows:

Project Name: City of Rapid City U.S. Department of Housing and Urban Development (HUD) 2023-2027 Community Development Block Grant Consolidated Plan, 2023 Annual Action Plan, and Analysis of Impediments to Fair Housing Choice Plan Preparation

The scope of the work authorized is: Scope as outlined in Attachment A

The schedule to perform the work is: Approximate Start Date: May 3, 2022
Approximate Completion Date: January 31, 2023

The lump sum fee for the work is: \$26,000


All services shall be performed in accordance with the General Terms and Conditions of MSA, which is attached and made part of this Agreement. Any attachments or exhibits referenced in this Agreement are made part of this Agreement. Payment for these services will be on a lump sum basis.

Approval: Authorization to proceed is acknowledged by signatures of the parties to this Agreement.

CITY OF RAPID CITY

MSA PROFESSIONAL SERVICES, INC.

Steve Allender
Mayor



Jason Valerius, AICP
Service Line Leader

Date: _____

Date: April 29, 2022

300 6th Street
Rapid City, SD 57701
Phone: (605) 394-9300

jvalerius@msa-ps.com
Phone: (608) 242-7779

1702 Pankratz St,
Madison, WI 53704

Professional Services Agreement for the Preparation of the U.S. Department of Housing and Urban Development (HUD) 2023-2027 Community Development Block Grant Consolidated Plan, 2023 Annual Action Plan, and Analysis of Impediments to Fair Housing Choice between The City of Rapid City and MSA Professional Services, Inc. Project No. 21721

ATTACHMENT A – PROJECT SCOPE

April 29, 2022

City of Rapid City 2023-2027 Consolidated Plan, 2023 Annual Plan and Analysis of Impediments to Fair Housing Choice (AI)

PHASE I: CITIZEN PARTICIPATION AND CONSULTATION

This section describes all stakeholder communication efforts in this process, including communications with elected officials, staff, local service organizations and the general public, including low- moderate income residents. City Staff and Officials MSA will coordinate with City staff throughout this process, including the following methods:

1. **Staff Meetings:** We will hold a project kickoff meeting with the Rapid City staff to review project timeline, scope and discuss data needs. We will conduct the kickoff meeting and monthly status update meetings with staff virtually, except for any meetings scheduled to occur in conjunction with the public meetings, interviews, etc.
2. **Email:** We will maintain frequent contact and interaction via email with the City's designated project manager to make meeting arrangements, transmit data and drafts, etc.
3. **Committees:** MSA will make a presentation of the final plan to Legal and Finance Committee and Common Council at the end of the process prior to the HUD submittal.

Citizen Participation

1. **Neighborhood Meetings and Interviews:** MSA will attend two (2) pre-established neighborhood meetings and conduct two (2) community interviews identified by the City.
2. **Public Forum:** The City, in concert with MSA, will host one (1) public forum, compliant with HUD requirements, to notify people about the plan and collect input. The meeting will be scheduled after the focus group interviews and drafting of preliminary goals and actions so that we can seek feedback on strategies, including prioritization preferences. Feedback gathered during this meeting will be incorporated into the final draft. MSA will attend the meetings, provide any needed materials, and compile documentation of each event. We've found that surveys tend to capture the greatest breadth of community input and interviews provide the more targeted, specific information that is needed. If the City would like to add additional public forums, we have listed these optional fees in our cost estimate.
3. **Survey:** MSA will conduct a survey of residents and stakeholders to aid in identifying the City's housing needs. The survey will be hosted on SurveyMonkey. MSA will provide language that the City can use to advertise the survey. MSA will also provide a hard copy version of the survey for the City to print and distribute to public housing sites and other participating agencies. In our experience using online and paper surveys in many different situations, most participants will opt for the online survey. MSA will enter the data from up to 20 hard copy surveys into SurveyMonkey. Our cost proposal assumes that additional hard-copy survey responses will be entered by the City, though this is negotiable. This survey will be coordinated with the Elevate Rapid City regional housing study to efficiently engage stakeholder groups and increase response rate.

PHASE II: DEVELOPMENT OF THE 2023-2027 CONSOLIDATED PLAN AND 2023 ANNUAL ACTION PLAN

1. **2023-2027 Consolidated Plan:** The consolidated plan will be prepared in IDIS Online and will include five-year funding goals, priorities and strategies, along with proposed accomplishments and performance measurements. MSA will recommend successful, effective strategies to remove or ameliorate barriers to affordable housing, reduce poverty,

Professional Services Agreement for the Preparation of the U.S. Department of Housing and Urban Development (HUD) 2023-2027 Community Development Block Grant Consolidated Plan, 2023 Annual Action Plan, and Analysis of Impediments to Fair Housing Choice between The City of Rapid City and MSA Professional Services, Inc. Project No.

21721

and all projects and programs that will take place to address priority needs. This section will provide the specific goals and needs addressed by each project/program.

2. **2023 Annual Action Plan** The action plan will include an executive summary outlining the actions the City plans to take within the next year and will describe all projects and programs that will take place to address priority needs. This section will provide the specific goals and needs addressed by each project/program.

With input and budgeting assistance from staff, MSA will develop priority steps that are actionable by City of Rapid City staff during FY2023. This section will feature a visual representation of the geographic areas where the City will direct assistance.

3. **Staff Review:** After drafts of the consolidated plan and annual action plan are completed, MSA will provide a Word version of the documents to City staff for initial review.
4. **Public Review:** After the City Staff review, MSA will present to a public forum for review and comment. MSA will then provide a PDF version of the final draft for public review. The public shall have a 30-day period to access and comment on the draft plan.
5. **City Council Approval:** After the 30-day public comment period has closed, MSA will incorporate any appropriate edits and forward the final version of the plan to the City for the Legal and Finance Committee and Council approval (MSA attends these meetings).

PHASE III: DEVELOPMENT OF THE ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

1. **Executive Summary:** This section will contain highlights from the report and a summary of public participation and comments received.
2. **Housing Profile:** MSA will utilize secondary data sources to create an up-to-date housing profile for the City of Rapid City. Examples of data to be collected and mapped include number of housing units, owner-occupied vs. renter-occupied units, age, conditions, etc. In addition to producing tabular data and analytical narratives, MSA will utilize HUD's Affirmatively Furthering Fair Housing (AFFH) mapping tool to produce a series of maps which depict the spatial nature of housing conditions in the City. We will utilize findings from the ongoing Regional Housing Study to augment this.
3. **Demographic Data, Income Characteristics, Trends:** MSA will utilize Census data and City-generated planning data to examine and summarize basic population and demographic trends and conditions. Examples of data to be addressed include: total population, house hold size, racial/ethnic population (including location analysis), familial status and household income (including location analysis to the extent available). We will utilize findings from the ongoing Regional Housing Study to augment this.
4. **Employment and Transportation Profile:** Utilizing Census data, City-generated planning data, SDDOT data, and data from the Rapid City Metropolitan Planning Organization (MPO), MSA will summarize employment by industry, and will review general levels of transportation accessibility.
5. **Fair Housing Complaints:** MSA will coordinate with City staff, the State and HUD to identify prior allegations of discriminatory housing practices.
6. **Fair Housing Programs and Activities:** MSA will compile a list of current fair housing programs and activities within the City and affiliated agencies. MSA will utilize a scorecard technique to concisely rate the programs in their effectiveness in the following categories:
 - Ability to further fair housing
 - Ease of navigation
 - Equity
 - Cost

7. **Local Laws and Ordinances:** MSA will review the City’s codes and ordinances, governing process, external relations, and internal procedures including elements such as planning and zoning laws and decisions, land use regulations, the procedures and policies of the local public housing authority, and community development funding policies and practices. If appropriate and necessary, MSA will provide recommendations for system enhancement.
8. **Private Market Issues:** MSA will examine private housing market issues including the sale and rental of housing, the provision of mortgage lending and brokerage services, housing insurance sales and underwriting, property appraisal and property management to determine if any impediments to fair housing choice exist. This will include information gathered as a result of the 2009 Home Mortgage Disclosure Act and also may include collection of data from applicable City, County, State and Federal agencies.
9. **Identification of Other Fair Housing Concerns:** During the course of this evaluation, if other concerns are raised regarding fair housing programs in the City, they will be identified and reported in this section of the report.
10. **Mapping Activities:** A spatial analysis of housing conditions, economic conditions, and transportation access is an essential component in the preparation of an Analysis of Impediments to Fair Housing. MSA will generate most of these maps using the HUD AFFH mapping tool, and will collaborate with City planning staff to produce separate maps as necessary and as local data is available to describe relevant conditions.
11. **Identification of Impediments to Fair Housing (Public & Private):** MSA will identify public and private impediments to fair housing. Impediments to fair housing choice include both direct actions, omissions, or decisions taken because of race, color, religion, etc. which restrict housing choices; and indirect actions, omissions, or decisions which have the effect of restricting housing choices or availability.
12. **Affordability Impediments:** MSA will examine a variety of factors to identify any affordability issues having a disproportionate effect on protected-class members.
13. **Financial Impediments:** MSA will identify any financial impediments to fair housing choice including practices such as predatory lending or steering.
14. **Accessibility Impediments:** MSA will identify any impediments preventing disabled persons fair access to safe housing.
15. **Discriminatory Impediments:** MSA will identify and describe any examples of illegal discrimination preventing protected class buyers and renters’ fair access to housing.
16. **Identify Corrective Actions to Address Identified Impediments:** MSA will work with the City and stakeholders to prioritize the list of identified impediments and MSA will provide a list of recommended actions to remedy any found impediments. MSA will also provide specific and discrete policy recommendations that the City may wish to follow in order to enhance their effort to further fair housing initiatives

DELIVERABLES

MSA will provide the City of Rapid City with the final deliverable products:

- Meeting handouts and documentation notes.
- Draft of the consolidated plan, action plan and analysis of impediments public review
- Final version of the consolidated plan with 2023 Action Plan and updated AI as PDF document.
- Draft versions of each section of the plan that can be accessed online for the general public.
- Submittal of the final version of the 2023-2027 Consolidated Plan and 2023 Annual Action Plan to HUD through IDIS. HUD notified of AI update completion.

PROJECT SCHEDULE

Meeting data are approximate, pending coordination with the City.

- April 29 – Project Start
- May 10-12 – In person Focus Group meetings, individual stakeholder interviews. Community Services Meeting
- May 2 to May 27 – Community Survey
- August (Date TBD) – In person Public Forum (feedback on goals and strategies)
- September (Dates TBD) – Legal and Finance Committee / Common Council presentations

BUDGET BREAKDOWN

Task costs are provided as estimates and may vary within the overall lump sum project cost.

TASK	COST
Data Collection & Survey	\$6,000
Mapping	\$800
Report	\$6,000
Meetings & Interviews*	\$9,500
Presentations*	\$3,700
Total	\$26,000

*Travel costs included for up to two visits to Rapid City

MSA PROFESSIONAL SERVICES, INC. (MSA) – GENERAL TERMS AND CONDITIONS OF SERVICES

1. The quoted fees and scope of services constitute the best estimate of the fees and tasks required to perform the services as defined. This agreement upon execution by both parties hereto, can be amended only by written instrument signed by both parties. For those projects involving conceptual or process development service, activities often cannot be fully defined during initial planning. As the project progresses, facts uncovered may reveal a change in direction which may alter the scope. MSA will promptly inform the OWNER in writing of such situations so that changes in this agreement can be made as required.

2. MSA will bill the OWNER monthly with net payment due upon receipt. Past due balances shall be subject to an interest charge at a rate of 12% per year from said thirtieth day. In addition, MSA may, after giving seven days written notice, suspend service under any agreement until the OWNER has paid in full all amounts due for services rendered and expenses incurred, including the interest charge on past due invoices.

3. Costs and schedule commitments shall be subject to change for delays caused by the OWNER's failure to provide specified facilities or information or for delays caused by unpredictable occurrences including, without limitation, fires, floods, riots, strikes, unavailability of labor or materials, delays or defaults, by suppliers of materials or services, process shutdowns, acts of God or the public enemy, or acts of regulations of any governmental agency. Temporary delays of services caused by any of the above which result in additional costs beyond those outlined may require renegotiation of this agreement.

4. MSA intends to serve as the OWNER's professional representative for those services as defined in this agreement, and to provide advice and consultation to the OWNER as a professional. Any opinions of probable project costs, reviews and observations, and other decisions made by MSA for the OWNER are rendered on the basis of experience and qualifications and represents the professional judgment of MSA. However, MSA cannot and does not guarantee that proposals, bid or actual project or construction costs will not vary from the opinion of probable cost prepared by it.

5. This agreement shall not be construed as giving MSA, the responsibility or authority to direct or supervise construction means, methods, techniques, sequence, or procedures of construction selected by the contractors or subcontractors or the safety precautions and programs incident to the work of the contractors or subcontractors.

6. In conducting the services, MSA will apply present professional, engineering and/or scientific judgment, and use a level of effort consistent with current professional standards in the same or similar locality under similar circumstances in performing the Services. The OWNER acknowledges that "current professional standards" shall mean the standard for professional services, measured as of the time those services are rendered, and not according to later standards, if such later standards purport to impose a higher degree of care upon MSA.

MSA does not make any warranty or guarantee, expressed or implied, nor have any agreement or contract for services subject to the provisions of any uniform commercial code. Similarly, MSA will not accept those terms and conditions offered by the OWNER in its purchase order, requisition, or notice of authorization to proceed, except as set forth herein or expressly agreed to in writing. Written acknowledgement of receipt, or the actual performance of services subsequent to receipt of such purchase order, requisition, or notice of authorization to proceed is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein.

7. This Agreement shall commence upon execution and shall remain in effect until terminated by either party, at such party's discretion, on not less than thirty (30) days' advance written notice. The effective date of the termination is the thirtieth day after the non-terminating party's receipt of the notice of termination. If MSA terminates the Agreement, the OWNER may, at its option, extend the terms of this Agreement to the extent necessary for MSA to complete any services that were ordered prior to the effective date of termination. If OWNER terminates this Agreement, OWNER shall pay MSA for all services performed prior to MSA's receipt of the notice of termination and for all

work performed and/or expenses incurred by MSA in terminating Services begun after MSA's receipt of the termination notice. Termination hereunder shall operate to discharge only those obligations which are executory by either party on and after the effective date of termination. These General Terms and Conditions shall survive the completion of the services performed hereunder or the Termination of this Agreement for any cause.

This agreement cannot be changed or terminated orally. No waiver of compliance with any provision or condition hereof should be effective unless agreed in writing and duly executed by the parties hereto.

8. The OWNER agrees to clarify and define project requirements and to provide such legal, accounting and insurance counseling services as may be required for the project.

9. MSA will maintain insurance coverage for: Worker's Compensation, General Liability, and Professional Liability. MSA will provide information as to specific limits upon written request. If the OWNER requires coverages or limits in addition to those in effect as of the date of the agreement, premiums for additional insurance shall be paid by the OWNER. The liability of MSA to the OWNER for any indemnity commitments, or for any damages arising in any way out of performance of this contract is limited to such insurance coverages and amount which MSA has in effect.

10. Reuse of any documents and/or services pertaining to this project by the OWNER or extensions of this project or on any other project shall be at the OWNER's sole risk. The OWNER agrees to defend, indemnify, and hold harmless MSA for all claims, damages, and expenses including attorneys' fees and costs arising out of such reuse of the documents and/or services by the OWNER or by others acting through the OWNER.

11. To the fullest extent permitted by law, MSA shall indemnify and hold harmless, OWNER, and OWNER's officers, directors, members, partners, agents, consultants, and employees (hereinafter "OWNER") from reasonable claims, costs, losses, and damages arising out of or relating to the PROJECT, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of MSA or MSA's officers, directors, members, partners, agents, employees, or Consultants (hereinafter "MSA"). In no event shall this indemnity agreement apply to claims between the OWNER and MSA. This indemnity agreement applies solely to claims of third parties. Furthermore, in no event shall this indemnity agreement apply to claims that MSA is responsible for attorneys' fees. This agreement does not give rise to any duty on the part of MSA to defend the OWNER on any claim arising under this agreement.

To the fullest extent permitted by law, OWNER shall indemnify and hold harmless, MSA, and MSA's officers, directors, members, partners, agents, consultants, and employees (hereinafter "MSA") from reasonable claims, costs, losses, and damages arising out of or relating to the PROJECT, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of the OWNER or the OWNER's officers, directors, members, partners, agents, employees, or Consultants (hereinafter "OWNER"). In no event shall this indemnity agreement apply to claims between MSA and the OWNER. This indemnity agreement applies solely to claims of third parties. Furthermore, in no event shall this indemnity agreement apply to claims that the OWNER is responsible for attorneys' fees. This agreement does not give rise to any duty on the part of the OWNER to defend MSA on any claim arising under this agreement.

To the fullest extent permitted by law, MSA's total liability to OWNER and anyone claiming by, through, or under OWNER for any cost, loss or damages caused in part or by the negligence of MSA and in part by the negligence of OWNER or any other negligent entity or

individual, shall not exceed the percentage share that MSA's negligence bears to the total negligence of OWNER, MSA, and all other negligent entities and individuals.

12. OWNER and MSA desire to resolve any disputes or areas of disagreement involving the subject matter of this Agreement by a mechanism that facilitates resolution of disputes by negotiation rather than by litigation. OWNER and MSA also acknowledge that issues and problems may arise after execution of this Agreement which were not anticipated or are not resolved by specific provisions in this Agreement. Accordingly, both OWNER and MSA will endeavor to settle all controversies, claims, counterclaims, disputes, and other matters in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect, unless OWNER and MSA mutually agree otherwise. Demand for mediation shall be filed in writing with the other party to this Agreement. A demand for mediation shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. Neither demand for mediation nor any term of this Dispute Resolution clause shall prevent the filing of a legal action where failing to do so may bar the action because of the applicable statute of limitations. If despite the good faith efforts of OWNER and MSA any controversy, claim, counterclaim, dispute, or other matter is not resolved through negotiation or mediation, OWNER and MSA agree and consent that such matter may be resolved through legal action in any state or federal court having jurisdiction.

13. This agreement shall be construed and interpreted in accordance with the laws of the State of Wisconsin.

14. OWNER hereby irrevocably submits to the jurisdiction of the state courts of the State of Wisconsin for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement. OWNER further consents that the venue for any legal proceedings related to this Agreement shall be, at MSA's option, Sauk County, Wisconsin, or any county in which MSA has an office.

15. This agreement contains the entire understanding between the parties on the subject matter hereof and no representations, inducements, promises or agreements not embodied herein (unless agreed in writing duly executed) shall be of any force or effect, and this agreement supersedes any other prior understanding entered into between the parties on the subject matter hereto.

EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT PERIOD OF PERFORMANCE

CONSULTANT shall provide the final “2023-2027 Community Development Block Grant Consolidated Plan, 2023 Annual Action Plan, and Analysis of Impediments to Fair Housing Choice” reports to the Community Enrichment Division office no later than January 2, 2023.

June 10, 2022 – Notice to Proceed Issued by OWNER

November 25, 2022 – Community Outreach Completed

December 2, 2022 – Draft reports submitted to Community Enrichment Division for review

No later than January 2, 2023 – Final reports submitted to Community Enrichment Division

December 2, 2022 – January 3, 2023 – 30-Day Public Comment Period on the Final Reports
The Community Enrichment Division will issue public notices for a 30-day public comment period on the draft reports. Costs associated with this public notice shall be paid by the City. Public comments will be directed to the Community Enrichment Division. The Community Enrichment Division will then provide the CONSULTANT with public comments; CONSULTANT shall make the public comments and responses to the comments part of supporting documentation and made part of the final reports.

January 11, 2023 – Final reports presented to Legal and Finance

January 16, 2023 – Final reports presented to City Council

January 27, 2023 – Consolidated Plan and Annual Action Plan entered into IDIS

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT
CERTIFICATION OF CONSULTANT

I, **Jason Valerius**, certify that I am the **Team Leader** and duly authorized representative of the firm of **MSA Professional Services, Inc.**, whose address is **1702 Pankratz Street, Madison, WI 53704**, and that neither I nor the above firm I represent has:

1. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this Agreement.
2. agreed, as an expressed or implied condition for obtaining this Agreement to employ or retain the services of any firm or person in connection with carrying out the Agreement, or
3. paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement; except as here expressly stated (if any):



Signature

Title: Team Leader

Date: May 23, 2022

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

CONSULTANT certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental agency (federal, state or local) with commission of any of the offenses listed in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application had one or more public transactions (federal, state or local) terminated for cause or default.

CONSULTANT certifies that if it becomes aware of any later information that contradicts the statements of paragraph (1) through (4) above, it will promptly inform the City of Rapid City.

EXHIBIT E

PROFESSIONAL SERVICES AGREEMENT ASSURANCES

During the performance of this contract, CONSULTANT, for itself, its assignees and successors in interest agrees as follows:

(1) Compliance with Regulations:

Civil Rights - CONSULTANT shall comply with all applicable state, local and civil right laws including civil rights laws proscribing discrimination based on sexual orientation or gender identity, with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279, and the applicable non-discrimination provisions in (42 USC 5309 (a)) Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107, and 12086.

Section 3 - CONSULTANT will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this report. As used in this RFP, the terms, "small business" means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51%) percent owned and controlled by minority group members or women. CONSULTANT may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

Affirmative Action/EOE - CONSULTANT agrees to carry out an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1966. CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT, state that it is an Equal Opportunity or Affirmative Action employer.

(2) Information and Reports:

CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the U.S. Department of Housing and Urban Development to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the U.S. Department of Housing and Urban Development as appropriate and shall set forth what efforts it has made to obtain this information.

(3) Sanctions for Noncompliance:

In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this contract, the City or the U.S. Department of Urban Development shall impose such contract sanctions, including but not limited to:

- (a) withholding of payments to the contractor under the contract until the contractor complies, and/or
- (b) cancellation, termination or suspension of the contract, in whole or in part.

(4) Incorporation of Provisions:

CONSULTANT will include the provisions of Exhibit E in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subcontractors including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives pursuant thereto. During the performance of this Agreement, CONSULTANT, for itself, its assignees, and successors in interest, agrees to comply with the assurances in Exhibit E.

EXHIBIT F



CITY OF RAPID CITY
RAPID CITY, SOUTH DAKOTA
**COMMUNITY ENRICHMENT
DIVISION**

Request for Proposals

Consulting Services for the Preparation of the U.S. Department of Housing and Urban Development (HUD) 2023-2027 Community Development Block Grant Consolidated Plan, 2023 Annual Action Plan, and Analysis of Impediments to Fair Housing Choice

Background

Rapid City's Community Enrichment Division, a division of the Community Development Department, is seeking a qualified consultant to prepare the City's five-year Community Development Block Grant (CDBG) Consolidated Plan for 2023-2027, 2023 Annual Action Plan, and update the City's Analysis of Impediments to Fair Housing Choice.

Proposed Project

The City of Rapid City ("the City") is soliciting proposal from consulting services and individuals or firms with expertise and understanding of the U.S. Department of Housing and Urban Development (HUD) regulations as it relates to the Community Development Block Grant entitlement program for the development of a five-year Consolidated Plan, Annual Action Plan, and to update the City's Analysis of Impediments to Fair Housing Choice. The City is an entitlement jurisdiction and receives an annual CDBG allocation directly from HUD. Rapid City's CDBG program year is April 1 – March 31. The current Consolidated Plan is in effect through March 31, 2023.

Contact

The lead contact for this RFP is:

Michelle Schuelke
Community Enrichment Division Manager
City of Rapid City
Michelle.Schuelke@rcgov.org
(605) 394-4181

Inquiries

Responders may submit written inquiries via email to Michelle.Schuelke@rcgov.org on or before 4pm Mountain Time, on April 13, 2022. The responder may also submit written inquiries via mail to:

Attn: Michelle Schuelke
City of Rapid City
Community Enrichment Division
300 6th Street Rapid City, SD 57701

Telephone inquiries will not be entertained.

Scope of Services

CDBG Consolidated Plan and Annual Action Plan Scope of Work

The Consultant shall obtain factual information to assist with the preparation of the Consolidated Plan and Annual Action Plan including a review of the current HUD regulations and guidance, particularly changes made since 2018. The specific requirement for the Consolidated Plan can be found in the Code of Federal Regulations 24 CFR 91.

Consultant should follow guidance provided at:

Consolidated Plan requirements at [HUD CPD Notice 12-009](#) and [Consolidated Plan Guides, Tools, and Training](#).

The Consultant shall integrate meaningful public participation and consultation into the scope of the project to include outreach to the following:

- Low- and moderate-income persons
- Residents of slum and blighted areas, predominantly low- and moderate-income neighborhoods

- Minorities
- Non-English-speaking persons
- Persons with disabilities
- Persons experiencing homelessness
- Public housing residents
- Local and regional institutions including the Continuum of Care (CoC), businesses, developers, nonprofit organizations, philanthropic organizations, community-based and faith-based organizations, the Rapid City School district, Pennington County Housing and Redevelopment Commission, and other City departments

At a minimum, the public participation and consultation process shall include: one (1) resident survey, attendance at two (2) pre-established neighborhood meetings, two (2) interviews and/or focus groups, one (1) public comment hearing of the plans, and two (2) final presentations at pre-established public hearings.

Consultant shall integrate consultation efforts administered directly by the Community Enrichment division staff. Consultant shall compile, analyze, and address any public comments received.

Consolidated Plan and Annual Action Plan Components

The Consultant will provide the City with five (5) copies of each plan, and an electronic copy, in word processing format (Microsoft® Word) and as a Portable Document Format (Adobe® .pdf), of the draft plans prior to the completion of the final plans. The Consultant will provide five (5) copies, and an electronic copy, in word processing format (Microsoft® Word) and as Portable Document Format (Adobe® .pdf), of the final plans to the City.

The plans shall be visually appealing and must include the prescribed sections within the Consolidated Plan and Annual Action Plan templates in IDIS regulatory requirements, including but not limited to:

- Executive Summary
- Consultation
- Participation
- Needs Assessment
- Market Analysis
- Strategic Plan (Consolidated Plan)
- Anti-Poverty Strategy (Consolidated Plan)

- Lead Based Paint Hazards
- Priority Needs
- Five-Year Goals (Consolidated Plan) and One-Year Goals (Annual Action Plan)
- Barriers to Affordable Housing
- Identified Projects
- Program Specific Requirements
- Affirmatively Furthering Fair Housing shall be incorporated into the Consolidated Plan. Consultant should refer to the [Con Plan Guide Incorporating the AFH into the Consolidated Plan for CPD Grantees](#) released February 2018 into the plan.
- Resiliency to natural hazards including the vulnerability of housing occupied by low- and moderate-income households to natural hazard risk shall be incorporated into the Consolidated Plan.
- Consideration of Broadband needs including the availability of Broadband access shall be incorporated into the Consolidated Plan.
- All other required components of the plans Note: Final HUD CDBG allocations may not be available at the time of the preparation of the plans. Consultant shall use estimated allocation figures provided by the Community Enrichment Division.

IDIS Scope of Work

Once final approval of the Consolidated Plan and Annual Action Plan is secured by City Council, consultant shall enter the plans into IDIS. Expected resources section may be omitted if the final CDBG allocation figure is not yet released by HUD.

Approval by HUD Scope of Work

The Consultant shall provide additional information/responses as needed for the Consolidated Plan and Annual Action Plan and make any corrections or alterations as required by HUD in accordance with the City's [Resident Participation Plan](#) until the Consolidated Plan and Annual Action Plan is approved by HUD.

Analysis of Impediments to Fair Housing Choice Report (AI) Scope of Work

The Consultant will provide the City with five (5) copies, and an electronic copy, in word processing format (Microsoft® Word) and as a Portable Document Format (Adobe® .pdf), of the draft report prior to the completion of the final report. The Consultant will provide five (5) copies, and an electronic copy, in word processing format (Microsoft® Word) and as Portable Document Format (Adobe® .pdf), of the final report to the City.

The Consultant will review the current AI and updated the City’s AI in accordance with regulatory requirements. The consultant will be charged with working with City departments including the Community Development Department, Human Resources, and the Attorney’s Office. The consultant shall make two (2) final presentations at pre-established public hearings.

The Civil Rights Act of 1968, Title VIII, commonly known as the Fair Housing Act of 1968 (42 U.S.C. 3601) states that it is the policy of the United States to provide fair housing throughout the country. This Act prohibits discrimination in the sale or renting of housing, the financing of housing, or in the provision of brokerage services, including or otherwise making unavailable or denying a dwelling to any person because of race, color, religion, sex, national origin, disability, or familial status. The CDBG is a program of the U.S. Department of Housing and Urban Development (HUD) and as such must undertake actions in keeping with the obligation to ‘affirmatively further fair housing’ (AFFH). AFFH is a legal requirement that federal grantees further the purposes of the Fair Housing Act. An Analysis of Impediment to Fair Housing Choice is one component in ensuring AFFH obligations are met. The proposed AFFH rule¹ includes an updated approach that sets out four fair housing goals for all communities to ensure greater opportunities:

1. Reduce segregation and build on the nation’s increasing racial, geographic, and economic diversity;
2. Eliminate racially and ethnically concentrated areas of poverty;
3. Reduce disparities in access to important community assets such as quality schools, job centers, and transit;
4. Narrow gaps that leave families with children, people with disabilities, and people of different races, colors, and national origins with more severe housing problems, aka., disproportionate housing needs.

The Consultant will undertake tasks with the guidance provided in “A New Assessment Process to Affirmatively Further Fair Housing²,” the “Fair Housing Planning Guide³,” and “Rapid City’s Community Development Block Grant Program Resident Participation Plan⁴.”

The Analysis of Impediments to Fair Housing Choice report will have the following components:

- i. Executive Summary
- ii. Introduction
 - a. Fair Housing Complaint contact information
 - b. Definition of Fair Housing and the purpose of the report

- c. Methodology and public participation process
- d. Socio-demographic profile of the City
- e. Housing profile and overview of housing characteristics of the City
- iii. Assessment of Past Goals and Actions
- iv. Analysis
 - a. Status of neighborhood segregation and integration, including AFFH Data Map or equivalent
 - b. Prevalence of racially/ethnically concentrated areas of poverty
 - c. Disparities of neighborhoods in accessing community assets by protected classes
 - d. Disproportionate housing needs across protected classes
 - e. Existing regulations, procedures, policies, and trends affecting fair housing choice including a discussion of:
 - i. Lending practices and differential origination and denial rates
 - ii. Foreclosure and eviction data as represented by % race, % ethnicity, and neighborhood
 - iii. Public housing policies and practices and the impacts on fair housing choice
 - iv. Trends and patterns associated with discriminatory housing practices including advertising and denial or discouragement from inspections, sales, or rentals of units
 - v. Public policies and practices that shape the ability of individuals and households to obtain housing
 - vi. Barriers to developing housing for protected classes including evaluation of zoning and land-use policies
 - vii. Barriers to rehabilitating housing for protected classes including code and permitting requirements
 - viii. Transit access to housing types and prices consistent with the needs of protected classes
 - ix. Compliance with Section 504, Reasonable Accommodations, Reasonable Modifications, ADA, and other regulatory requirements
 - x. Other trends and patterns
 - f. Fair Housing Profile
 - i. Analysis of fair housing programs, activities, and resources
- v. Key Findings and Recommendations

Summary of the leading fair housing challenges and opportunities in the community with prioritized goals and implementation strategies for progress.

Key personnel, departments, or organization recommendations should be included.

vi. Supporting Documentation

All plans, calculations, maps, digital files, reports, survey results, correspondence, meeting minutes and agendas, and related data generated for the report must be provided. Newspaper affidavits documenting public notice publications must be included.

This Scope of Services is subdivided into separate tasks that outline the basic requirements of the report. Unless otherwise noted, the Consultant is expected to fulfill each of the defined tasks and provide written documentation in the form of memorandums. The tasks to complete the report include:

Public Involvement

The Consultant will develop a public involvement strategy for the study and planning process consistent with “Rapid City’s Community Development Block Grant Program Resident Participation Plan” and will be conducted to include protected classes, the elderly, minorities, low-income individuals, persons with limited English proficiency, and other groups traditionally under-represented. Strategies to solicit input from housing agencies, lenders, and real estate Professionals must be outlined. There will be a minimum of two (2) public meetings during the project period at which the Consultant will be the lead to gather public input. Due to the Coronavirus Pandemic, public meetings gathering community input may be conducted virtually as long as under-represented outreach is conducted and documented. These meetings are expected at the following intervals:

- Two public meetings to gather community input and public comments
- Final report presentation with recommendations presented at two (2) pre-established public forums.

The Consultant shall provide additional information/responses as needed for the AI and make any corrections or alterations as required by HUD in accordance with the City’s [Resident Participation Plan](#) until the AI is approved by HUD.

City Responsibilities

The City will assist in arranging meetings, provide geographic information, regional plans, studies, technical resources, and ordinances as needed.

The City will assist in promoting public participation through the use of the City's website, social media, and other avenues as deemed appropriate.

The City will develop and publish public notices in two local newspapers and distribute the public notices via email broadcasts in accordance with the City's Resident Participation Plan. Publication costs will be paid by the City.

The City will participate in community meetings and consultations beyond the ones required of the Consultant and shall provide the findings, including public comments, to the Consultant for insertion into the plans in a timely manner.

Timeline:

In addition to public participation and consultation, a 30-day public comment period for each document shall be included in the project timeline.

RFP Deadline: April 15

RFP Review: April 18-20

Consultant Interviews: April 21-27

Contract Awarded: April 29

Contract Authorized by City Council: May 16

Project Starts: May 18

Community Outreach Completion: November 25, 2022

Draft Documents Completed: December 2, 2022

Final Documents Completed: January 2, 2023

First Final Report Presentation: January 11, 2023 (or earlier Legal and Finance meeting)

Second Final Report Presentation: January 16, 2023 (or earlier City Council meeting)

Consolidated Plan and Annual Action Plan Entered into IDIS: January 27, 2023

Submissions

Submissions shall be emailed to communityenrichment@rcgov.org and include the following information:

1. Introductory letter including the name of the firm, address, telephone number, name of contact person and the date.
2. Statement of positive commitment to perform the required work within the time period. Name(s) of the person(s) who will be authorized to represent the firm, their title, telephone number, and email addresses if selected.
3. A project narrative that describes the respondent's understanding of the CDBG program, the Consolidated Plan process, IDIS, and AI requirements.
4. Qualifications
 - a) Name, address and telephone number of the firm's owners, and full information about the corporate structure of the submitting firm.
 - b) Names, qualifications, and experience of personnel relative to project requirements, who are to be assigned to the project.
 - c) Project team availability and capacity
 - d) Project approach
 - e) Listing of previously completed Consolidated Plans, Annual Action Plans, and Analysis of Impediments to Fair Housing Choice reports completed in the previous 3 years including the names, addresses, telephone number and email addresses of owners, and web links if available, for all projects described (references will be checked).
5. Budget specifying a fixed fee shall be submitted containing a schedule of the estimated hours required and are to be broken down by type of personnel to be used for the proposed services. The expected budget for this project is \$30,000. Budget may contain milestone payments or lump sum payment; however, 10% retainage will be held for each plan until final approval is secured by HUD.
6. If subcontracts are utilized, the position in the project team and identity of the subcontractor shall be stated.
7. Project Schedule to include:
 - a) Data collection and analysis
 - b) Consultation and public participation
 - c) Draft documents complete
 - d) Public hearing on draft documents
 - e) Final documents complete

- f) Final documents presentation
 - g) Consolidated Plan and AAP entered into IDIS
8. Any additional information that will allow the City to accurately evaluate the firm's capability.

Proposal Terms & Conditions

The scope of work contained in this document is predicated upon the following provisions, assumptions, and conditions that should be part of any submission and budget submitted by a consultant.

Evaluation of Proposal Compliance with Specifications

The City reserve the right to determine whether a submission substantially complies with the specifications; accept, negotiate modifications to, or reject the terms of any submission; and waive the right to accept a part, or parts, of a submission, unless otherwise restricted in the submission.

The City reserves the right to reject any or all responses and to waive any informality in the process when to do so would be to the advantage of the City. The City, in its sole discretion, may choose not to award a contract at any time because of unforeseen circumstances or if it is determined to be in the best interest of the commission not to do so.

Applicant Qualifications

The City may require all proposers to submit evidence of qualifications, and may consider any evidence of the financial, technical, and other qualifications and abilities. The City will not award a contract to a proposer who, in its opinion, is not fully qualified on the basis of financial resources and responsibility, possession of adequate equipment, personnel, experience, and past record of performance to perform the obligation to be undertaken competently and without delay.

Confidentiality

All information, not in the public domain, disclosed to the consultant for project completion purposes or information that comes to the attention of the consultant during the course of performing such work is to be kept strictly confidential.

Award of Contract

Each consultant acknowledges that the City will use its discretion and judgment in making Professional Services Agreement for the Preparation of the U.S. Department of Housing and Urban Development (HUD) 2023-2027 Community Development Block Grant Consolidated Plan, 2023 Annual Action Plan, and Analysis of Impediments to Fair Housing Choice between The City of Rapid City and MSA Professional Services, Inc. Project No. 21721

the final decision and further acknowledges that no claim by the consultant will arise in any way relating to the exercise of that judgment by the City. No cost chargeable to the proposed contract may be incurred before receipt of either a fully executed contract.

Ownership of Products

The City will retain the copyright for all data, materials, information, processes, studies, reports, surveys, proposals, plans, codes, scientific information, technological information, regulations, maps, equipment, charts, schedules, photographs, exhibits, software, software source code, documentation, and other materials and property that are prepared, developed or created under or in connection with this project. Therefore, the submitter should anticipate that all products of this work effort will become the property of the City which will make them available to other government agencies and their contractors.

Contracting Requirements

The following are not part of the proposal requirements but will be requirements in the contract in addition to other contractual requirements.

Contract Decision

The City shall have the final authority and discretion to select based upon the qualifications and proposals, responsibility, and capabilities of respondents, the fairness of price and other factors. Any decision by the City shall be final.

Cancellation & Rejection

The City reserves the right to cancel any contract for failure or refusal of performance, fraud, deceit, misrepresentation, collusion, or any other misconduct on the part of the consultant. The City reserves the right to reject any proposals, in whole or in part. Submissions received from debarred or suspended firms will be rejected. The City may reject any proposal that is not responsive to all the material and substantial terms, conditions, and performance requirements of the RFQ.

Unresolved Finding for Recovery

The selected consultant affirmatively represents and warrants to the City that it is not subject to a finding for recovery under ORC 9.24 or that it has taken appropriate remedial steps required under ORC 9.24 or otherwise qualifies under that section. The consultant agrees that if this representation or warranty is deemed to be false, the agreement shall be void ab initio as between the parties to this agreement, and any funds paid by the City

to the consultant hereunder shall be repaid to the City immediately, or an action for recovery may be commenced immediately by the City for recovery of said funds.

Contract Negotiation & Clarification

A not-to-exceed contract amount based on satisfactory work performed and services delivered will be entered into after negotiations between the City and the selected firm. Alternative compensation models may be considered.

In order to determine if a submission is reasonably amenable for award, communications by the City or the evaluation committee are permitted with any Applicant to clarify uncertainties or eliminate confusion concerning the contents of a submission and determine responsiveness to the RFQ requirements. Clarifications may not result in a material or substantive change to the submission. The initial evaluation may be adjusted because of a clarification under this section.

After final evaluation, the City intends to negotiate with the highest ranked submission(s). Negotiations, if held, will be within the scope of the request for submissions and limited to those items that would not influence the ranking of submissions. The City may terminate negotiations with the highest-ranked applicant and commence negotiations with the next highest ranked applicant, if the selected applicant does not respond in a timely manner, fails to negotiate in a good faith manner, or if the parties cannot, after a good-faith effort, cannot come to terms

Covenants of Consultant

The consultant will be required to covenant and warrant the following:

1. Consultant is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract, supported in whole or in part by the funding sources for this project;
2. Consultant must have an active registration in SAM.gov
3. Consultant will comply with the Procurement Standards (Sections 2 CFR §200.317-200.327) in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Specifically, 2 CFR §200.321, contracting with small and minority businesses, women's business enterprises, and labor surplus area firms requires all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. If subcontracts are to be let, Consultant must take the following affirmative steps:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

4. Consultant has not within a three (3) year period had one or more public transactions terminated for cause or default;

5. Consultant will comply with the provisions of Section 1352, Title 31 of the U.S. Code, which prohibits the use of federal funds to lobby any official or employee of any federal agency, or member or employee of Congress; and to disclose any lobbying activities in connection with federal funds.

6. Consultant must carry insurance policies which protect the City and employees from any claims, suits, etc. of the consultant's employees or equipment used for the project on those items listed in the Scope of Work. In addition, liability insurance coverage must be provided to protect itself from claims under workers compensation acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of its employees or of any person other than its employees; and from destruction of tangible property including loss of use resulting therefrom; and from claims arising out of the performance of professional services caused by any errors, omission, or negligent acts for which they are legally liable.

Evaluation

Proposed Services	20 points
Demonstrated Qualification and Experience	25 points
Ability to Perform Services/Organizational Capacity	20 points
Ability to Meet Timeline	15 points
Fee	20 points

SOURCES/RESOURCES

1 Affirmatively Furthering Fair Housing, Proposed Rule, Fed. Reg. Vol. 85, No. 9, Proposed 14 January 2020, <https://www.federalregister.gov>. Accessed: 15 July 2020

2 "A New Assessment Process to Affirmatively Further Fair Housing." U.S. Department of Housing and Urban Development, https://www.huduser.gov/portal/publications/pdf/affht_userFriendlyGuide.pdf. Accessed: 15 July 2020

3 "Fair Housing Planning Guide Volume 1." U.S. Department of Housing and Urban Development, <https://www.hud.gov/sites/documents/FHPG.PDF>. Accessed: 15 July 2020

4 "Rapid City's Community Development Block Grant Program Resident Participation Plan." City of Rapid City, <https://www.rcgov.org/departments/community-planning-development/cdbg-program-division/cdbg-program-division436.html>. Accessed 15 July 202