

RESOLUTION NO. \_\_\_\_:2018

**A RESOLUTION RELATING TO THE MOREHEAD INSPIRATION CENTER FOR MEN (RECOVERY KENTUCKY) CDBG GRANT #18-046, CONTRACT WITH GATEWAY AREA DEVELOPMENT DISTRICT, INC. FOR PROFESSIONAL SERVICES**

**WHEREAS**, the City of Morehead, Kentucky on or about August 13, 2018 submitted a CDBG application to the Kentucky Department for Local Government requesting \$200,000 in CDBG Funds for the 2018 Morehead Inspiration Center (Recovery Kentucky) Project; and

**WHEREAS**, on September 13, 2018 the Kentucky Department for Local Government issued a letter to the City of Morehead giving preliminary approval to the 2018 CDBG application; and

**WHEREAS**, the City desires to engage a consultant to render certain technical assistance services in connection with its Community Development program;

**NOW, THEREFORE, BE IT RESOLVED** by the City of Morehead, Kentucky Board of City Council that the Contract for Professional Services between the City and Gateway Area Development District, Inc., a copy of which is attached hereto, is approved and Mayor James T. Trent shall have the authority to execute said Contract for Professional Services on the City's behalf.

Passed and adopted by the Board of City Council of Morehead this the 8<sup>th</sup> day of October 2018.

\_\_\_\_\_  
James T. Trent, Mayor

ATTEST:

\_\_\_\_\_  
Crissy Cunningham, City Clerk

## CONTRACT FOR PROFESSIONAL SERVICES

### PART I – AGREEMENT

This Contract for Professional Services is by and between the City of Morehead, Kentucky, 40351 (hereinafter called the "City"), Mayor James Thomas Trent, hereunto duly authorized, of 314 Bridge Street, Morehead, KY 40351 and the Gateway Area Development District (hereinafter called the "ADD"), Joshua A. Farrow, Executive Director, hereunto duly authorized, of 110 Lake Park Drive, Morehead, KY 40351

WITNESSETH THAT:

WHEREAS, the City has entered into an agreement with the Kentucky Department for Local Government (DLG) for the implementation and administration of a \$200,000 (Two Hundred Thousand Dollars and No Cents) Kentucky Community Development Block Grant (Morehead Inspiration Center (Recovery Kentucky) (CDBG #18-046) and,

WHEREAS, the City desires to engage the ADD to render certain services in connection with its Kentucky Community Development Block Grant;

NOW, THEREFORE, the parties do mutually agree as follows:

#### **1. Employment of ADD**

The City hereby agrees to engage the ADD and the ADD hereby agrees to perform the following Scope of Services:

#### **2. Scope of Services**

The ADD shall, in a satisfactory and proper manner, perform the following services in regard to the current Kentucky Community Development Block Grant and contingent upon the grant agreement. Services in each of the above work areas shall be performed under and at the direction of the City. The ADD shall:

1. Prepare a Format II Environmental Assessment and prepare the necessary legal or public notices and publish as required by DLG if applicable
2. Prepare Environmental Certification per 24 CFR, Part 58 and submit to DLG to obtain Environmental Clearance
3. Coordinate the Format II Environmental Assessment findings with the project engineering/architectural firm(s), the City and other funding agencies or partners if applicable
4. Prepare and submit, to DLG, the required Evidentiary Materials to obtain a Release of Funds
5. Establish and maintain Project Implementation files
6. Prepare all Affirmative Action, Equal Opportunity and Fair Housing, Drug-free Workplace, Section 504 and similar required documents as required by DLG
7. Review and monitor procurement procedures prior to the expenditure of Federal funds
8. Prepare and submit all special financial reporting requirements to DLG as requested

9. Assist the City in Contract Administration and monitoring requirements of the project, including enforcement of labor standards (if applicable) and conducting of pre-construction conferences as required
10. Attend meetings and prepare reports as may be necessary to provide information regarding project progress
11. Serve as liaison with HUD, DLG or local representatives (utility companies, contractors, sub-contractors, Inspectors), coordinate and be available for all HUD or State monitoring visits and/or on-site reviews
12. Monitor all weekly/monthly payrolls and time sheets, if applicable
13. Monitor Workforce Utilization Plan and Section 3 requirements
14. Attend the Project Monitoring as requested by HUD, DLG or the City's auditors and make all project files available for the monitoring
15. Assist, if applicable, in clearing any outstanding monitoring or audit findings
16. Finalize all project files and transfer to the City for storage for a period of five (5) years after closeout
17. Preparation and submittal of the Project Completion Report as required by DLG

Any programs resulting from additional funding would require negotiation and contract addendum.

### **3. Time of Performance**

The services of the ADD shall commence on October 8, 2018 and be provided on a per-project basis as requested by the City. The services of the ADD under this contract will conclude with DLG's concurrence or acceptance of the submitted Project Close Out Report(s) (PCR) relating to the Morehead Inspiration Center (Recovery Kentucky) Project, CDBG #18-046 project. Such services shall be continued in such sequence as to assure their relevance to the purposes of this Contract.

### **4. Access to Information**

It is agreed that all information, data, reports, records and maps as are existing, available and necessary for the carrying out of the work outlined above, shall be furnished to the City by the ADD. No charge will be made to the City for such information and the ADD will cooperate with the City in every way possible to facilitate the performance of the work described in this Contract. The ADD shall have a computer, software and printer made available to facilitate the work.

### **5. Compensation and Method of Payment**

The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed \$10,000.00 (Ten Thousand Dollars and No Cents) for all contract services. Of the compensation and reimbursement amount \$.00 (No Dollars and No Cents) is for Planning Expenses and the remaining \$10,000.00 (Ten Thousand Dollars and No Cents) is for Administration Expenses.

### **6. Ownership Documents**

All documents, including original drawings, estimates, specifications, field notes and data are the property of the City. The ADD may retain reproducible copies of drawings and other documents.

## 7. Professional Liability

The ADD shall be responsible for the use of reasonable skill and care befitting the profession in the day-to-day activity of this project.

## 8. Indemnification

The ADD shall comply with the requirements of all applicable laws, rules and regulations in connection with the services of the City, and shall exonerate, indemnify and hold harmless the City, its officers, agents and all employees from and against them, and local taxes or contributions imposed or required under the Social Security, Workers' Compensation, and Income Tax laws.

Further, the ADD shall exonerate, indemnify and hold harmless the City with respect to any damages, expenses or claims arising from or in connection with any of the work performed or to be performed under this Contract by the ADD as a result of negligence on behalf of the ADD. This shall not be construed as a limitation of the ADD's liability under the Contract or as otherwise provided by law.

## 9. Terms and Conditions

This Contract is subject to the provisions titled, "Part II – Terms and Conditions," attached hereto and incorporated by reference herein.

## **10. Address of Notices and Communications**

James Thomas Trent  
City of Morehead  
314 Bridge Street  
Morehead, KY 40351

Joshua A. Farrow  
Gateway A.D.D.  
110 Lake Park Drive  
Morehead, KY 40351

## 11. Captions

Each paragraph of this Contract has been supplied with a caption to serve only as a guide to the contents. The caption does not control the meaning of any paragraph or in any way determine its interpretation or application

## GATEWAY AREA DEVELOPMENT DISTRICT

By: Joshua A. Farrow, Executive Director                      Date                     

## CITY OF MOREHEAD

By: \_\_\_\_\_  
James Thomas Trent, Mayor

\_\_\_\_\_ Date

## **CONTRACT FOR PROFESSIONAL SERVICES**

### **PART II – TERMS AND CONDITIONS**

#### **1. Termination of Contract for Cause**

If, through any cause, the ADD shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the ADD shall violate any of the covenants, agreements or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by giving written notice to the ADD of such termination and specifying the effective date thereof, at least ten days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the ADD shall, at the option of the City, become its property and the ADD shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. In the event that the City is not successful in obtaining funding through the Kentucky Community Development Block Grant Program, that portion of this Contract shall be terminated.

In the event that the Kentucky Department for Local Government terminates the Contract between the Kentucky Community Development Block Grant (KCDBG) Program and the City, the agreement between the City and the ADD shall also be terminated. The City shall have the same termination rights as listed between the ADD and the City.

Notwithstanding the above, the ADD shall not be relieved of liability to the City for damages sustained by the ADD by virtue of any breach of the Contract by the ADD, and the City may withhold any payments to the ADD for the purpose of set-off until such time as the exact amount of damages due the City from the ADD is determined.

#### **2. Termination for Convenience of the LPA**

The City may terminate this Contract at any time by giving at least ten (10) days notice in writing to the ADD. If the Contract is terminated by the City as provided herein, the ADD will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the ADD, Paragraph 1 hereof relative to termination shall apply. In the event the Kentucky Community Development Block Grant (KCDBG) Program uses this termination clause, the City shall pass same terms to the ADD.

#### **3. Changes**

The City may, from time to time, request changes in the scope of services of the ADD to be performed hereunder. Such changes, including any increase or decrease in the amount of the ADD's compensation, which are mutually agreed upon by and between the City and the ADD, shall be incorporated in written amendments to this Contract. These changes could result in contract addendum with the ADD.

#### **4. Personnel**

- A. The ADD represents that they have, or will secure at their own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City.

- B. All of the services required hereunder will be performed by the ADD or under the supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

**5. Assignability**

The ADD shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto: provided, however, that claims for money by the ADD from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

**6. Reports and Information**

The ADD, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

**7. Findings Confidential**

All of the reports, information, data, etc. prepared or assembled by the ADD under this Contract are confidential and the ADD agrees that they shall not be made available to any individual or organization without the prior written approval of the City.

**8. Copyright**

No reports, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the ADD.

**9. Compliance with Local Laws**

The ADD shall comply with all applicable laws, ordinances and codes of the State and local governments, and the ADD shall hold the City harmless with respect to any damages arising from any actions committed in performing any of the work embraced by this Contract.

**10. Access to Records**

The ADD shall maintain accounts and project records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds.

These records will be made available to the City, the Kentucky Department for Local Government, U.S. Department of Housing and Urban Development and the Comptroller General of the United States or any of their duly authorized representatives.

These parties shall have access to any books, documents, papers and records of the ADD, which are directly pertinent to the project for the purpose of making audit, examination, excerpts and transcriptions. All records shall be maintained for three years after the project closeout.

### **11. Title VI Civil Rights Act of 1964**

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

### **12. Section 109 of the Housing and Community Development Act of 1974**

No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

### **13. Conflict of Interest Clauses**

#### **Interest of Members of a City**

No member of the governing body of the City and no other officer, employee, or agent of the City, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the ADD shall take appropriate steps to assure compliance.

#### **Interest of Other Local Public Officials**

The ADD covenants that they presently have no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The ADD further covenants that in the performance of this Contract, no person having any such interest shall be employed.

### **"Section 3" Compliance in the Provision of Training, Employment and Business Opportunities (contracts less than \$10,000)**

- A. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.
- B. The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
- C. The ADD will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in

conspicuous places available to employees and applicants for employment or training.

- D. The ADD will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The ADD will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issues hereunder prior to the execution of the contract, shall be a condition if the Federal financial assistance provided the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

**Executive Order 11246, Section 202 Equal Opportunity Clause** (contracts above \$10,000)

During the performance of this Contract, the ADD agrees as follows:

- A. The ADD will not discriminate against any employee or applicant for employment because of race, creed, sex, color, or national origin. The ADD will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, or national origin.

Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The ADD agrees to post in conspicuous places, available to employees and applicants for employment, notices, to be provided by the City setting forth the provisions of this non-discrimination clause.

- B. The ADD will, in all solicitation or advertisements for employees placed by or on behalf of the ADD, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
- C. The ADD will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not



apply to contracts or subcontracts for standard commercial supplies or raw material.

- D. The ADD will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- E. The ADD will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the City's Department of Housing and Community Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the ADD's non-compliance with the non-compliance clause of this Contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part and the ADD may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- G. The ADD will include the provisions of paragraphs (A) through (G) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor.

The ADD will take such action with respect to any subcontract or purchase order as the City's Economic Development Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that in the event the ADD becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City's Department of Housing and Community Development, the ADD may request the United States to enter such litigation to protect the interests of the United States.

**Special Equal Opportunity Provisions** (Applicable to Federally assisted construction contracts and related subcontracts \$10,000 and under)

Three paragraph Equal Opportunity Clause for activities and contracts not subject to Executive Order 11246, as amended.

During the performance of this Contract, the ADD agrees as follows:

- 1. The ADD shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The ADD shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without

regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2. The ADD shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause.

The ADD shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

3. The ADD shall incorporate foregoing requirements in all subcontracts.

**Section 3 Plan Format** (for contracts \$10,000 and above)

Gateway Area Development District, Inc. agrees to implement the following specific affirmative action steps directed at increasing the utilization of low-income residents and business within the City of Morehead.

- A. To ascertain from the locality's housing official the exact boundaries of the Section 3 covered project area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B. To attempt to recruit from within the City the necessary number of lower income residents through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service.
- C. To maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- D. \*To insert this Section 3 Plan in all bid documents, and to require all bidders on subcontracts to submit a Section 3 affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.
- E. \*To ensure that subcontracts which are typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.
- F. To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.

- G. To insure that all appropriate project area business concerns are notified of pending sub-contractual opportunities.
- H. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- I. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 Plan.
- J.—To list all projected workforce needs for all phases of this project by occupation, trade, skill level and number positions.

\*Loans, grants, contracts and subsidies for less than \$10,000 will be exempt.

**Rehabilitation Act of 1973, Section 504 Handicapped** (if \$2,500 or over)

**Affirmative Action for Handicapped Workers**

- A. The ADD will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The ADD agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- B. The ADD agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- C. In the event of the ADD's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- D. The ADD agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the ADD's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- E. The ADD will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the ADD is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

- F. The ADD will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor.

The ADD will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

**Age Discrimination Act of 1975** (for contracts over \$2,000)

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination receiving Federal financial assistance.

**Energy Efficiency**

The ADD shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act.

As officers and representatives of this Contract, we the undersigned, have read and fully agree to this Affirmative Action Plan, and become a part to the full implementation of this program.

\_\_\_\_\_  
Joshua A. Farrow  
Gateway Area Development District

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor James Thomas Trent  
City of Morehead

\_\_\_\_\_  
Date