



**BOARD OF SUPERVISORS AGENDA ITEM REPORT**  
**CONTRACTS / AWARDS / GRANTS**

**Requested Board Meeting Date:** 12/15/2015

**or Procurement Director Award**

**Contractor/Vendor Name:** Drexel Heights Fire Department  
**(DBA):**

**Project Title/Description:**

Drexel Heights Fire Hydrants ("the Project"), a CDBG Infrastructure Improvements activity conducted by Drexel Heights Fire District, located at 5030 S. Camino Verde, Tucson, Arizona.

**Purpose:**

Install two fire hydrants in the Drexel Heights/Valencia West Community Development Target Area.

**Procurement Method:**

Solicitation numbers CDNC-12-16-13-OA-ESG-CDBG & CDNC-12-09-14-ESG-CDBG

**Program Goals/Predicted Outcomes:**

Goal: Provide a more suitable living environment and quality of services by improving infrastructure that will increase the capability of the fire district to respond to emergency situations.

Predicted outcomes: Improved access to firefighting services provided by the Drexel Height Fire Department

**Public Benefit:**

Upon completion, the Project will meet the CDBG National Objective to provide fire protection through infrastructure improvements which will benefit low-to-moderate income persons in the Drexel Heights/Valencia West Community Development Target Area.

**Metrics Available to Measure Performance:**

At least 60 households will have improved access and availability to fire protection services provided by the Subrecipient.

**Retroactive:**

No

**Original Information**

Document Type: CT Department Code: CD Contract # (i.e.,15-123): 16000000000000000154  
Prior Contract Number

Effective Date: 11/1/2015 Termination Date: 10/31/2016 (Synergen/CMS):

Expense Amount: \$18,855  Revenue Amount: \$

Funding Source(s): U.S. Department of Housing and Urban Development

Cost to Pima County General Fund: 0

Contract is fully or partially funded with Federal Funds?  Yes  No  Not Applicable to Grant Awards

Were insurance or indemnity clauses modified?  Yes  No  Not Applicable to Grant Awards

Vendor is using a Social Security Number?  Yes  No  Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

**Amendment Information**

Document Type: Department Code: Contract Number (i.e.,15-123):

Amendment No.: Procurement Dept 12/10/15 PM 01:31 AMS Version No.:

To: CoB - 12-2-15 (2) Pgs. 19 Ver. - 1

Effective Date:

New Termination Date:

Expense Revenue Increase Decrease

Amount This Amendment:

Funding Source(s):

Cost to Pima County General Fund: \$

Contact: Gloria Soto, Program Coordinator

Department: Community Development & Neighborhood Conservation Telephone: 724-3751

Department Director Signature/Date: Margaret M. Kue 11/24/2015

Deputy County Administrator Signature/Date: John 12/28/2015

County Administrator Signature/Date: C. DeCulberty 12/1/15  
(Required for Board Agenda/Addendum Items)

**PIMA COUNTY COMMUNITY DEVELOPMENT AND NEIGHBORHOOD CONSERVATION DEPARTMENT**

<b>CONTRACT</b>
NO. <u>CT-CD-160000000000000000/54</u>
AMENDMENT NO. _____
<small>This number must appear on all invoices, correspondence and documents pertaining to this contract.</small>

**Project Name:** Drexel Heights Fire Hydrants  
CDBG Infrastructure Improvements

**Subrecipient:** Drexel Heights Fire District

**DUNS No.:** 606818946

**Project Description:** Install two fire hydrants in the Drexel Heights/Valencia West Community Development Target Area

**Contract Term:** November 1, 2015 through October 31, 2016

**Amount:** \$18,855.00

**Funding:** U.S. Department of Housing and Urban Development

**Federal Contract No.** B-15-UC-04-0502 & B-14-UC-04-0502

**Award Date:** July 1, 2015

CFDA	Program Description	Nation Funding	Pima County Award
14.218	Community Development Block Grant/Entitlement Communities (CDBG)	FY15 est. \$2,095,100,000.00	\$2,592,446.00
14.218	Community Development Block Grant/Entitlement Communities (CDBG)	FY14 est. \$1,948,870,000.00	\$2,498,848.00

**Is this a Research and Development Contract:**  Yes  No

This Intergovernmental Agreement is entered into by and between Pima County, a body politic and corporate of the State of Arizona ("County") and Drexel Heights Fire District, a special taxing district of the State of Arizona ("Subrecipient").

**RECITALS**

- A. County and Subrecipient may contract for services and enter into agreements with one another for joint or cooperative action pursuant to A.R.S. § 11-951, *et seq.*
- B. County is authorized by A.R.S. §§ 11-254.04, 11-251 (5) and 11-251 (17), to spend public monies to improve and enhance the economic welfare and health of the inhabitants of the County.
- C. Subrecipient is authorized by A.R.S. §48-805(B)(2) to obtain apparatus and equipment and by A.R.S. § 48-805(B)(11) accept grants and comply with the terms of the grant to carry out fire district purposes.

- D. County applied for and received Community Development Block Grant ("CDBG") funds in the amount of \$2,592,446.00 from the U.S. Department of Housing and Urban Development ("HUD"), under Title I of the Housing and Community Development Act of 1974, as amended (Public Law 93-383).
- E. Under solicitation number CDNC-12-16-13-OA-ESG-CDBG ("the Community Planning Application 14-15"), County sought proposals for program and activities that would qualify for CDBG funding during Federal Fiscal Year 2014-2015.
- F. Under solicitation number CDNC-12-09-14-ESG-CDBG ("the Community Planning Application 15-16"), County sought proposals for programs and activities that would qualify for CDBG funding during Federal Fiscal Year 2015-2016.
- G. Subrecipient submitted responses to the Community Planning Applications defined above.
- H. The parties entered into Pima County Contract No. 15\*309 which provided FY 2014-15 CDBG funds for fire hydrants. This contract will expire with an unused balance of \$3,855.00.
- I. Subrecipient has requested the unexpended Fiscal Year 2014-2015 funds be added to fiscal Year 2015-2016 contract.
- J. County has reevaluated the needs of the community and determined that the residents of the Drexel Heights/Valencia West Target Area would benefit from the use of the unexpended 2014-2015 CDBG funds.
- K. County has reviewed Subrecipient's capacity to utilize CDBG funds and has determined that Subrecipient can timely complete the projects funded herein.
- L. County has determined that the services or activities proposed in Subrecipient's response to the Community Planning Applications are eligible for CDBG funding and in the best interests of the residents of Pima County.
- M. On May 5, 2015 the Pima County Board of Supervisors authorized inclusion of Subrecipient's proposal for use of CDBG funds for in the 2015-2016 Annual Action Plan that County submitted to HUD.
- N. On May 5, 2015, the Pima County Board of Supervisors passed Resolution No. 2015-20 approving an allocation of CDBG funds to Subrecipient.
- O. CDBG funds in a total amount of **\$18,855.00** (\$3,855.00 from FY 2014-2015 and \$15,000.00 from FY 2015-2016) have been allocated to Subrecipient for installation of two fire hydrants in the Drexel Heights/Valencia West Target Area.

NOW THEREFORE, COUNTY and Subrecipient, pursuant to the above, and in consideration of the matters and things hereinafter set forth, do mutually agree as follows:

## **1.0 TERM AND EXTENSIONS**

- 1.1 This Agreement, as awarded by County, will commence on November 1, 2015 and will terminate on October 31, 2016, unless sooner terminated or further extended pursuant to the provisions of this Agreement. County will have the option to renew this Agreement for up to one (1) 12-month period or any portion thereof.
- 1.2 Except as set forth in Paragraph 1.4 below, any modification or extension of the contract termination date must be by formal written amendment executed by the parties hereto.
- 1.3 Any amendments to the Agreement must be approved by the County before any services under the amendment commences.

- 1.4 Minor modifications may be made by written memorandum approved and signed by the Director of the Pima County Community Development and Neighborhood Conservation Department or designee. Minor modifications are changes in the scope or budget, which do not change the specified purpose, outcomes or the total compensation provided through this Agreement and do not in any way increase the direct or indirect liability of the County under this Agreement.
- 1.5 Notwithstanding paragraph 1.1 above, the terms of this Agreement will survive and remain in effect during any period that Subrecipient has control over CDBG funds, including program income.

## **2.0 SCOPE OF SERVICES**

### **2.1 Subrecipient will:**

- 2.1.1 Provide the County with the services described in the attached **Exhibit A**.
- 2.1.2 Employ suitably trained and skilled personnel to perform all services under this Agreement.
- 2.1.3 Perform its duties in a humane and respectful manner and in accordance with any applicable professional standards. Subrecipient must obtain and maintain all applicable licenses, permits and authority required for its performance under this Agreement.
- 2.1.4 Unless otherwise provided for herein, the personnel delivering Agreement services will:
  - 2.1.4.1 Be employees or volunteers of the Subrecipient;
  - 2.1.4.2 Satisfy any qualifications set forth in this Agreement; and
  - 2.1.4.3 Be covered by personnel policies and practices of Subrecipient.
- 2.1.5 Obtain and maintain all required licenses, permits and authority required for performance under this Agreement.
- 2.1.6 Maintain an accounting manual that describes its financial procedures in sufficient detail to ensure that its financial practices are easily understood.
- 2.1.7 Utilize CDBG funding for the purposes described in Exhibit A and in accordance with the terms of the 2014-2015 and 2015-2016 Annual Action Plans ("the Plans").
- 2.1.8 Undertake the same obligations to the County, as the County does to HUD pursuant to the 2014 - 2015 and 2015-2016 Annual Action Plans and assurances. Subrecipient will hold County harmless against any injury that County may suffer with respect to HUD on account of any failure on the part of Subrecipient to fulfill obligations to HUD.

### **2.2 Confidentiality. Subrecipient:**

- 2.2.1 Understands that client and applicant files and information collected pursuant to the terms of this Agreement are private and the use or disclosure of such information, when not directly connected with the administration of County's or Subrecipient's responsibilities with respect to services provided under this Agreement is prohibited, unless written consent is obtained from the individual or, in the case of a minor, from the responsible parent or guardian.
  - 2.2.2 Will provide access to these files only to persons properly authorized.
  - 2.2.3 Will observe and abide by all applicable State and Federal statutes and regulations regarding use or disclosure of information including, but not limited to, information concerning applicants for and recipients of contract services.
- 2.3 Subrecipient certifies that no individual or agent has been employed or retained to solicit or secure this Agreement for commission, percentage, brokerage or contingent fee except a bona fide employee whose job duties include securing business.

- 2.4 No program funded under this Agreement may impair existing contracts for services or collective bargaining agreements or be inconsistent with the terms of a collective bargaining agreement without the written concurrence of the labor organization and employer concerned.

### **3.0 MONITORING AND EVALUATION**

- 3.1 County will monitor all activities and information sources in the management, fiscal, and services systems of Subrecipient and any subcontracted parties relating to performance of duties and obligations under this Agreement to ensure that Subrecipient is:
  - 3.1.1 Making adequate and acceptable progress in the provision of services;
  - 3.1.2 Maintaining adequate and acceptable systems to document services and expenditures; and
  - 3.1.3 Using the funds provided pursuant to this Agreement effectively and efficiently to accomplish the purposes for which funds were made available.
- 3.2 For monitoring and evaluation, Subrecipient must provide source documentation for payroll which may include, but is not limited to:
  - 3.2.1 Employment letters;
  - 3.2.2 Authorization for rates of pay, benefits, and withholding;
  - 3.2.3 Minutes from Board of Directors' meetings establishing salary schedules and benefit packages;
  - 3.2.4 Copies of written policies;
  - 3.2.5 W-4 forms and associated time and attendance records;
  - 3.2.6 Employee certifications of time spent:
    - 3.2.6.1 If an employee of Subrecipient works solely on the services being funded by CDBG, the employee and the employee's supervisor must sign a statement every six months certifying that the employee worked only on the CDBG-funded services.
    - 3.2.6.2 If an employee's time is split between the services being funded by CDBG and non-CDBG services and funding sources, Subrecipient must have time distribution records supporting the allocation of charges among the various funding sources.
- 3.3 Subrecipient must cooperate in the monitoring and evaluation process by County and/or HUD.
- 3.4 Subrecipient must assist County in providing reports and documentation related to Subrecipient's performance and, where applicable, the impact of the CDBG-funded activities on the community, to HUD.
- 3.5 If monitoring and evaluation finds that Subrecipient's performance is substandard, Subrecipient will be in default of this Agreement. If Subrecipient fails to take appropriate actions to correct the default within fifteen (15) calendar days from date of notice, this Agreement may be suspended or terminated.
- 3.6 To the greatest extent permissible by law, County, and any authorized federal, state or local agency, including, but not limited to, the U.S. Department of Housing and Urban Development, and the Comptroller of the United States will at all reasonable times have the right of access to Subrecipient's facility, books, documents, papers, or other records which are pertinent to this Agreement, in order to make audits, examinations, excerpts and transcripts for the purpose of evaluating Subrecipient's performance and Subrecipient's compliance with this Agreement.

#### 4.0 COMPENSATION AND PAYMENT

4.1 In consideration for services specified in **Exhibit A** of this Agreement, County agrees to pay Subrecipient up to **\$18,855.00** (“the Maximum Allocated Amount”), from the CDBG grants as follows:

<b>CDBG Grant Year</b>	<b>Amount Allocated</b>
2014-2015	\$ 3,855.00
2015-2016	\$15,000.00
<b>Total</b>	<b>\$18,855.00</b>

4.2 Payment will be made from the CDBG Grant County has received from the U.S. Department of Housing and Urban Development (“the awarding agency”).

4.3 Payment of the full Maximum Allocated Amount is subject to the CDBG funds being made available to County for this Agreement. The Maximum Allocated Amount may be decreased at any time due to reduction, termination, or any other changes in funding. Unless specifically authorized by County, unexpended funds will not be carried over into another fiscal year.

4.4 **Pursuant to the agreement between HUD and County (Pima County Contract No. B-15-UC-04-0502) and the Pima County Board of Supervisor’s approval of this allocation of CDBG funds to Subrecipient on May 5, 2015, Subrecipient may be reimbursed for eligible costs associated with activities under this Agreement from and after November 1, 2015.**

4.5 Subrecipient must submit monthly request for reimbursement as follows:

<b>Month Expense Incurred</b>	<b>Due date for Request for Reimbursement</b>
January through April & July through December	30 calendar days from end of month
May	June 15
June	July 7

4.6 Requests for reimbursement must:

4.6.1 Reference this contract number.

4.6.2 Be approved and signed by an authorized representative of the Subrecipient.

4.6.3 Be for services and costs as identified in **Exhibit A**.

4.6.4 Be accompanied by documentation which must include, but is not limited to:

4.6.4.1 A summary report of monthly expenditures by expense categories as shown in approved budget in **Exhibit A** of this Agreement.

4.6.4.2 Copies of invoices and checks (front and back) to support all purchases of goods or services.

4.6.4.3 If reimbursement is authorized for travel, detailed travel reports to support all travel expenses.

4.6.4.4 If reimbursement is authorized for personnel costs, time sheets or other records that specify the hours worked on the grant(s) and the total hours worked in the pay period. Time sheets must show the days and hours worked and should be signed by the employee and authorizing supervisor.

4.6.4.5 Fringe benefit calculations at the rate as shown in the approved budget in **Exhibit A**.

4.6.4.6 Any other documentation requested by County.

4.6.5 Be accompanied by the Financial Status Report and Request for Funds attached hereto as **Exhibit B**.

4.7 If Subrecipient is required to provide matching funds under the terms of the awarding agency, Subrecipient must also provide the documentation described in Paragraph 4.6 for the matching funds.

4.8 **Subrecipient must utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.** Subrecipient may not bill the County for costs which are paid by another source. Subrecipient must notify County within ten (10) days of receipt of alternative funding for costs which would otherwise be subject to payment pursuant to this Agreement.

4.9 If each request for payment includes adequate and accurate documentation, County will generally pay Subrecipient within thirty (30) days from the date invoice is received. Subrecipient should budget cash needs accordingly.

4.10 County may, at its sole discretion:

4.10.1 Determine the acceptability and progress of work performed and determine the resulting entitlement to payment of each request for reimbursement.

4.10.2 Liquidate funds available under this Agreement for costs incurred by County on behalf of Subrecipient.

4.10.3 **Deny full payment** for requests for reimbursement that are submitted to County after the date set forth in Paragraph 3.4. County may deduct its processing costs or delay-related damages in connection with a request for payment submitted after that date.

4.10.4 **Deny payment** for any request for reimbursement received after the following dates:

<b>Month Expense Incurred</b>	<b>Date Request for Reimbursement is submitted</b>
January through March July and August October through December	More than 60 days after the end of the month in which the expense was incurred
April and May	June 21
June	July 15
September	October 31

If payment is made on such a delinquent request, **County will deduct its processing costs or delay-related damages.**

4.11 Pursuant to A.R.S. § 11-622, COUNTY **will deny reimbursement completely** for requests for payment made later than six months after the last item of the account accrues.

4.12 **REQUEST FOR FINAL PAYMENT** for compensation earned and/or eligible costs incurred will be submitted to the County within **15 working days after the end of the contract term**. The request must meet the requirements set forth in Paragraph 3.4 and include a report summarizing Subrecipient's performance during the term of the Agreement.

4.13 **No payments will be made to Subrecipient, until all of the following conditions are met:**

4.13.1 Subrecipient has completed and submitted a W-9 Taxpayer Identification Number form;

4.13.2 Subrecipient has registered as a Pima County Vendor at the following web address -- <https://secure.pima.gov/procurement/vramp/login.aspx>;

4.13.3 This Agreement is fully executed; and

4.13.4 Adequate and accurate documentation is provided with each request for payment or invoice.

- 4.14 Subrecipient will report to County:
- 4.14.1 Accrued expenditures;
  - 4.14.2 Program income, as defined by the awarding agency; and
  - 4.14.3 All other fiscal resources applied to expenses incurred in providing services under this Agreement.
- 4.15 Changes between budget line items may only be made as follows:
- 4.15.1 Changes of LESS than 10% of the total budget amount may be granted by and at the sole discretion of the Director of Community Development and Neighborhood Conservation or designee. Subrecipient must submit a written request and show that any proposed increase is offset by a decrease of equal value to the remaining line items. No increase to the total operating budget will be allowed. **The change will not be effective, nor will compensation under the change be provided, until the date set forth in the written approval of the Director or designee.**
  - 4.15.2 Changes of MORE than 10% of the total budget will require a contract amendment. **The change will not be effective, nor will compensation under the change be provided, until the contract amendment is fully executed by both parties.**
- 4.16 Disallowed Charges or Cost principles will be as follows:
- 4.16.1 The cost principle set forth in the Code of Federal Regulations (CFR), Title 48, Chapter 1, Part 31.201-6(e), (October 1, 1991), as modified by amendments and additions, on file with the Secretary of State and incorporated herein by reference, will be used to whether reimbursement of an incurred cost will be allowed under this Agreement. Those costs which are specifically defined as unallowable therein cannot be submitted for reimbursement by the Subrecipient and will not be reimbursed.
  - 4.16.2 **Subrecipient must reimburse County for improper, unallowable or unsubstantiated costs discovered as a result of audit or otherwise within thirty (30) days following demand for reimbursement by County.**
- 4.17 For the period of record retention required under Section 20.0 -- Books and Records, County reserves the right to question any payment made under this Section 20.0 and to require reimbursement by setoff or otherwise for payments determined to be improper or contrary to the Agreement or law.

## 5.0 PROGRAM INCOME

- 5.1 County does not anticipate that Subrecipient will generate program income, as defined by the awarding agency, will be generated under the activities of this Agreement.
- 5.2 In the event that activities under this Agreement do generate program income or program income is authorized, Subrecipient must:
- 5.2.1 Report to County all program income, as defined at 24 CFR 570.500(a), generated and received as a result of activities carried out with the CDBG-funds provided pursuant to this Agreement. These reports are due quarterly.
  - 5.2.2 Return program income to County within 15 days of the end of each month, unless otherwise specified in **Exhibit A**.

## 6.0 INSURANCE

- 6.1 Subrecipient shall maintain commercial general liability – occurrence form, automobile liability, and worker’s compensation and employer’s liability insurance, or be self-insured, in amounts sufficient

to cover any claims, whether or not due to negligence, which may arise in the performance of the activities set forth in this IGA.

6.2 Additional Insurance Requirements: The policies must contain, or be endorsed to contain, the following provisions:

6.2.1 Pima County, wherever additional insured status is required, will be covered to the full limits of liability purchased by Subrecipient, even if those limits of liability are in excess of those required by this Agreement.

6.2.2 Subrecipient's insurance coverage will be primary insurance and non-contributory with respect to all other available sources.

6.2.3 Coverage provided by the Subrecipient will not be limited to the liability assumed under the indemnification provisions of this Agreement.

6.2.4 The Project Name/Agreement Number and project description must be noted on the Certificate of Insurance.

6.3 Notice of Cancellation: Each insurance policy required by the insurance provisions of this Agreement must provide the required coverage and must not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Pima County. Such notice must be sent directly to the **Department Director, Community Development and Neighborhood Conservation, 2797 E. Ajo Way, Tucson, AZ 85713** by certified mail, return receipt requested.

6.4 Approval and Modifications: Pima County Risk Management reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Agreement amendment but may be made by administrative action.

## 7.0 INDEMNIFICATION

7.1 Each party (as Indemnitor) agrees to indemnify, defend and hold harmless the other party (as Indemnitee) from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, agents, employees, or volunteers.

7.2 Subrecipient warrants that services provided under this Agreement are non-infringing. Subrecipient will indemnify, defend and hold County harmless from any claim of infringement arising from services provided under this Agreement or from the provision, license, transfer or use for their intended purpose of any products provided under this Agreement.

## 8.0 COMPLIANCE WITH LAWS

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

8.2 Subrecipient will comply with the requirements of 24 CFR 570, including subpart K of these regulations, except the Subrecipient does not assume:

8.2.1 County's environmental responsibilities described in 24 CFR 570.604; and

- 8.2.2 County's responsibility for initiating the review process under the provisions of 24 CFR Part 52.
- 8.3 Subrecipient warrants that CDBG funds provided or personnel employed in the administration of the program funded under this Agreement will not be used for:
  - 8.3.1 Political activities;
  - 8.3.2 Inherently religious activities;
  - 8.3.3 Lobbying;
  - 8.3.4 Political patronage; or
  - 8.3.5 Nepotism activities.
- 8.4 Subrecipient will comply with the applicable provisions of:
  - 8.4.1 Davis-Bacon Act (Public Law 107-217), as amended;
  - 8.4.2 Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*);
  - 8.4.3 Copeland Anti-Kick Back Act (18 USC 874 *et seq.*);
  - 8.4.4 Section 3 of the HUD Act of 1968 as amended; and
  - 8.4.5 All rules and regulations applicable to the Acts set forth above.
- 8.5 Subrecipient will fully cooperate with County, HUD and any other federal agency in the review and determination of compliance with the above provisions.

## **9.0 INDEPENDENT CONTRACTOR**

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

## **10.0 SUBCONTRACTORS**

- 10.1 Except as provided in paragraph 10.2, Subrecipient will not enter into any subcontracts for any services to be performed under this Agreement without County's prior written approval of the subcontract. Subrecipient must follow all applicable Federal, State, and County rules and regulations for obtaining subcontractor services.
- 10.2 Prior written approval is not required for the purchase of supplies that are necessary and incidental to Subrecipient's performance under this Agreement.
- 10.3 Subrecipient will be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor and of persons for whose acts, any of them, may be liable to the same extent that the Subrecipient is responsible for the acts and omissions of persons directly employed by it. Nothing in this contract will create any obligation on the part of County to pay or see to the payment of any money due any subcontractor, except as may be required by law.
- 10.4 Subrecipient must include the provision set forth in paragraph 3.6 in all contracts between Subrecipient and its subcontractors providing goods or services pursuant to this Agreement. Subrecipient will be responsible for subcontractors' compliance with that provision and for any

disallowances or withholding of reimbursements resulting from noncompliance of said subcontractors with the provision.

### **11.0 ASSIGNMENT**

Subrecipient will not assign its rights to this Agreement in whole or in part, without prior written approval of the County. Approval may be withheld at the sole discretion of the County, provided that such approval will not be unreasonably withheld.

### **12.0 NON-DISCRIMINATION**

12.1 Subrecipient agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 including flow down of all provisions and requirements to any subcontractors.

12.2 During the performance of this contract, Subrecipient will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

### **13.0 AMERICANS WITH DISABILITIES ACT**

Subrecipient will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. If Subrecipient is carrying out a government program or services on behalf of County, then Subrecipient will maintain accessibility to the program to the same extent and degree that would be required by the County under 28 CFR Sections 35.130, 35.133, 35.149 through 35.151, 35.160, 35.161 and 35.163. Failure to do so could result in the termination of this Agreement.

### **14.0 AUTHORITY TO CONTRACT**

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

### **15.0 FULL AND COMPLETE PERFORMANCE**

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

### **16.0 CANCELLATION FOR CONFLICT OF INTEREST**

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

16.2 Subrecipient agrees to comply with all applicable conflict of interest provisions contained in Federal laws and regulations that govern the awarding agency including 24 CFR 84.42 and 570.611.

### **17.0 TERMINATION AND SUSPENSION**

17.1 Termination for Convenience: County reserves the right to terminate this Agreement at any time and without cause by serving upon Subrecipient thirty (30) days advance written notice of such intent to terminate. In the event of such termination, the County's only obligation to Subrecipient will be payment for services rendered prior to the date of termination.

- 17.2 **Insufficient Funds:** Notwithstanding Paragraph 17.1 above, if any state or federal grant monies used to pay for performance under this Agreement are reduced or withdrawn, County will have the right to either reduce the services to be provided and the total dollar amount payable under this Agreement or terminate the Agreement. To the extent possible, County will endeavor to provide fifteen (15) days written notice of such reduction or termination. In the event of a reduction in the amount payable, County will not be liable to Subrecipient for more than the reduced amount. In the event of a termination under this paragraph, County's only obligation to Subrecipient will be payment for services rendered prior to the date of termination to the extent that grant funds are available.
- 17.3 **Termination for Cause:** This Agreement may be terminated at any time without advance notice and without further obligation by the County when the Subrecipient is found by County to be in default of any provision of this Agreement.
- 17.4 **Non-Appropriation:** Notwithstanding any other provision in this Agreement, this Agreement may be terminated if for any reason, there are not sufficient appropriated and available monies for the purpose of maintaining County or other public entity obligations under this Agreement. In the event of such termination, County will have no further obligation to Subrecipient, other than for services rendered prior to termination.
- 17.5 **Suspension:** County reserves the right to suspend Subrecipient's performance and payments under this Agreement immediately upon notice delivered to Subrecipient's designated agent in order to investigate Subrecipient's activities and compliance with this Agreement. In the event of an investigation by County, Subrecipient will cooperate fully and provide all requested information and documentation. At the conclusion of the investigation, or within forty-five (45) days, whichever is sooner, Subrecipient will be notified in writing that the contract will be immediately terminated or that performance may be resumed.

## 18.0 NOTICE

- 18.1 Subrecipient must give written notice of any change of corporate or entity status as promptly as possible and, in any event, within fifteen (15) days after the change is effective. A change in corporate or entity status includes, but is not limited to, change from unincorporated to incorporated status and vice versa and any suspension or termination of corporate status based on failure to comply with all applicable federal, state, and local reporting requirements.
- 18.2 Any notice required or permitted to be given under this Agreement must be in writing and must be served by delivery or by certified mail upon the other party as follows:

**County:**

Margaret Kish, Director  
Pima County Community Development and  
Neighborhood Conservation  
2797 E. Ajo Way  
Tucson, AZ 85713

**Subrecipient:**

Douglas Chappell, Fire Chief  
Drexel Heights Fire District  
5030 S. Camino Verde  
Tucson, AZ 85735

## 19.0 OTHER DOCUMENTS

- 19.1 In entering into this Agreement, Subrecipient and County have relied upon information provided in Subrecipient's proposal submitted in response to the Community Planning Applications for FY 2014-2015 2015-16 identified in the recitals of this Agreement including the Instructions to Bidders, Standard Terms and Conditions, Specific Terms and Conditions, Solicitation Addenda, Subrecipient's Proposal, other information and documents submitted by the Subrecipient in its response to said Solicitation.

19.2 The documents set forth in Paragraphs 19.1 and 19.2 are hereby incorporated into and made a part of this Agreement as if set forth in full herein, to the extent not inconsistent with the provisions of this Agreement, including all exhibits. Subrecipient will promptly bring any provisions which Subrecipient believes are inconsistent to County's attention, and County will provide Subrecipient with its interpretation of the provisions in question. In the event of an irreconcilable inconsistency, the provisions of the awarding agency documents will govern over the conditions of this Agreement, unless otherwise required by law.

## **20.0 BOOKS AND RECORDS**

- 20.1 Subrecipient will keep and maintain all records specified in 24 CFR 570.506 which are pertinent to the activities funded under this Agreement. All such records will be open for inspection and audit by duly authorized representatives of County during normal business hours. Records include, but are not limited to:
- 20.1.1 A full description of each action or activity taken to comply with this Agreement;
  - 20.1.2 Demonstration that the actions and activities meet one or more of the National Objectives of the CDBG program;
  - 20.1.3 Eligibility documentation and determination;
  - 20.1.4 Documentation of compliance with the fair housing and equal opportunity components of the CDBG program;
  - 20.1.5 Disbursements of funds;
  - 20.1.6 Financial records required under 24 CFR 570.502 and 24 CFR 84.21 – 28; and
  - 20.1.7 Documentation of compliance with Subpart K of 24 CFR Part 570.
- 20.2 Subrecipient must retain all records pertaining to this Agreement for four (4) years after County submits the annual performance and evaluation report to HUD in which the CDBG-funded activities under this Agreement are reported on for the final time or until completion of any action and resolution of all issues which arise from any related litigation, claim, negotiations, audit or other action involving the records that was started before the expiration of the 4-year period, whichever is later.

## **21.0 AUDIT REQUIREMENTS**

- 21.1 Subrecipient will:
- 21.1.1 Comply with the applicable provisions of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Parts 200 and 2400).
  - 21.1.2 **Establish and maintain a separate, identifiable accounting of all funds provided by County under this Agreement.** The accounting must record all expenditures which are used to support invoices and requests for payment from the County.
  - 21.1.3 Establish and maintain accounting records which identify the source and application of any funds not provided under this Agreement used to support these Agreement activities.
  - 21.1.4 Ensure that all accounting records meet the requirements of the Federal, State, County, and generally accepted accounting principles laws and regulations.
  - 21.1.5 Upon written notice from County, provide a program-specific or financial audit. Such notice from County will specify the period to be covered by the audit, the type of audit and the deadline for completion and submission of the audit.

21.1.6 Assure that any audit conducted pursuant to this Agreement is performed by a qualified, independent accounting firm and submitted to County within six (6) months of completion of the audit required pursuant to this Section 21.0, unless a different time is specified by County. The audit submitted must include Subrecipient responses, if any, concerning any audit findings.

21.1.7 Pay all costs for any audit required or requested pursuant to this Section 21.0, unless the cost is allowable for payment with the grant funds provided pursuant to this Agreement under the appropriate federal or state grant law and the cost was specifically included in the Subrecipient grant budget approved by County.

21.2 If Subrecipient meets or exceeds the single audit threshold set forth in 2 C.F.R. Part 200, Subrecipient will comply with federal single audit requirements and, upon request from County, provide County with a copy of the required audit document within ninety (90) days following the end of Subrecipient's fiscal year.

21.3 Subrecipient must timely submit the required or requested audit(s) to:

Denise Sauer, Contract Specialist  
Pima County Community Development and Neighborhood Conservation  
2797 E. Ajo Way  
Tucson, AZ 85713

## **22.0 COPYRIGHT**

Neither, Subrecipient nor its officers, agents or employees will copyright any materials or products developed through contract services provided or contract expenditures made under this Agreement without prior written approval by the County. Upon approval, the County will have a non-exclusive and irrevocable license to reproduce, publish or otherwise use or authorize the use of any copyrighted material.

## **23.0 PROPERTY OF THE COUNTY**

23.1 Subrecipient is not the agent of County for any purpose and will not purchase any materials, equipment or supplies on the credit of County.

23.2 Any materials, including reports, computer programs and other deliverables, created under this Agreement are the sole property of County. Subrecipient is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. Subrecipient will not use or release these materials without the prior written consent of County.

## **24.0 DISPOSAL OF PROPERTY**

Termination of this Agreement will not relieve any party from liabilities or costs already incurred under this Agreement, nor affect any ownership of property pursuant to this Agreement.

## **25.0 COORDINATION**

On matters relating to the administration of this Agreement, County will be Subrecipient's contact with all Federal, State and local agencies that provide funding for this Agreement.

## **26.0 PUBLIC INFORMATION**

26.1 Pursuant to Arizona Public Records law, A.R.S. § 39-121 *et seq.*, documents submitted by Subrecipient to County may be considered public records and may be subject to release to any member of the public. Records subject to release may include, but are not limited to: pricing, product or program specifications, work plans, and any supporting data.

- 26.2 In the event that County receives a public records request pursuant to A.R.S. § 39-121 *et seq.* for documents Subrecipient submitted to County, County will notify Subrecipient on the same day the request is made or as soon as possible thereafter.
- 26.3- County will release Subrecipient's records ten (10) business days after the date of notice to the Subrecipient, unless Subrecipient has secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release will not be counted in the time calculation.
- 26.4 County will not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records submitted to County by Subrecipient nor will County be in any way financially responsible for any costs associated with securing such an order.

## **27.0 ELIGIBILITY FOR PUBLIC BENEFITS**

Subrecipient will comply with applicable provisions of A.R.S. §§1-501 and 1-502 regarding public benefits, which are hereby incorporated as provisions of this Agreement.

## **28.0 LEGAL ARIZONA WORKERS ACT COMPLIANCE**

- 28.1 Subrecipient hereby warrants that it will at all times during the term of this Agreement comply with all federal immigration laws applicable to Subrecipient's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Subrecipient will further ensure that each subcontractor who performs any work for Subrecipient under this contract likewise complies with the State and Federal Immigration Laws.
- 28.2 County will have the right at any time to inspect the books and records of Subrecipient and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.
- 28.3 Any breach of Subrecipient's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, will be deemed to be a material breach of this Agreement subjecting Subrecipient to penalties up to and including suspension or termination of this Agreement. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Subrecipient will be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, (subject to County approval if Minority and Women Business E preferences apply) as soon as possible so as not to delay project completion.
- 28.4 Subrecipient will advise each subcontractor of County's rights, and the Subcontractor's obligations, under this Article (or Section?) by including a provision in each subcontract substantially in the following form:
- "Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."
- 28.5 Any additional costs attributable directly or indirectly to remedial action under this Section will be the responsibility of Subrecipient. In the event that remedial action under this Article (or Section?)

results in delay to one or more tasks on the critical path of Subrecipient's approved construction or critical milestones schedule, such period of delay will be deemed excusable delay for which Subrecipient will be entitled to an extension of time, but not costs.

### **29.0 REMEDIES**

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

### **30.0 WORKER'S COMPENSATION**

Each party shall comply with the notice of A.R.S. § 23-1022(E). For purposes of A.R.S. § 23-1022, each party shall be considered the primary employer of all personnel currently or hereafter employed by that party, irrespective of the operations of protocol in place, and said party shall have the sole responsibility for the payment of Worker's Compensation benefits or other fringe benefits of said employees.

### **31.0 NO JOINT VENTURE**

It is not intended by this Agreement to, and nothing contained in this Agreement shall be construed to, create any partnership, joint venture or employment relationship between the parties or create any employer-employee relationship between County and any Subrecipient employees, or between Subrecipient and any County employees. Neither party shall be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.

### **32.0 NO THIRD PARTY BENEFICIARIES**

Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or effect the legal liability of either party to the Agreement by imposing any standard of care different from the standard of care imposed by law.

### **33.0 SEVERABILITY**

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

### **34.0 NON-EXCLUSIVE AGREEMENT**

Subrecipient understands that this Agreement is nonexclusive and is for the sole convenience of County. County reserves the right to obtain like services from other sources for any reason.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

**35.0 ENTIRE AGREEMENT**

35.1 This document constitutes the entire agreement between the parties pertaining to the subject matter hereof.

35.2 No verbal agreements or conversations with any officer, agent or employee of County prior to or after the execution of this Agreement will affect or modify any of the terms or obligations contained in any documents comprising this Agreement. Any such verbal agreement will be considered as unofficial information and in no way binding upon County and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein.

35.3 This Agreement may be modified, amended, altered or extended only by a written amendment signed by the parties.

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

**PIMA COUNTY**

**SUBRECIPIENT**

\_\_\_\_\_  
Chair, Board of Supervisors

  
Signature

Date: \_\_\_\_\_

James L. Bertrand, Board Chair  
Printed name and title

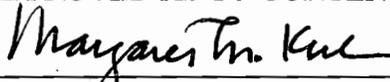
ATTEST

Date: November 20, 2015

\_\_\_\_\_  
Clerk of the Board

Date: \_\_\_\_\_

APPROVED AS TO CONTENT:

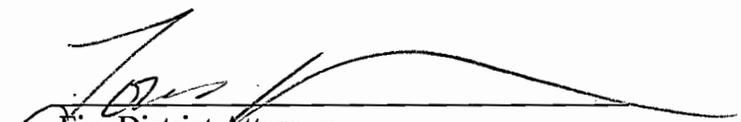
 10/27/2015  
\_\_\_\_\_  
Director, Community Development  
and Neighborhood Conservation

The foregoing Intergovernmental Agreement between Pima County and Drexel Heights Fire District has been reviewed pursuant to A.R.S. §11-952 by the undersigned Deputy County Attorney and the Drexel Heights Fire District Attorney, who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Agreement represented by Pima County and Drexel Heights Fire District.

**PIMA COUNTY:**

**DREXEL HEIGHTS FIRE DISTRICT:**

  
\_\_\_\_\_  
FOR Karen S. Friar, Deputy County Attorney

  
\_\_\_\_\_  
Fire District Attorney

**EXHIBIT A**  
**SCOPE OF WORK**

**1. Project Title and Location:**

Drexel Heights Fire Hydrants (“the Project”), a CDBG Infrastructure Improvements activity conducted by Drexel Heights Fire District, located at 5030 S. Camino Verde, Tucson, Arizona.

**2. Project Purpose:**

Install two fire hydrants in the Drexel Heights/Valencia West Community Development Target Area.

**3. Project Activities:** Subrecipient will:

- 3.1. Purchase and install a minimum of two (2) fire hydrants and all necessary components to ensure functionality.
- 3.2. Identify the locations that are most appropriate to the fire control system of the District and would most benefit the residents of the District. Obtain approval from County to install fire hydrants when locations have been determined.
- 3.3. Obtain all necessary permits from Tucson Water and other jurisdictions.
- 3.4. Install fire hydrant equipment in compliance with all applicable codes, regulations and laws.
- 3.5. Retain title to, operate, and maintain the fire hydrants for a period of no less than five (5) years.

**4. Project goal/predicted outcomes:**

- 4.1. Goal: Provide a more suitable living environment and quality of services by improving infrastructure that will increase the capability of the fire district to respond to emergency situations.
- 4.2. Predicted outcomes: Improved access to firefighting services provided by the Drexel Height Fire Department.

**5. Public benefit – CDBG National Objective and Eligible Activity:**

Upon completion, the Project will meet the CDBG National Objective to provide fire protection through infrastructure improvements which will benefit low-to-moderate income persons in the Drexel Heights/Valencia West Community Development Target Area.

**6. Metrics available to measure performance:**

At least 60 households will have improved access and availability to fire protection services provided by the Subrecipient.

**7. Reports:**

7.1. Upon Completion of the Project, Subrecipient will provide the following reports:

- 7.1.1. Annual Project Report for HUD for fiscal year 2015. Report must include, but is not limited to, the following:
  - 7.1.1.1. Community impact narrative; and
  - 7.1.1.2. Demographic information regarding the individuals served.

7.2. All reporting provisions will survive the termination of this Agreement.

**8. Budget:**

<b>Funded Activities</b>	<b>Amount Allocated</b>
Furnish and install hydrants	\$17,485.00
Permits	\$770.00
Traffic control	\$600.00
<b>Total</b>	<b>\$18,855.00</b>

END OF EXHIBIT A

**EXHIBIT B**

**PIMA COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
FY2015-2016 CONTRACT #**

**DREXEL HEIGHTS FIRE DISTRICT  
FIRE HYDRANTS**

FINANCIAL STATUS REPORT AND REQUEST FOR FUNDS FOR THE MONTH OF  
\_\_\_\_\_20\_\_\_\_

REQUEST # \_\_\_\_\_

Activity	Budgeted	Expenditures This Month	Cumulative Expenditures	Balance Available
Furnish and install hydrants	\$17,485.00			
Permits	\$770.00			
Traffic Control	\$600.00			
Total	\$18,855.00			

Funds requested this month \$ \_\_\_\_\_ (this line must equal the **TOTAL BUDGET** line for  
**"EXPENDITURES THIS MONTH"**)

I hereby certify that to the best of my knowledge, the amounts reported represents actual receipts and actual expenditures which have been incurred in accordance with the agreement for management and implementation of the CDBG Program and are based on official accounting records and supporting documents which will be maintained by us for purposes of audit.

\_\_\_\_\_  
REVIEWED BY

\_\_\_\_\_  
PREPARED BY

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
PHONE NUMBER

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE